



WEB COPY

W.P.No.8768 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2024

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

W.P.No.8768 of 2015
and
M.P.No.1 of 2015

S.Freeda Gnanamani

... Petitioner

Vs.

1. The Bar Council of Tamil Nadu,
Represented by its Secretary,
High Court Campus,
Chennai - 600 104.
2. The Disciplinary Committee No.IV,
Bar Council of Tamil Nadu,
Represented by its Registrar,
Disciplinary Committee,
High Court Campus,
Chennai - 600 104.

3. V.Arumugam

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records of the 1st respondent in connection with its resolution No.280/2014 dated 07.11.2014 and quash the same.



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For Petitioner : Mr.R.Srinivas
Senior Counsel for Mrs.Mythili Srinivas

For R1& R2 : Mr.C.K.Chandrasekar

For R3 : Mr.R.Sankarasubbu

ORDER

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

The Resolution No.280 of 2014 dated 07.11.2014 passed by the Bar Council of Tamil Nadu is under challenged in the present writ proceedings.

2. The resolution passed by the Bar Council forming a *prima facie* opinion would not provide a cause for institution of writ proceedings in a routine manner. Such *prima facie* opinion can be challenged on limited grounds, more specifically, such opinion has been formed and issued by an incompetent Authority having no jurisdiction or tainted with the allegations of malafides. In all other circumstances, the *prima facie* opinion formed by the Bar Council would result in referring the matter to the Disciplinary Committee, who in turn has to conduct an enquiry by affording opportunity to all the parties. Therefore, forming a *prima facie* opinion or arriving at a conclusion that there is a reason to believe to refer the complaint to the



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Disciplinary Committee would not be a ground to adjudicate the matter on merits by the High Court in exercise of powers of Judicial Review under Article 226 of the Constitution of India.

3. It is a settled legal principle that disputed facts cannot be adjudicated in a writ proceedings. Such facts are to be adjudicated with reference to the documents and evidences available on record by the competent Authority/Forum. In the present case, the Bar Council of Tamil Nadu and Puducherry has formed an opinion that there is a reason to believe to refer the matter to the Disciplinary Committee. Thereafter, the Disciplinary Committee will issue notice of hearing and the parties have to appear and establish their respective cases in the manner known to law and in accordance with the Rules in force.

4. Mr.R.Srinivas, learned Senior Counsel appearing on behalf of the petitioner would submit that based on the Court order, the petitioner Lawyer has handed over the Government Poramboke land to the Commissioner, Villupuram Municipality.



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5. All these factors can be placed before the Bar Council for consideration. Since the High Court cannot conduct a roving enquiry into such allegations and counter allegations, it is for the petitioner to submit the documents, statement of defense etc., before the Bar Council for passing appropriate orders. This court cannot express any opinion with reference to the allegations set out. Therefore, the petitioner is at liberty to submit statement of defense along with the documents, if any, to the Bar Council for all further actions.

6. Accordingly, the Writ Petition stands **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

J.]

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

18.06.2024

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