



W.P.No.21458 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

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CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.P.No.21458 of 2016
and
W.M.P.No.18350 of 2016

D.Padmanabhan

... Petitioner

Vs.

1. The Chairman,
Bar Council of India,
21, Rouse Avenue, Institutional Area,
Near Bal Bhawan, New Delhi - 110 002.

2. The Chairman,
Bar Council of Tamil Nadu and Pondicherry,
High Court Buildings, Chennai - 600 104.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the first respondent to incorporate necessary provision in Form-A (Application for issuance of Certificate of Practice) framed under Rule 8.3 to the Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015 by seeking details of advocates governed under Rule 48 of Part VI, Chapter II, Section VII of the Bar Council of India Rules and consequently directing the second respondent to proceed



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with the issuance of Certificate of Practice only after necessary provisions are incorporated in Form - A.

For Petitioner : Mr.N.Vanaraj
For R1 : Mr.S.Haja Mohideen Gisthi
For R2 : Mr.S.R.Raghunathan

ORDER

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

The writ of mandamus has been instituted to direct the first respondent to incorporate necessary provision in Form-A (Application for issuance of Certificate of Practice) and consequently direct the second respondent to proceed with the issuance of Certificate of Practice only after incorporating necessary provisions in Form - A.

2. Mr.N.Vanaraj, the learned Counsel appearing on behalf of the petitioner would contend that the Bar Council of India Rules (Part-VI) Rule 48 would indicate that “an Advocate may be Director or Chairman of the Board of Directors of a company with or without any ordinary sitting fee,



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provided none of his duties are of an executive character. An Advocate shall not be a Managing Director or a Secretary of any company."

3. With reference to the said Rule, there is no column in Form-A (Application for issuance of Certificate of Practice). In the absence of such details to be disclosed by the applicant, the Bar Council may not be in a position to prevent such Executive Directors from practicing law in Courts. Therefore, the disclosure of the said facts would be relevant for the purpose of ascertaining the truth regarding eligibility to practice. Since there is no column provided in Form-A (Application for issuance of Certificate of Practice), which resulted in ineligible persons practicing law in Courts. Thus, the writ petition came to be instituted.

4. Mr.S.R.Raghunathan, learned Counsel appearing on behalf of the 2nd respondent would submit that the Rules are to be followed scrupulously. Details are to be provided and if there is no specific column, the same will be considered and incorporated in the Form for the purpose of getting details with reference to Rule 48 of Bar Council of India Rules (Enrollment Application Form).



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5. In view of the facts and circumstances, we direct the respondents to incorporate necessary column in Form-A (Application for issuance of Certificate of Practice) enabling the applicants to provide whether they are Executive Directors of a Company receiving salary or otherwise in the context of Rule 48 of Bar Council of India Rules (Enrollment Application Form).

6. The said exercise is directed to be completed within a period of four (4) weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition stands **disposed of**. No costs. Connected miscellaneous petition is closed.

[S.M.S., J.] [C.K., J.]
03.07.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

1. The Chairman,

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S.M.SUBRAMANIAM, J.
AND
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