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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

CORAM :

THE HON'BLE MR.JUSTICE R.MAHADEVAN
AND
THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.NOS.9320, 9414, 9625 TO 9629, 9638,
9669, 9932, 11204 & 11516 OF 2014

AND

M.P.NOS.1 TO 1 OF 2014

K.Vasanthamala	...Petitioner in W.P.No.9320 of 2014
P.Babu	...Petitioner in W.P.No.9414 of 2014
D.Ravi Kumar	...Petitioner in W.P.No.9625 of 2014
N.Ashokan	...Petitioner in W.P.No.9626 of 2014
K.Srinivasan	...Petitioner in W.P.No.9627 of 2014
M.Raja	...Petitioner in W.P.No.9628 of 2014
S.A.Shylaja	...Petitioner in W.P.No.9629 of 2014
K.Nagarajan	...Petitioner in W.P.No.9638 of 2014
Joseph Augustine	...Petitioner in W.P.No.9669 of 2014
P.Sivakumar	...Petitioner in W.P.No.9932 of 2014
L.Venkatesh	...Petitioner in W.P.No.11204 of 2014
S.Sridhar	...Petitioner in W.P.No.11516 of 2014

Versus

1. Bar Council of India,
Represented by its Secretary,
(Statutory Body Constituted under the Advocates Act, 1961)
No.21, Rouse Avenue Institutional Area,
New Delhi - 110 002.

...1st respondent in W.P.Nos.9320, 9414, 9932,
11204 & 11516 of 2014



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2. The Bar Council of Tamil Nadu and Puducherry
Represented by its Secretary,
Madras High Court Campus,
Chennai - 600 104.

...2rd respondent in W.P.Nos.9320, 9414, 9932,
11204 & 11516 of 2014
and 4th respondent in W.P.Nos.9625 to 9629 of 2014
and 3rd respondent in W.P.No.9669 of 2014

The Secretary,
The Bar Council of Tamil Nadu,
High Court Campus, Chennai.

...3rd respondent in W.P.No.9638 of 2014

3. Sri Venkateswara University,
(Approved & Affiliated By the Bar Council of India)
Represented by Registrar,
Prakasam Nagar Colony,
Sri Padmavathi Mahila Visvavidyalan,
Tirupathi, Andhra Pradesh - 517 502.

...3rd respondent in W.P.Nos.9320, 9414, 9932,
11204 & 11516 of 2014

4. Anantha College of Law
(Affiliated to Sri Venkateswara University Tirupati,
Permitted by APSCH, Hyderabad Recognized
by bar Council of India, New Delhi)
Represented by its Principal,
19-12-1/12, Kesavayanagunta, Tirupati - 517 501.

...4th respondent in W.P.No.9320 of 2014

5. Dr.Ambedkar Law College,
(Affiliated to Sri Venkateswara University Tirupati,
Permitted by APSCH, Hyderabad Recognized
by bar Council of India, New Delhi)
Represented by its Principal,
19-3-2J/F1/A20 K.K.Chervu,
Renigunda Road, Tirupati - 517 501.

...4th respondent in W.P.Nos.9932, 9414,
11204 & 11516 of 2014

6. Union of India,
Rep. by its Secretary to
Human Resource and Development Department,
New Delhi.

...1st respondent in W.P.Nos.9625 to 9629 of 2014

7. Union of India,
Law & Justice, New Delhi.

...2nd respondent in W.P.Nos.9625 to 9629 of 2014



8. The Secretary to Government,
Union of India,
Ministry of Law & Justice, New Delhi.

...1st respondent in W.P.No.9638 of 2014

9. Union of India,
rep by The Secretary to Ministry,
Law & Justice and Company Affairs,
New Delhi.

...1st respondent in W.P.No.9669 of 2014

10. The Bar Council of India,
Rep. by its Chairman, New Delhi.

...3rd respondent in W.P.Nos.9625 to 9629 of 2014
and 2nd respondent in W.P.Nos.9638 & 9669 of 2014

Prayer in W.P.Nos.9320, 9414, 9932, 11204 & 11516 of 2014:

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for records relating to the notice issued by the second respondent dated 17.03.2014 in R.O.C.Nos.978, 1005, 975, 1096 & 940 of 2014 and quash the same and direct the 1st and 2nd respondents to issue permanent certificate of enrollment without any endorsement on the certificate.

Prayer in W.P.Nos.9625 to 9629 of 2014:

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records relating to the order dated 17.03.2014 of the fourth respondent herein in R.O.C.Nos.1063, 1062, 1055, 1053, 1034 of 2014 and quash the same.

Prayer in W.P.No.9638 of 2014:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records relating to the order dated 17.03.2014 of the third respondent herein in R.O.C.No.948 of 2014 and quash the same.

Prayer in W.P.No.9669 of 2014:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records relating to the Show Cause Notice dated 17.03.2014 of the third respondent herein in R.O.C.No.1051 of 2014 contains an order of suspension and quash the same.



For Petitioner
in W.P.Nos.9320, 9932
& 11204 of 2014

: Mr.UM.Ravichandran

For Petitioner
in W.P.No.9414 of 2014

: No Appearance

For Petitioner
in W.P.Nos.9625 to 9629,
9638 & 9669 of 2014

: Mr.V.Balasubramanian

For Petitioner
in W.P.No.11516 of 2014

: Mr.G.S.Vivekanandan

For Respondent - 1
in W.P.Nos.9320, 9414,
9932, 11204 & 11516 of 2014 and
For Respondent - 3
in W.P.Nos.9625 to 9629 of 2014 and
For Respondent - 2
in W.P.Nos.9638 & 9669 of 2014

: Mr.S.R.Raghunathan

For Respondent - 2
in W.P.Nos.9320, 9414,
9932, 11204 & 11516 of 2014 and
For Respondent - 4
in W.P.Nos.9625 to 9629 of 2014 and
For Respondent - 3
in W.P.Nos.9638 & 9669 of 2014

: Mr.C.K.Chandrasekar

For Respondents - 3 & 4
in W.P.Nos.9320, 9414, 9932,
11204 & 11516 of 2014

: No Appearance

For Respondents - 1 & 2
in W.P.Nos.9625 to 9629 of 2014 and
For Respondent - 1
in W.P.Nos.9638 & 9669 of 2014

: Mr.S.Haja Mohideen Gisti

COMMON ORDER

(Order of the Court was made by R.MAHADEVAN, J.)

Heard all the parties and perused the materials available on record.



2. This Court by order dated 03.02.2014, in WP(MD)No.10315 of 2013, directed the Bar Council of Tamil Nadu and Puducherry to take necessary action for removal of advocates, who have completed the law course in violation of clause 28 Schedule III Rule 11 of Rules of Legal Education, 2008 of Bar Council of India. Placing reliance on the same, the respondent / Bar Council of Tamil Nadu and Puducherry issued show cause notices, calling upon the petitioners to explain as to why their names should not be removed from the rolls of the Bar Council of Tamil Nadu and Puducherry, for the alleged violation referring to their age. Challenging the said notices, the petitioners have come up with these writ petitions to quash the same. A consequential direction has also been sought to the respondent authorities to issue permanent certificate of enrollment without any endorsement.

3. The issue involved herein is no longer res integra. The Hon'ble Supreme Court in Indian Council of Legal Aid and Advice and others v. Bar Council of India and another [1995 (1) SCC 732] has observed that fixing a bar at the age of 45 years is violative of Article 14 of the Constitution of India, discriminatory, unreasonable and arbitrary. Paragraph 13 of the said judgment is usefully extracted below:

"13. The next question is the rule reasonable or arbitrary and unreasonable? The rationale for the rule, as stated earlier, is to maintain the dignity and purity of the profession by keeping out those who retire from various Government, quasi-Government and other institutions since they on being enrolled as advocates use their past contacts to canvass for cases and also pollute the minds of young fresh entrants to the profession. Thus the object of the rule is clearly to shut the doors of the profession for those who seek entry into the profession after completing the age of 45 years. In the first place, there is no reliable statistical or other material placed on record in support of the inference that ex-government or quasi-government servants or the like indulge in undesirable activity of the type mentioned after entering the profession. Secondly, the rule does not debar only such persons from entry into the profession but those who have completed 45 years of age on the date of seeking enrolment. Thirdly, those who were enrolled as advocates while they were young and had later taken up some job in any Government or quasi-Government or similar institutions and had kept the sanad in abeyance are not debarred from receiving their sanads even after they have completed 45 years of age. There



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may be a large number of persons who initially entered the profession but later took up jobs or entered any other gainful occupation who revert to practise at a later date even after they have crossed the age of 45 years and under the impugned rule they are not debarred from practising. Therefore, in the first place there is no dependable material in support of the rationale on which the rule is founded and secondly the rule is discriminatory as it debars one group of persons who have crossed the age of 45 years from enrolment while allowing another group to revive and continue practise even after 45 years. The rule, in our view, therefore, is clearly discriminatory. Thirdly, it is unreasonable and arbitrary as the choice of the age of 45 years is made keeping only a certain group in mind ignoring the vast majority of other persons who were in the service of Government or quasi-Government or similar institutions at any point of time. Thus, in our view the impugned rule violates the principle of equality enshrined in Article 14 of the Constitution."

4. Following the aforesaid decision, a Division Bench of this Court in *M. Radhakrishnan v. the Secretary, Bar Council of India* and another [2006 (5) CTC 705] has also held that "the object of the rule is only to curtail group of persons from entering into profession and to satisfy other group of person who also stand on the same footing. The State Bar Council cannot widen / expand its rule-making power so extensively to discriminate or classify between two similarly placed persons based on utter arbitrariness".

5. Therefore, from the above judgments, it is clear that the fixation of upper age limit in enrolling in the Bar is construed to be unreasonable.

6. However, Mr. C. K. Chandrasekar, learned counsel appearing for the Bar Council of Tamil Nadu and Puducherry and Mr. S. R. Raghunathan, learned counsel appearing for the Bar Council of India submitted that the subject matter in issue is pending before the Hon'ble Supreme Court in *Rishabh Duggal and another v. the Bar Council of India* and another in WP (Civil) No. 1023 of 2016 and the Hon'ble Supreme Court has stayed the Notification issued by the Bar Council of India in BCI:D:1519 (LE:Cir.-6) dated 17.09.2016, on 03.03.2017.

7. In view of the above, all these writ petitions are disposed of subject to result of the Writ Petition (Civil) No. 1023 of 2016 pending before the Hon'ble Supreme Court. No



costs.
closed.

Consequently, connected miscellaneous petitions are

Sd/-

Assistant Registrar(CS-II)

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//True Copy//

Sub Assistant Registrar

mrr

To

1. The Secretary,
Bar Council of India,
No.21, Rouse Avenue Institutional Area,
New Delhi - 110 002.
2. The Secretary,
Bar Council of Tamil Nadu and Puducherry,
Madras High Court Campus,
Chennai - 600 104.
3. The Secretary to Government,
Union of India,
Human Resource and Development Department,
New Delhi.
4. The Secretary to Government,
Union of India,
Ministry of Law & Justice and Company Affairs,
New Delhi.
5. The Chariman,
Bar Council of India,
New Delhi.

+2ccs to M/s.Sampath Kumar & Associates, Advocate, S.R.No.21828

W.P.Nos.9320, 9414, 9625 to 9629, 9638,
9669, 9932, 11204 & 11516 of 2014

BP(CO)
RLP(21/04/2022)