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Writ Petition No. 5301 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2023

CORAM :

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

Writ Petition No. 5301 of 2023
and
WMP. No. 5339 of 2023

S.Logenthiran

.. Petitioner

Versus

1. The Secretary,
Bar Council of Tamil Nadu & Puducherry,
High Court Campus, Chennai - 600 104.
2. The Enrolment Committee,
Bar Council of Tamil Nadu & Puducherry,
High Court Campus, Chennai - 600 104.

.. Respondents

This Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to permit the petitioner to enrol in the State Roll of Advocates with their office de hors the judgment dated 06.07.2022 in S.T.C.No.1201 of 2022 on the file of the Judicial Magistrate Court No.I, Tambaram which would not be covered under Section 24A(1)(a) of the Advocates Act, 1961.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.M.R.Jothimanian



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ORDER

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

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The relief sought in this Writ Petition is to issue a writ of mandamus directing the respondents to permit the petitioner to enrol in the State Roll of Advocates with their office *de hors* the judgment dated 06.07.2022 passed by the Judicial Magistrate Court No.I, Tambaram in S.T.C.No.1201 of 2022, which would not be covered under Section 24A(1)(a) of the Advocates Act, 1961.

2. According to the petitioner, he has completed L.L.B(HONS) degree and made on-line application seeking to enroll him as an Advocate, before the Bar Council of Tamil Nadu and Puducherry, enclosing all the relevant certificates and undertaking affidavits. However, his name was not published in the list of candidates for enrolment and on enquiry, he came to know that his application was withheld by the respondents, citing his involvement in a criminal case in Crime No.358/2022, registered against him for the offence punishable under section 75 of the Tamil Nadu City Police Act, which ended in an order dated 06.07.2022 passed by the Judicial Magistrate Court No.I, Tambaram in S.T.C.No.1201/2021. Therefore, the petitioner is before this court with the present writ petition.



3. The learned counsel for the petitioner submitted that the petitioner has not committed any offence and he has been implicated in the criminal case in Cr.No.358 of 2022, registered for the offence under section 75 of the Tamil Nadu City Police Act, for statistical purpose. Without realising the consequence of the same, he inadvertently admitted the offence and paid a fine of Rs.1000/- before the Judicial Magistrate and accordingly, an order dated 06.07.2022, came to be passed in STC No.1201 of 2021. As a result of the same, his name was not included in the list for enrolment of an Advocate. Adding further, the learned counsel submitted that the non-inclusion of the petitioner's name in the enrolment list due to the conviction under section 75 of the Tamil Nadu City Police Act is unsustainable in law, as it does not amount to moral turpitude within the ambit of section 24A(1)(a) of the Advocates Act, 1961. It is also submitted that it is settled law that the judgment of conviction for a petty case under section 75 of the Tamil Nadu City Police Act, which provides for penalty for drunkenness or riotous or indecent behaviour in public place, would not amount to an offence involving moral turpitude. Therefore, withholding the enrolment of the petitioner by the respondents is not legally sustainable. In support of the same, the learned counsel placed reliance on a decision of the Hon'ble Supreme Court in ***Pawan Kumar v State of Haryana and another [(1996) 4 SCC 17]***, wherein, it was



held that "Moral turpitude" is an expression, which is used in legal as also societal parlance to describe conduct, which is inherently base, vile, depraved or having any connection showing depravity. In that decision, the Government of Haryana, while considering the question of rehabilitation of ex-convicts, took a policy decision on 02.02.1973 that ex-convicts, who were convicted for offences involving moral turpitude, should not however, be taken in government service; and significantly, Section 294 IPC is not found enlisted in the list of offences constituting moral turpitude and accordingly, held that the conviction of the appellant under section 294 IPC on its own, would not involve moral turpitude depriving him of the opportunity to serve the State, unless the facts and circumstances, which led to the conviction, met the requirements of the policy decision above quoted. Stating so, the learned counsel prayed for appropriate direction to the respondent authorities to consider the claim of the petitioner.

4. On the other hand, the learned counsel appearing for the respondent authorities fairly submitted that the application of the petitioner would be considered and appropriate orders be passed on merits by the respondent authorities, within a time frame to be stipulated by this court.



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5. In view of the above, without expressing any opinion on the claim made by the petitioner, there shall be a direction to the respondents to consider the claim of the petitioner seeking enrolment as an Advocate and pass appropriate orders, on merits and in accordance with law, and also in the light of the decision of the Hon'ble Supreme Court in ***Pawan Kumar v. State of Haryana and another [(1996) 4 SCC 17]***, within a period of six weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition stands disposed of.
No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]
06.03.2023

Index : Yes / No
Internet : Yes / No
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To

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