



W.P.Nos.117 & 118 of 2018 (2 cases)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2024

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

W.P.Nos.117 & 118 of 2018
and
W.M.P.Nos.163 to 167 of 2018

Madras High Court Advocates Association,
Represented by its Secretary,
Mr.R.Krishnakumar,
Madras High Court Complex,
Chennai - 600 104.

... Petitioner in W.P.No.117 of 2018

Roshni Parakh

... Petitioner in W.P.No.118 of 2018

Vs.

The Registrar-General,
Madras High Court,
Chennai - 600 104.

... 1st Respondent in both W.P's

State of Tamil Nadu
Represented by its Secretary to Government,
Law Department,
Fort St.George,
Chennai - 600 009.

... 2nd Respondent in W.P.No.117of
2018



W.P.Nos.117 & 118 of 2018 (2 cases)

The Advocate General,
Government of Tamil Nadu,
Madras High Court.

... 2nd Respondent in W.P.No.118 of
2018

The Bar Council of Tamil Nadu & Puducherry,
Chennai.

... 3rd Respondent in both W.P's

[R3 *suo motu* impleaded as per order dated 03.01.2018
by HGRJ & TKRJ in W.P.Nos.117 & 118 of 2018 in both W.P's]

Prayer in W.P.No.117 of 2018: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to ROC.No.97888-A/2017/F2 in P.Dis.No.119 of 2017 dated 29.12.2017 issued by the 1st respondent and quash the same and to direct the 1st respondent to pass and number all cases filed in the Court, strictly in accordance with the extant rules, excluding the provisions of the impugned circular.

Prayer in W.P.No.118 of 2018: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent in Notification No.3 of 2018 dated 29.12.2017 and quash the same as illegal, incompetent, unconstitutional and wholly without jurisdiction and forbear the 1st respondent from issuing any notification contrary to the statutory rules framed under the Code of Civil Procedure, 1908 and the Appellate Side Rules.



W.P.Nos.117 & 118 of 2018 (2 cases)

For Petitioners : Mr.G.Mohanakrishnan(in
W.P.No.117 of
2018)

: Mr.Avinashwadhwani
for Mrs.V.Srimathi (in W.P.No.118 of
2018)

For R1 : Mr.S.Magesh
for Mr.V.Vijayshankar (in both W.P's)

For R2 : Mr.S.John J.Raja Singh
Additional Government Pleader
(in both W.P's)

For R3 : Mr.C.K.Chandrasekar (in both W.P's)

COMMON ORDER

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

The present writ petitions have been instituted challenging the Circular issued by the Registrar General, Madras High Court dated 29.12.2017, implementing the order dated 22.12.2017 made in CrI.M.P.No.16341 of 2017 in CrI.O.P.No.21454 of 2016. Thereby, the Circular indicates conditions and the procedures for filing Vakalatnama/Memo of Appearance.

2. Mr.G.Mohanakrishnan, learned Counsel appearing on behalf of



W.P.Nos.117 & 118 of 2018 (2 cases)

the Madras High Court Advocates Association would contend that the procedures stipulated in the impugned Circular is cumbersome and it may not be practically possible for the Advocates to enclose or provide such details in each and every petition. Further, the procedure becomes unnecessary, on account of developments made in filing procedures as adopted by the High Court and other Courts across the State of Tamil Nadu. The procedures stipulated in the impugned Circular would create additional burden to the lawyers. Therefore, they have chosen to challenge the Circular issued by the Registrar General, Madras High Court.

3. Mr.S.Magesh, learned Counsel for Mr.V.Vijayshankar, appearing on behalf of the 1st respondent/Registrar General would submit that the impugned Circular has been issued implementing the Judicial Order passed in Criminal Original Petition. Therefore, the 1st respondent has no option. However, the 1st respondent has no independent opinion about the procedures being ordered in the impugned Circular.

4. It is not in dispute that the procedures are contemplated under



W.P.Nos.117 & 118 of 2018 (2 cases)

Order 3 Rule 8 of Madras High Court Appellate Side Rules and further, procedures are contemplated under Rule 27 of the Criminal Rules of Practice.

Beyond the Rules for filing Vakalatnama/Memo of Appearance, it is brought to the notice of this Court that due to computerization and digitalization, the Registry of Madras High Court as well as the Registries in the District courts are facilitated to verify the genuineness of the identity of the lawyers through Bar Council Website, which is readily made available. Even while introducing E-Courts system, the particulars are integrated. Therefore, the particulars of the Lawyers can be verified by the Registry of the High Court and the Registries of District Courts across the State simultaneously, and there may not be any difficulty to identify the Lawyers and to ascertain the genuineness of the Vakalatnama/Memo of Appearance filed.

5. When the procedures in force would be sufficient enough to identify the Lawyers, prescribing additional procedures, undoubtedly would burden them, which may not be required for the purpose of filing Vakalatnama/Memorandum of Appearance. On account of subsequent development of computerization, and integration both by the Bar Council of India and the Judiciary, it would be easy for the Registry Authorities to verify



the particulars of Lawyers.

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6. The procedures contemplated under the High Court Appellate Side Rules would indicate that all the Advocates representing the cases must file Vakalatnama/Memo of Appearance including the learned Standing Counsels appearing for Corporations, Government undertakings and Government Pleaders. Rule 27 of the Criminal Rules of Practice, 2019 provides for "**Appearance of Advocates**". Sub-Rule (3) contemplates that *"Every Advocates appearing for the prosecution in any Court other than the Advocate General, Government Advocate, Public Prosecutor, Additional Public Prosecutor, Special Public Prosecutor and Assistant Public Prosecutor, shall file vakalatnama containing the enrollment number, address for service e-mail id and mobile number."* Therefore, Vakalatnama/Memo of Appearance filed under the Criminal Rules of Practice are to be scrupulously followed in adherence to Rule 27 and other Advocates not falling under the exemption clause must pay the welfare stamps as contemplated. As far as the Appellate Side is concerned all the Lawyers shall pay the Welfare Stamps duly affixed either in Vakalatnama/Memo of



W.P.Nos.117 & 118 of 2018 (2 cases)

Appearance.

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7. Thus, we are of the considered opinion that the prescription of additional conditions for filing Vakalatnama/Memo of Appearance would not be required. Further, the very purpose and object for the Registry is to ensure that the Vakalatnama/Memo of Appearance is filed by the Advocates, who all are in the rolls of Bar Councils. When procedures are already made available through computerization to verify the particulars of the Advocates practicing in all Courts, prescription of further procedures became unnecessary and as rightly pointed out by the petitioners, it will unnecessarily burden the Advocates.

8. The learned Advocate General is requested to issue necessary Circular/instructions to the learned Standing Counsels, Government Pleaders etc., to follow the procedures of affixing welfare stamps in Vakalatnama/Memo of Appearance in Appellate side.

9. Registry is directed to verify that Vakalatnama/Memo of Appearance has been duly filed by affixing the Welfare Fund



W.P.Nos.117 & 118 of 2018 (2 cases)

Stamps/Advocate Welfare Fund stamps/Advocate Clerks Welfare Fund

Stamps.

10. Accordingly, the impugned Circular in ROC.No.97888-A/2017/F2 in P.Dis.No.119 of 2017 dated 29.12.2017 issued by the Registrar General, Madras High Court is quashed and both the Writ Petitions stand **allowed**. No costs. Consequently, connected miscellaneous petitions are closed.

J.]

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

11.06.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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W.P.Nos.117 & 118 of 2018 (2 cases)

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2. State of Tamil Nadu
Represented by its Secretary to Government,
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