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W.P.No.22535 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2024

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

W.P.No.22535 of 2018
and
W.M.P.No.26389 of 2018

P.V.Ananthachari

... Petitioner

Vs.

1. The Chairman,
Bar Council of Tamil Nadu and Puducherry,
Bar Council Building,
High Court Campus,
Chennai - 600 104.
2. The Chairman,
Special Committee,
Bar Council of Tamil Nadu and Puducherry,
Bar Council Buildings,
High Court Campus,
Chennai - 600 104.
3. The Registrar,
Disciplinary Committee,
Bar Council of Tamil Nadu and Puducherry,
Bar Council Buildings,
High Court Campus,
Chennai - 600 104.
4. The Secretary,

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

5. M.Mani

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the entire records in pursuant to the resolution No.373 of 2018 dated 14.06.2018 passed by the 2nd respondent committee and the consequential notice of hearing in D.C.C.No.186 of 2018 issued by the 3rd respondent vide letter dated 09.08.2018 and quash both of them.

For Petitioner : Mr.T.P.Prabakaran

For R1 to R4 : Mr.C.K.Chandrasekar

For R5 : No appearance

ORDER

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

The resolution No.373 of 2018 dated 14.06.2018, referring complaint No.23 of 2017 to the Disciplinary Committee by the Bar Council of Tamil Nadu and Puducherry is sought to be assailed in the present writ petition.

2. The petitioner is a practising Advocate in Vellore District. The



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5th respondent submitted a complaint to the Bar Council against the writ petitioner. He has raised certain allegations of professional misconduct against the writ petitioner. The Bar Council scrutinized the complaint and found that there is a reason to believe to refer the complaint to the Disciplinary Committee for conducting an enquiry. In other words, the Bar Council of Tamil Nadu and Puducherry found that there is a *prima facie* case for conducting an enquiry and accordingly, passed a resolution, which is impugned in the present writ petition.

3. Mr.T.P.Prabakarn, learned Counsel appearing on behalf of the petitioner would vehemently contend that the complaint submitted by the 5th respondent is untenable and it relates to right to practice. Therefore, the Bar Council has committed an error in passing a resolution. The writ petitioner being a practitioner for long years in Vellore, he is unnecessarily dragged in to the proceedings and therefore, the resolution impugned is to be set aside. He would further contend that the allegations are filmsy and there is no bar for an advocate to appear in a subsequent case. In the present case, that exactly is the reply given by the petitioner, which was not considered.

4. Mr.C.K.Chandrasekar, learned Counsel appearing on behalf of the Bar Council of Tamil Nadu and Puducherry would oppose by stating that



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there are certain serious allegations identified in the complaint, which requires an enquiry. Thus, there is no infirmity in respect of the decision taken by the Bar Council referring the matter to the Disciplinary Committee and therefore, the writ petition is untenable.

5. Nipping the bud in such nature of cases are not desirable. High Court cannot conduct a roving enquiry into the allegations raised against the petitioner regarding professional misconduct. Complaint reveals that certain allegations are raised. Such allegations require enquiry to be conducted with reference to documents and evidences available on record. Therefore, mere forming of *prima facie* opinion to refer the matter to the Disciplinary Committee would not provide a cause in the present case for quashing the resolution. The Bar Council of Tamil Nadu and Puducherry while referring the complaint to the Disciplinary Committee for conducting an enquiry has to look into the nature of allegations and to decide whether an enquiry is required or not. Once the Bar Council formed an opinion that an enquiry is to be conducted, the said decision may not affect the right of the person against whom the complaint has been lodged. In other words, the *prima facie* opinion formed by the Bar Council of Tamil Nadu may not provide a cause in all



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circumstances to institute a writ proceedings, unless such *prima facie* opinion is tainted with the allegations of malafide or taken by an incompetent Authority. In all other circumstances, enquiry is to be conducted and the Advocate against whom such complaints are received must face the enquiry to defend his case in the manner contemplated.

6. High Court cannot conduct a roving enquiry in to the allegations of professional misconduct. When there is a reason to believe to refer the matter for conducting an enquiry, the parties must establish their respective cases through documents and evidences before the Disciplinary Committee. Contrarily, setting aside the resolution at this stage would result in prejudice to the complainants, who all are approaching the Bar Council for initiation of action for professional misconduct.

7. We have perused the complaint and we find that the petitioner has to defend his case by participating in the Disciplinary Committee. Accordingly, the Bar Council of Tamil Nadu and Puducherry shall proceed with the disciplinary proceedings against the petitioner by following due



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process and by affording opportunity to all the parties.

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8. With these observations, the Writ Petition stands **dismissed**. No costs. Consequently, connected miscellaneous petitions is closed.

[S.M.S.J.] [C.K.J.]
06.06.2024

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

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Bar Council of Tamil Nadu and Puducherry,
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Chennai - 600 104.

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2. The Chairman,
Special Committee,
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3. The Registrar,
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S.M.SUBRAMANIAM,J.
AND
C.KUMARAPPAN,J.

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Order in
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