



WP No. 2280 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition No. 2280 of 2020
and
W.M.P. No.2653 of 2020 and 16393 of 2022

A. Kannan
Advocate
Son of T. Alagarsamy
Plot No.16, East 1st Street
K.K. Nagar
Madurai - 625 020

.. Petitioner

Versus

1. The Secretary
Bar Council of India
21, Rouse Avenue Institutional Area
Near Bal Bhawan
New Delhi - 110 002
2. The Secretary
The Bar Council of Tamilnadu & Puducherry
High Court Campus
Chennai - 600 104
3. The State of Tamilnadu
rep. by its Principal Secretary to Government
Home Department
Secretariat, Chennai - 600 009



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4. The Director
Central Bureau of Investigation
CGO Complex, New Delhi - 110 003
5. The Director General of Police
No.4, Dr. Radhakrishnan Salai
Mylapore, Chennai - 600 004
6. The Commissioner of Police
Greater Chennai
Chennai
7. The Assistant Commissioner of Police
Central Crime Branch (CCB-1)
O/o. Commissioner of Police
Chennai
8. The Inspector of Police
B-4, High Court Police Station
High Court Campus
Chennai - 600 104
9. The Secretary
University Grants Commission (UGC)
Bahadur Shah Zafar Marg
New Delhi - 110 002
10. The Registrar
Yogi Vemana University
Vemanapuram, Ganganapalle
Andhra Pradesh - 516 005
11. Sri Basava Rama Tarakam Memorial Law College
Kadapa
near Railway Gate
Taraka Rama Nagar
Andhra Pradesh - 516 003



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12. The Principal
Al-Ameen Law College
Hosur Road, Sudhama Nagar
Bangalore, Karnataka State - 560 027
13. The Registrar
Karnataka State Law University
Sutagatti Road, Hubli
Navanagar, near RTO Office
Karnataka - 560 025
14. The Secretary to Government of India
Ministry of Human Resources Development
New Delhi
15. Saravanakumar
Son of Seenisamy
Advocate (Enrol.No.Ms.2556/2017)
C/o. The Secretary
The Bar Council of Tamilnadu and Puducherry
High Court Campus, Chennai - 600 104

(R15 was impleaded as per Order
dated 14.02.2020 made in WMP No. 4333
of 2020 in WP No. 2280 of 2020)

16. S. Baskar Mathuram
Son of Seenivasan
Advocate (Enrol.No.995/2006)
Plot No.33, High Court West Side Compound Road
S.M.V. Nagar
National Book Agency backside
Ulaganeri
Madurai - 625 023

(R16 was impleaded as per Order
dated 14.02.2020 made in WMP No. 4525
of 2020 in WP No. 2280 of 2020)

.. Respondents



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Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus (i) directing the respondents 3 and 5 to transfer the investigation in Crime No. 325 of 2019 on the file of the seventh respondent to the file of the fourth respondent and to investigate the case by a Special Investigation Team to be monitored by this Court (ii) to direct the introduction of electronic finger print attendance system in all law colleges and universities imparting legal education in India and to direct the issuance of E-certificates with high security features to prevent the trading of fake LLB Degree Certificates in all law colleges and universities imparting legal education in India; and (iii) to constitute a permanent special scrutiny committee consisting of former Judges of this Court to deal with the enrolment applications having law degrees issued by the other States placed for enrolment before the Bar Council of Tamilnadu and Puducherry.

For Petitioner : Mr. G. Mutharasu

For Respondents : Mr. S.R. Raghunathan for R1

Mr. C.K. Chandrasekaran for R2

Mr. Stalin Abhimanyu,
Addl. Govt. Pleader, for RR3, 5, 6, 7 and 8

Mr. K. Srinivasan for R4

Mrs. V. Sudha for R9

Mr. Rahman Sheriff for R12

Mr. V. Chandrasekaran
Senior Panel Counsel for R14

Mr. Ayyadurai, Senior Advocate
for Ms. Girija Velmurugan for R15

Mr. M. Murugesan for R16

No appearance for RR10, 11 & 13



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ORDER

(Judgment of the Court was delivered by **R.MAHADEVAN, J**)

The petitioner, who is practicing as an Advocate before the Madurai Bench of this Court, has come forward with this writ petition, in the nature of public interest litigation, praying to issue a Writ of Mandamus (i) directing the respondents 3 and 5 to transfer the investigation of the case in Crime No. 325 of 2019 pending on the file of the seventh respondent to the file of the fourth respondent and to investigate the same by a Special Investigation Team to be monitored by this Court; (ii) directing the authority concerned to introduce electronic finger print attendance system in all law colleges and universities imparting legal education in India and to issue E-certificates with high security features to prevent the trading of fake LLB Degree Certificates; and (iii) constituting a permanent Special Scrutiny Committee consisting of former Judges of this Court to scrutinise the applications received from the students, who obtained law degrees from the Colleges/Universities in other States, when submitted for enrolment as advocate(s) before the Bar Council of Tamilnadu and Puducherry.



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2.(i) In the affidavit filed in support of the writ petition, it is stated by the petitioner that the Bar Council of India has framed the Certificate and Place of Practice (Verification) Rules, 2015 with the avowed object of weeding out those lawyers, who, without effectively practicing, switch over to other profession for monetary gain. It is further stated by the petitioner that the said Rules empower the Bar Council to insist and/or verify the Vakalath and Memo of Appearance filed by the advocates in their rolls to ensure that they are in active practice in the legal profession, but the same is not being done. It is the grievance of the petitioner that several law colleges have mushroomed throughout the Country where the unhealthy and ugly trading of buying or selling law degrees are in vogue. It is also stated that some persons, without actually attending the course or securing minimum attendance, obtain law degrees by illicit means and because of those fake lawyers, the dignity and decorum of the lawyer profession gets eroded. In this context, the petitioner referred to a complaint dated 06.11.2019 lodged by the Secretary, Bar Council of Tamilnadu and Puducherry with the Inspector of Police, B-4, High Court Police Station in which it was stated that one B. Vipin with the aid of two other advocates, acted as middlemen for purchasing fake LLB Degree Certificates from the 11th respondent college. On the basis of such complaint,



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a case in Crime No. 23 of 2019 was registered on the file of the sixth respondent and subsequently, the case stood transferred to the file of the seventh respondent. Upon transfer, the seventh respondent registered a case in Crime No. 325 of 2019 dated 14.11.2019 for the offences punishable under Sections 8 and 12 of the Prevention of Corruption Act and under Section 420 of the Indian Penal Code. During the course of investigation, the seventh respondent arrested one Himavantha Kumar, Principal of the 11th respondent college. The investigation also unfolded that more than 1000 fake LLB Degree Certificates have been issued by the 11th respondent college upon receipt of illegal consideration to a tune of Rs.3 lakhs to Rs.5 lakhs per certificate. The petitioner also pointed out that those who are in full time employment, without attending regular classes, get enrolled themselves as advocate based on such fake degree certificates, as a result of which, the noble profession is being spoiled by them. According to the petitioner, on the basis of such fake degree certificate, several persons have enrolled themselves as advocates and are practicing as advocates. The sale of such fake certificates are taking place throughout the country and it goes unchecked.

(ii) The petitioner would further state that in the year 2010, the Bombay High Court has issued a direction to the Central Bureau of



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Investigation (CBI) to investigate into the complaint regarding issuance of 51000 fake LLB Certificates issued in the State of Maharashtra, based on which, jobs have been secured by the aspirants. According to the petitioner, the issue as to the prevalence of fake degree certificates have become a national issue and it has come to light that those who are engaged in some other profession are also getting the LLB degree certificate by paying money. The petitioner also pointed out that in the Corporation of Madurai, an woman employee, working as Assistant, had secured a LLB Degree certificate from the 12th respondent college without even attending regular classes or securing the minimum required attendance.

(iii) Thus, the foremost grievance of the petitioner is that a minimum of 70% attendance has to be insisted as a condition precedent for issuing LLB degree certificate and without satisfying such mandatory attendance requirement, the degree certificate should not be issued. It is further stated by the petitioner that many persons who enroll themselves as advocates without even attending the regular classes, lack basic knowledge in law. As a result, the legal profession is decaying day by-day by those who obtain fake LLB degree certificate and enroll themselves as advocates. After their enrolment, they indulge in various types of unethical practices including conduct of



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Kangaroo Courts, settling civil as well as criminal disputes for a ransom etc.

Therefore, the petitioner has preferred this writ petition for issuance of mandamus as stated supra.

3. The learned counsel for the petitioner submitted that the Division Bench of this Court in the case of ***P. Ramu vs. The Secretary, Bar Council of Tamil Nadu, High Court, Chennai - 104 and others reported in 2016 SCC Online Madras 17593*** had an occasion to consider identical case and issued series of directions to the respondents therein, but it has not changed the situation any further. The issue raised before the Division Bench was that those who are already employed in Government Service and receiving regular salary, are simultaneously undergoing Law Degree Course elsewhere. After analysing the entire facts and circumstances of the case, the Division Bench has issued the following directions:

"26. Since legal profession is afflicted with many problems, serious and emergent steps should be taken at the enrolment stage itself to filter and prevent the entry of candidates, who procure law degrees fraudulently. Hence, the following directions are given, in the interest of legal profession;

(a) Bar Councils are directed to verify whether the candidates, who apply for enrolment, after crossing 40 year of age, have rightly obtained Law Degree or not. If they had obtained Law Degree, while in service, then they shall not be enrolled

(b) Bar Councils shall verify the ration card, Pan Card and Aadhar Card of the candidates to ascertain their address, social status and their income, at the time of enrolment



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(c) *Bar Councils shall get an affidavit from the candidates, who crossed 40 years of age at the time of enrolment stating that they have not obtained law degree while they were in service.*

27. *With the above, the writ petition is dismissed. No costs."*

By pointing out the above decision, the learned counsel for the petitioner prayed for issuance of Mandamus to the respondents to introduce finger print attendance system so as to put an end to the practice of securing LLB Degree certificates without even attending the college. The learned counsel also submitted that the case in Crime No. 325 of 2019 is at a nascent stage without any progress and therefore, the same may be directed to be transferred from the file of the seventh respondent to the fourth respondent and also prayed that the investigation to be conducted by the fourth respondent be monitored by this Court. Above all, the learned counsel prayed this Court to constitute a Special Scrutiny Committee consisting of former Judges of this Court to scrutinise the enrolment applications submitted by those who obtain law degrees issued by the other States for enrolment as advocate(s). According to the learned counsel for the petitioner, if the directions as prayed for in this writ petition are issued, it will go a long way in preventing the issuance of fake LLB Certificates *inter alia* to uphold the dignity and decorum of the advocate profession.



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4. (i) On notice, the second respondent filed a detailed counter affidavit. Reiterating the averments made therein, the learned Standing counsel appearing for the second respondent would submit that the Bar Council of Tamilnadu and Puducherry, being a statutory body, is entrusted with the duties as enumerated under Section 6 of the Advocates Act, 1961. As per Section 17 of the Advocates Act, 1961, it is the duty of the State Bar Council to prepare and maintain a roll of advocates with complete details. A list of the authenticated copy of roll of advocates prepared will be sent to the Bar Council of India from time to time. As required under Section 22 of the Advocates Act, 1961, the State Bar Council is empowered and is authorised to issue certificate of enrolment after scrupulously examining the eligibility for enrolment, etc. The learned Standing Counsel also invited the attention of this Court to Section 35 in Chapter V of the Advocates Act, 1961 which prescribes punishment for misconduct, which could be imposed, after following the procedures contemplated therein. Thus, according to the learned standing counsel, the second respondent is governed by the provisions of the Advocates Act, 1961, and the same is being strictly followed to uphold the dignity of the profession.

(ii) The learned Standing counsel appearing for the second respondent



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further submitted that the Certificate and Place of Practice (Verification) Rules, 2015, referred to by the petitioner, was published in the Gazzette of India on 13.01.2015. Rule 4 (k) of the said Rules deals with fake person as a person who does not have a valid degree in law (without any enrolment in any State Bar Council) and appears in such Courts, Tribunals or Forums illegally posing himself as an advocate. Rule 13 provides for verification of certificate of practice and passing orders thereof, after giving reasonable opportunity in the event when adverse order is to be passed. Thus, it would be clear that the State Bar Council as well as Bar Council of India are entrusted with the task of dealing with the legal education and law practice in India. While so, the petitioner, without even exhausting his remedy before the State Bar Council or Bar Council of India, has straight away filed the present writ petition complaining as if the State Bar Council is not aware of the existing procedures or that, they are not following it. Before filing the present writ petition, in the nature of a public interest litigation, the petitioner ought to have approached the State Bar Council.

(iii) The learned Standing counsel for the second respondent also submitted that several young lawyers are practicing with zeal and enthusiasm to uphold the dignity of the profession by evincing keen interest in the



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profession. At the same time, there are some errant and unscrupulous persons who bring disrepute to the noble profession. The second respondent, as a statutory body, is taking all efforts to weed out such persons. However, the petitioner, by filing the present writ petition, is attempting to cast aspersions on the functioning of the statutory body with sweeping allegations, without any basis. According to the learned Standing counsel, it is well settled that there cannot be any presumption of unfairness against a statutory body unless the same is proved in the manner known to law. In the present case, the petitioner, in the garb of exposing a public cause, has made unwarranted allegations against the State Bar Council and they are not in good taste. In any event, the second respondent is taking all efforts to maintain the standards prescribed for the legal profession from the stage of education, enrolment and further continuance in practice. It is also submitted that the second respondent is strictly following the various directions issued by this Court as well as the Honourable Supreme Court from time to time and hence, there is no laxity on the part of the second respondent in initiating appropriate action against those who get enrolled as advocates by deception.



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(iv) The learned Standing counsel appearing for the second respondent further pointed out that an Enrolment Committee has already been constituted, for the purpose of curbing the menace of those persons, who, without proper qualification, are entering the profession. It consists of three elected members. The Committee will scrutinise the applications submitted for enrolment and in case of doubt, the same will be enquired into. Further, the State Bar Council also will enquire into complaints relating to pre-enrolment conduct of an advocate and appropriate action will be resorted to, after giving reasonable opportunity to the individual. In respect of candidates from other States, enquiry is being conducted by the Committee on regular basis, before according permission to enrol them with the State Bar Council. In case of any misrepresentation or suppression of facts, the Committee, in exercise of power under Section 26 of the Advocates Act, 1961, would reject the application for enrolment. In fact, the Committee had rejected several applications for various reasons. Thus, the second respondent is continuously taking steps to protect the nobility of the profession and dignity of the members of the Bar. It is also submitted that the second respondent is enrolling around 6000 Law graduates per year. Even during the Covid-19 Pandemic, they scrupulously carried out the task of weeding out irregular applications. Therefore, the second respondent is always vigilant and taking appropriate action in specific instance



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of fake lawyer or advocates, who commit misconduct and bring disrepute to the profession.

(v) With respect to the criminal complaint lodged by the Secretary of the State Bar Council against one Vipin and two others, it is stated by the learned standing counsel for the second respondent that the complainant/Secretary of the State Bar Council is pursuing the same to its logical conclusion. Further, in connection with the complaints received, 15 persons were prohibited from practice from 03.09.2019 to 13.02.2020. Further, 246 complaints are pending before the Disciplinary Committee of the State Bar Council and they are at various stages. The Disciplinary Committee also, after conclusion of enquiry, suspended seven advocates, reprimanded three advocates and removed one advocate from the rolls. Thus, the State Bar Council is alive to the various allegations raised in this writ petition, and the apprehensions raised by the petitioner are largely unfounded. Therefore, a Mandamus as prayed for by the petitioner need not be issued by this Court especially when the Enrolment Committee as well as the Disciplinary Committee functioning in the State Bar Council are effectively dealing with the grievance projected by the petitioner. With these submissions, the learned standing counsel prayed for dismissal of the writ petition.



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5. (i) The learned Government Advocate appearing for the respondents

3, 5, 6, 7 and 8 denied the averments raised in the writ petition. By placing reliance on the counter affidavit filed by the seventh respondent on 14.02.2020, the learned counsel submitted that on the basis of the complaint given by the Secretary of the second respondent/Bar Council of Tamil Nadu and Puducherry, the case in Crime No. 23 of 2019 was registered on 06.11.2019 for the offences under Sections 8 and 12 of the Prevention of Corruption Act and Section 420 of Indian Penal Code. During the investigation, it unfolded that the first accused Vipin had approached the Bar Council of Tamil Nadu and Puducherry at Chennai on 06.11.2019 with an application for enrolment. The investigation further unfolded that A-2/Ulaganathan and A-3/Mohan Doss, both practicing Advocates have attempted to give bribe to the members of the Enrolment Committee of Bar Council of Tamil Nadu and Puducherry to enrol A-1 Vipin as an Advocate. Upon registration of the case, A-1 was arrested on 06.11.2019 and released on bail on 03.12.2019. Similarly, A-2 and A-3, Advocates were also arrested on 07.11.2019 and they were released on own bail on 08.11.2019 by the learned VII Metropolitan Magistrate, George Town, Chennai. Subsequently, as per the order passed by the Commissioner of Police, Greater Chennai on 14.11.2019, the case was transferred to Central Crime Branch and re-registered as CCB



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Crime No. 325 of 2019.

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(ii) The learned Government Advocate appearing for the authorities further submitted that during the investigation by the Central Crime Branch, it came to light that A-1, while working in Railway Department, studied LLB at the 11th respondent college for the academic year 2015-2018 without obtaining permission from the Department. During May 2017, the first accused voluntarily retired from service. In the year 2019, he submitted an application to the second respondent/Bar Council of Tamil Nadu and Puducherry at Chennai for enrolment of his name. Along with the application, A-1 also submitted a bona fide certificate to show that he had secured 80% attendance while pursuing the course. It is in this context, investigation was conducted with the Principal of Smt. Basava Rama Tarakam Memorial Law College (SBTRM), Kadapa, Andhra Pradesh and he has confessed that attendance was marked for A-1 even for the days on which he did not attend the college. Therefore, on 22.01.2020, the Principal of the SBTRM college was included as A-4 in the criminal case and he was also arrested and remanded to judicial custody. Subsequently, he was taken on police custody for 3 days from 29.01.2020 to 01.02.2020 for investigation. The investigation revealed that similar bona fide certificate was issued to 300 students who did not attend the college during the academic year 2015-2018. Further, as against the



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requirement to appoint 45 professors/lecturers, there was only 10 professors/lecturers working in the 11th respondent college. Thus, A-4 was instrumental in issuing fake degree certificates as well as bona fide certificates to students, who did not attend the college for the course. That apart, A-4 also created fake staff attendance register as if 46 professors/lecturers were working in the college and the salary amount has been misappropriated.

(iii) The learned Government Advocate appearing for the respondent authorities proceeded to contend that the investigation agency also issued summons to the Correspondent of the 11th respondent College under Section 41-A of the Code of Criminal Procedure for his appearance on 21.01.2020, however, the summons was refused to be received. The investigation agency is also in the process of obtaining the statement from the students, who have studied in the 11th respondent college during the academic year 2015-2018. Thus, investigation is being conducted in accordance with law and evidence/statement are being collected. After completion of the investigation, a final report will be filed before the competent Court. Therefore, the learned counsel submitted that no direction needs to be passed in this writ petition.

6. The learned senior counsel for the 15th respondent would



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vehemently oppose the impleadment of the 15th respondent as a party to this writ petition. According to the learned counsel, the 15th respondent cleared the Civil Services Examination during the year 2001 and got into Indian Railway Services. Thereafter, in the year 2004, he joined the Indian Revenue Services by clearing the requisite examination. From 2004 to 2017 he served in the Income Tax Department in a dignified post. During the course of such service, in 2009, he held the post of Deputy Commissioner of Income Tax. At that time, he came to know about the regular LLB course offered by Siddharth College of Law. It is further submitted that the college commences the classes at 7.00 am in the morning and concludes it at 11.30 am. Such classes are also conducted on Saturdays. The said College was approved by the first respondent since 1956 and it has been conducting courses strictly in compliance with the Legal Education Rules, 2008. As per clause 10 of the said Rules, the course shall be conducted in semester system with not less than 15 weeks for unitary degree course, not less than 18 weeks for double degree integrated course with not less than 30 class hours per week including tutorials, moot room exercise and seminars. Further, there shall be atleast 24 lectures per week with 70% of minimum attendance. However, even those who secured 65% attendance will be allowed to attend the semester exam. Having come to know about the course offered by Siddharth College of Law, with



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prior permission from the employer vide letter dated 06.08.2009, the 15th respondent joined the course and completed it during May 2012. On 19.11.2015, the 15th respondent intimated the passing of the LLB Degree to his employer and it was taken on record on 10.12.2015. During April 2017, the 15th respondent was relieved from his employment and he submitted his application seeking enrolment as an advocate. The second respondent also, after thorough scrutiny of the application, accorded approval for enrolment on 02.12.2017. Thereafter, on 29.08.2018, the 15th respondent also cleared the mandatory AIBE exam and is continuing the legal practice with devotion. Therefore, it cannot be said that the enrolment of the 15th respondent has in any manner eroded the legal profession. By adhering to the ethical and professional values attached to his position, he has been practicing in a dignified manner. In the garb of seeking a blanket relief by means of the present public interest litigation, the petitioner had unnecessarily impleaded the 15th respondent as a party to the present writ petition. Thus, according to the learned senior counsel, the 15th respondent is not a proper and necessary party to this writ petition and hence, he may be removed from the array of parties.



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7. We have heard the learned counsel appearing for all the parties and also perused the materials available on record.

8. The reliefs sought for by the petitioner in this writ petition are manifold and the same are reproduced below, for the sake of brevity and specificity:

(i) Direct the respondents 3 and 5 to transfer the investigation of the case in Crime No. 325 of 2019 pending on the file of the seventh respondent to the file of the fourth respondent and to investigate the same by a Special Investigation Team to be monitored by this Court;

(ii) Direct the authority concerned to introduce electronic finger print attendance system in all law colleges and universities imparting legal education in India and to issue E-certificates with high security features to prevent the trading of fake LLB Degree Certificates; and

(iii) Constitute a permanent Special Scrutiny Committee consisting of former Judges of this Court to scrutinise the applications received from the students, who obtained law degrees from the Colleges/Universities in other States, when submitted for enrolment as advocate(s) before the Bar Council of Tamilnadu and Puducherry.



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8.1. We will deal with the same, in the light of the submissions made by the parties and the materials placed before us.

9.As regards the first relief *qua* transfer of the investigation in Crime No. 325 of 2019, it is seen that the criminal proceedings came to be initiated against one Mr. B. Vipin, who has submitted an application to enrol himself as an advocate with the Bar Council of Tamil Nadu and Puducherry. On scrutinising his application, it was noticed that he did his law course between 2015-2018 while working in Southern Railway. It also unfolded that he voluntarily retired from his service on 20.05.2017. Inasmuch as Mr. Vipin had pursued his degree course during the course of his employment with Southern Railway, his application was placed before the Enrolment Committee on 12.06.2019. The committee rejected his application and refused to enrol him as an advocate. While so, the said Mr. Vipin and others are alleged to have exerted pressure and influence upon the members of the Enrolment Committee to pass favourable orders on his application. On an in-depth enquiry, it came to light that Mr. Vipin had obtained law degree through some advocates from the 11th respondent college without even attending the classes. In this regard, the Secretary of the Bar Council of Tamil Nadu and Puducherry lodged the complaint with the B-4 High Court Police Station, based on which a case in



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Crime No. 23 of 2019 was registered. Subsequently, the investigation was transferred to the file of the 7th respondent and the same was re-numbered as Crime No. 325 of 2019. In the criminal case, the Principal of Sri Basava Rama Tarakam Memorial College, Andhra Pradesh where Mr. Vipin said to have obtained the law degree was also arrayed as fourth accused. Subsequently, a charge sheet was filed and it was taken on file as C.C. No. 13 of 2022 on 30.09.2022 by the Special Court for cases under the Prevention of Corruption Act. While so, the petitioner, without any pleadings or documentary evidence to show that the investigation so far conducted is shoddy, seeks to transfer the investigation of the case to the fourth respondent and monitor the same by a Special Investigation Team to be appointed by this Court. This court finds no reason to transfer the investigation to some other officer, in view of the fact that charge sheet has already been filed and it has been taken on file by the competent Court as well. Therefore, the relief sought for by the petitioner cannot be considered and it is liable to be rejected. However, it is needless to state that the second respondent, being the complainant and based on whose complaint, the criminal prosecution has been set in motion, shall render its fullest co-operation for disposal of the case in C.C. No. 13 of 2022 as expeditiously as possible.



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10. Insofar as the relief nos.(ii) and (iii) sought for by the petitioner, it is seen that the Bar Council of Tamil Nadu and Puducherry is governed by the provisions contained under the Advocates Act, 1961, Bar Council of India Rules and Bar Council of Tamil Nadu and Puducherry Rules. Section 24 of the Advocates Act deals with the procedures to be followed to enrol a candidate as an advocate. Further, Part VI Chapter II Section VII of the Bar Council of India stipulates the restrictions to be imposed on a legal practitioner if he or she engages himself or herself into trade, business, profession or employment. Similarly, Rule 8 of the Enrolment Rules of the Bar Council of Tamil Nadu and Puducherry restricts the enrolment of candidates who have engaged either in full time or part time service or employment or in business, from being enrolled as an advocate. Further, the second respondent has already constituted an Enrolment Committee for scrutiny of the applications submitted by the law graduates seeking enrolment. In the report dated 07.09.2023 submitted by the second respondent, reference has been made to the total number of applications received during the years 2018 to 2023 which are 1539 out of which 124 applications have been rejected for various reasons. Therefore, it is evident that the procedures contemplated under the Act and Rules are scrupulously being followed by the second respondent by constituting a



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competent Enrolment Committee to deal with the applications submitted by a law graduate seeking enrolment.

11. The learned Standing counsel for the second respondent also submitted that Bar Council of India is the authority to regulate the legal education system in the Country by fixing norms. As per Rule 2(xxiii) Part-IV, Chapter I of Bar Council of India Legal Education Rules, 2008, the regular course of study includes a course, which runs for five hours a day continuously with additional half an hour recess every day and running not less than thirty hours of working schedule per week. As per the said Rules, if a candidate did not undergo the study for a period of five hours, he or she is not entitled to be enrolled. Thus, it is submitted that this provision restricted the entry of those who have obtained or purchased law degree without attending classes during their employment. In this context, the learned Standing Counsel appearing for the second respondent submitted that as against the orders passed by the second respondent rejecting the application(s) submitted by the law graduates for various reasons, batch of writ petitions have been filed before this Court *inter alia* challenging the validity of the Rules of Legal Education, 2008. That apart, the writ petitions have been filed challenging the orders of the State Bar Council cancelling and/or refusing enrolment, the decision of the Bar Council



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of India holding that the persons with Post Graduate qualification from Open Universities are not entitled to be enrolled in the State roll and direction to the State Bar Council to entertain the applications for enrolment. The Division Bench of this Court, in the said case in **K. Shakthi Rani vs. The Secretary, Bar Council and others** reported in **2010-2-Law Weekly 746** has upheld the validity of the said Rules *inter alia* held that the Bar Council of India is following the said Rules, while dealing with the applications submitted by the law graduates.

12. Continuing further, the learned Standing counsel for the second respondent has submitted that the Bar Council of India had introduced All India Bar Examination, as provided under Rule 9, 10, Chapter III, Part VI of the Bar Council of India Rules, making it mandatory, after enrolment to pass the All India Bar Examination within two years from the date of enrolment. If a candidate does not pass the examination, then, they are not entitled to practice as Advocates before any Court of law till they pass the examination. Thus, it is submitted that there are checks and balance to ensure that only the applications of those who really deserve enrolment are being entertained and there are instances where the applications of candidates have been rejected by the Enrolment Committee, if it is not in accordance with the parameters laid down by the second respondent.



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WEB COPY 13. In the light of the averments made in the report as well as the submissions made on the side of the second respondent, we are of the opinion that there are enormous pre-conditions imposed to restrict ineligible candidates from being enrolled as an advocate; and the second respondent is following all the required procedures in accordance with the Act and Rules. Hence, there is no requirement to issue any further direction in respect of the relief no.(ii) sought by the petitioner.

14. At this juncture, it is important to point out that the Honourable Supreme Court in the decision in Civil Appeal No. 969 of 2023 (arising out of SLP (C) No. 22337 of 2008) delivered on 10.02.2023 in the case of **Bar Council of India vs. Bonnie Foi Law College and others**, had an occasion to consider the dwindling standards of Law Education and the need to streamline the same. On consideration of the fact that standards of legal education provided at various law colleges in the country are diminishing, it was observed in paragraph 46 of the said decision, as follows:

"46. Learned Amicus also sought to flag the issue of persons, who may take up other jobs and may want to enrol themselves as advocates later at some stage. There may also be persons who despite being enrolled at the Bar, decide to take another job and come back into the profession after a considerable period of time, at times even post retirement. It is in that context that the learned Amicus has suggested that the rule making power under Section 49 (1) (ah) of the said Act



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could be invoked requiring an examination for the advocates who come back into the practice after a substantial break from practice. We are inclined to accept the suggestion in principle that appropriate rules can be framed laying down that an enrolled advocate who takes up an employment in a non-legal context for a substantial length of time (say for five years) would be deemed to be a new enrollee and in order to regain the qualification, that person would be required to take the All India Bar Examination once more. We believe that the requirements of an active legal practice and that of an unconnected job are different. Even if a person has a law degree or enrolment, it does not mean that his ability to assist the court would continue with him if there are long hiatus period of time in some unconnected job. He would have to hone and test his skills afresh. Thus, if there is a substantial break, norms should be specified by the Bar Council of India that to regain that qualification, the person would be subject to re-examination and would be required to take the All India Bar Examination once more.

47. The other two suggestions made by the learned Amicus are that the validity of the result obtained by any candidate in any pre-enrolment or a post-enrolment bar examination must be limited by time which would be a policy matter for the Bar Council of India to consider, and the Bar Council of India can exercise its power to issue directions under Section 48B of the said Act to ensure uniformity and fairness of the procedure followed by each of the State Bar Councils. We agree with these suggestions."

15. In yet another decision in the case of **Ajay Shankar Srivastava vs. Bar Council of India and another** (Writ Petition (Civil) No. 82 of 2023 dated 10.04.2023, wherein, the petitioner had challenged the order dated 01.11.2022 passed by the Bar Council of India seeking to scrutinise the genuineness of the degree submitted prior to enrolment, the Honourable Supreme Court, having regard to the large number of cases involving fake degree holders which has a nexus with the enrolment of the advocates, constituted a High Powered Committee chaired by a former Judge of the Honourable Supreme Court, two Judges of the High Court, two Senior



Advocates and three members of the Bar Council of India. The constitution and functions of the Committee are delineated in paragraph Nos. 14 to 18 of the said decision, which read as under:

“14. We accordingly direct that the Committee shall consist of the following person:

- (i) Mr. Justice Deepak Gupta, former judge of the Supreme Court*
- (ii) Mr. Justice Arun Tandon, former Judge of the High Court of Judicature at Allahabad*
- (iii) Mr. Justice Rajendra Menon, former Chief Justice of the High Court of Delhi*
- (iv) Mr. Rakesh Dwivedi, Senior Advocate and*
- (v) Mr. Maninder Singh, Senior Advocate. The Bar Council of India shall be at liberty to nominate three members. The Secretary of the Bar Council of India shall be the nodal officer to facilitate all logistical assistance to be rendered to the members of the Committee. The honorarium payable to the members of the Committee shall be fixed by the Chairperson in consultation with the Bar Council of India.*

15. The Committee constituted by this Court is empowered to monitor the process of verification. The Committee would be at liberty to issue necessary guidelines and directions to ensure that the process of verification of advocates is duly carried out. The process of verification shall encompass both the educational degree certificates and the certificate of enrolment of the advocates concerned. All State Bar Councils shall comply with the directions of the Committee and report compliance.

16. All Universities and Examination Boards shall verify the genuineness of the educational certificates without charging any fee for the purpose of verification. The requisitions made by the Bar Councils shall be carried out without undue delay and the reports of the verification shall be submitted expeditiously.

17. We request the committee to commence work at its early convenience by convening the first meeting on a mutually convenient date and time. A status report shall be submitted before this Court by 31 August 2023 on the process which is being carried out.

18. We clarify that the present order for constituting the committee in order to effectuate the process of verification shall not be in and of itself construed as a direction for extending the existing terms of the Bar Councils.”



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16. In the light of the order passed by the Honourable Supreme Court as referred to above, an effective mechanism has already been formulated to deal with the process of enrolment of the advocates. Therefore, we are of the view that no further directions need be passed in respect of the 3rd relief sought by the petitioner herein.

17. As regards the impleadment of the 15th respondent, at the instance of the petitioner herein, it is the stand of the 15th respondent that he is not a proper and necessary party to this writ proceedings, in view of the fact that after obtaining prior permission from his employer vide letter dated 06.08.2009, he joined the LLB course in Siddharth College of Law, which was approved by the first respondent as early as 1956 and it has been conducting courses strictly in compliance with the Legal Education Rules, 2008. It is also evident from the documents produced by the 15th respondent that after relieving from his employment, the 15th respondent applied for enrolment as an advocate in the year 2017; that, the respondent authority, after scrutinising his application, accorded approval for enrolment on 02.12.2017; on 29.08.2018, he cleared the mandatory AIBE exam; and thereafter, he has been practising as an advocate. While so, there is no ground much less valid ground to issue any direction against the 15th respondent. This issue is answered accordingly.



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WEB COPY 18. With the aforesaid observations, this writ petition as well as the miscellaneous petition in WMP.No.16393 of 2022 stand disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(R.M.D., J) (M.S.Q., J)
12.10.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non-Speaking Order

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To

1. The Secretary
Bar Council of India
21, Rouse Avenue Institutional Area
Near Bal Bhawan
New Delhi - 110 002
2. The Secretary
The Bar Council of Tamilnadu & Puducherry
High Court Campus
Chennai - 600 104
3. The State of Tamilnadu
rep. by its Principal Secretary to Government
Home Department
Secretariat, Chennai - 600 009



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4. The Director
Central Bureau of Investigation
CGO Complex, New Delhi - 110 003
5. The Director General of Police
No.4, Dr. Radhakrishnan Salai
Mylapore, Chennai - 600 004
6. The Commissioner of Police
Greater Chennai
Chennai
7. The Assistant Commissioner of Police
Central Crime Branch (CCB-1)
O/o. Commissioner of Police
Chennai
8. The Inspector of Police
B-4, High Court Police Station
High Court Campus
Chennai - 600 104
9. The Secretary
University Grants Commission (UGC)
Bahadur Shah Zafar Marg
New Delhi - 110 002
10. The Registrar
Yogi Vemana University
Vemanapuram, Ganganapalle
Andhra Pradesh - 516 005
11. The Principal
Al-Ameen Law College
Hosur Road, Sudhama Nagar
Bangalore, Karnataka State - 560 027



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12. The Registrar
Karnataka State Law University
Sutagatti Road, Hubli
Navanagar, near RTO Office
Karnataka - 560 025
13. The Secretary to Government of India
Ministry of Human Resources Development
New Delhi



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R. MAHADEVAN, J
and
MOHAMMED SHAFFIQ, J

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