



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-06-2024

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**THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN**

WEB COPY

WP No.13792 of 2021

Karthik Ranganathan

.. Petitioner

-VS-

1.The Union of India,
Represented by its Secretary (Law),
Ministry of Law and Justice,
4th Floor, A-Wing,
Shastri Bhawan,
New Delhi-10 001.

2.Bar Council of India,
Represented by its Secretary,
21, Rouse Avenue Institutional Area,
Near Bal Bhawan,
New Delhi-110 002.

3.Bar Council of Tamil Nadu and Puducherry,
High Court Campus,
Chennai-600 104.

.. Respondents



Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, declaring Section 9 of the Advocates Act, 1961 as unconstitutional and to consequently direct the first respondent to give effect to the suggestions given by the second respondent and the Law Commission of India in its 266th Law Commission Report dated 23.03.2017 to suitably amend Section 9 of the Advocates Act, 1961 on the composition of the members of the Disciplinary Committee constituted under the second and third respondents.

For Petitioner : Mr.Karthik Ranganathan
[Petitioner-in-Person]

For Respondent-1 : Mr.AR.L.Sundaresan,
Additional Solicitor General of India
Assisted by Mr.R.Rajesh Vivekananthan,
Deputy Solicitor General of India.

For Respondent-2 : Mr.S.R.Raghunathan

For Respondent-3 : Mr.C.K.Chandrasekhar

ORDER

[ORDER OF THE COURT WAS MADE

BY S.M.SUBRAMANIAM, J.]

The Writ of Declaration has been instituted to declare Section 9 of the Advocates Act, 1961 as unconstitutional and consequently to direct the first respondent to give effect to the suggestions given by the second



respondent and the Law Commission of India in its 266th Law Commission Report dated 23.03.2017 to suitably amend Section 9 of the Advocates Act, 1961.

2. The writ petitioner is practicing Advocate and contend that the Disciplinary Committee constituted under Section 9 of the Advocates Act, 1961, is arbitrary and not in consonance with the established principles. In the event of allowing the Disciplinary Committee to conduct enquiry, there is no possibility of adherence of rules of natural justice as decided by the Hon'ble Supreme Court of India in catena of judgments.

3. The petitioner may have no issues with reference to the appointment of Bar Council Members. However, he adds by stating that one Judicial Member from Retired Judges must also be included in the Disciplinary Committee for the purpose of conducting enquiry by the Bar Council. On receipt of any complaint or suo motu proceedings under Section 35 of the Advocates Act, 1961, the composition of the Committee must be such that an outsider must be included, so as to ensure neutrality in disciplinary matters. In the absence of any such outsider, there is no



possibility of maintaining neutrality in the enquiry proceedings. Thus the petitioner states that he has chosen to file the present writ petition.

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4. At the outset, the petitioner would suggest that along with the Bar Council Member, one retired Judge and an outsider must also to be included as members in the Disciplinary Committee.

5. In respect of the said contention, he would refer that Law Commission also suggested in its report, which has not been taken note of nor implemented. Thus the present writ petition is to be considered.

6. With reference to the contention that the complaint has been given by an outsider, it is only an aggrieved person, who is at liberty to institute complaint before the Bar Council, which is the basic right conferred under the Statutes and the Rules in force.

7. Mr.AR.L.Sundaresan, learned Solicitor General of India, would oppose by stating that the claim set out by the petitioner is unfounded. The Disciplinary Committee is akin to that of Departmental Disciplinary



Authority and such Committees are established in institutions and the Scheme formulated under the Advocates Act, need not be interfered with.

The Scheme under Section 9 of the Act, provides that Disciplinary Committees shall consist of three persons of whom two shall be persons elected by the Council from amongst its members and the other shall be a person co-opted by the Council from amongst Advocates, who is well versed in its norms and independent, is also included in the Committee. That being so, there is no need to include an outsider and the retired Judges in such Committees.

8. Perusal of Section 9 would reveal that a Bar Council shall constitute one or more Disciplinary Committees, each of which shall consist of three persons of whom two shall be persons elected by the Council from amongst its members and the other shall be a person co-opted by the Council from amongst Advocates, who possess the qualifications specified in the proviso to sub-section (2) of section 3 and who are not members of the Council, and the senior-most Advocate amongst the members of a Disciplinary Committee shall be the Chairman thereof.



9. In order to maintain neutrality, a Senior Advocate, from amongst the Advocates, is co-opted for conducting enquiry as contemplated under the Act and the Rules. Already neutral person is available, who is a member of the Bar and an Advocate enrolled in the State Roll. When such an Advocate is co-opted as a member in the Disciplinary Committee, this Court do not find any reason to consider the claim of the writ petitioner for including an outsider and the Retired Judge as members in the Disciplinary Committee, which would result in further complication. It is an internal disciplinary matters, which all are to be dealt with by the Bar Council and the aggrieved persons have been provided with the remedy under the Act and thereafter, they can approach the High Courts and the Hon'ble Supreme Court of India, which is the constitutional remedy.

10. When sufficient remedial measures are contemplated under the Act itself, question of interference by the High Courts in exercise of the powers of judicial review does not arise at all.

11. Beyond all, Section 9 of the Advocates Act, 1961, is about the Constitution of Disciplinary Committee and we found that there is no



valid reason to unsettle the composition of the Disciplinary Committee, as contemplated under Section 9 of the Advocates Act. If at all the petitioner is further aggrieved or has got some noble ideas to reform the system, it is for him to approach the Lawmakers for necessary actions.

12. With the above observations, the present writ petition stands dismissed. However, there shall be no order as to costs.

(S.M.SUBRAMANIAM,J.) (C.KUMARAPPAN,J.)

18-06-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

To



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Union of India,
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4th Floor, A-Wing,
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2.The Secretary,
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S.M.SUBRAMANIAM, J.
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C.KUMARAPPAN, J.

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