



W.P.No.22628 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2024

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

W.P.No.22628 of 2019

P.Vanangamudi

... Petitioner

Vs.

The Secretary,
Bar Council of Tamil Nadu and Puducherry,
Bar Council Buildings,
High Court Campus,
Chennai - 101.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of mandamus, to direct the respondent herein to process the petitioner's enrollment application pending before the respondent herein in Identification No.PR1181995 dated 4.7.2018 enable him to get enrolled as advocate.

For Petitioner : Mr.Lakshmanasamy S.

For Respondent : 1) Mr.C.K.Chandrasekar

2) Mr.R.Muniyapparaj
Additional Public Prosecutor



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ORDER

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The writ petition has been instituted to direct the respondent to process the petitioner's enrollment application pending before the respondents in Identification No.PR1181995 dated 04.07.2018, enabling him to get enrolled as an Advocate in the Bar Council of Tamil Nadu and Puducherry.

2. The petitioner states that after completion of his Law Degree and Post Graduation Degree in Law, joined in the Madras Law College as Junior Professor and in the year 2006, he was promoted to the post of Professor in the Tamil Nadu Dr.Ambedkar Law University, Chennai. On 11.12.2013, the petitioner was appointed as Vice-Chancellor in the Tamil Nadu Dr.Ambedkar Law University and served in that capacity till 10.12.2016.

3. Admittedly, a criminal case has been registered against the petitioner and pending. The Inspector of Police, Vigilance and Anti-Corruption, Chennai City - II, Chennai filed a status report, which would



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reveal that the criminal case registered against the petitioner under the Prevention of Corruption Act, 1988 in V&AC Crime No.01/AC/2018/CC-V under Sections 120-B, 420, 467, 468 of IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 is pending.

4. Pursuant to the Judgment of the High Court, enrollment applications are not considered to enroll the petitioner as an Advocate. When it is a pre-condition that an applicant should not face any criminal case, the High Court in exercise of the powers of judicial review cannot issue a direction to Bar Council to enroll a person, who is facing a criminal case.

5. The legal position in this regard has been considered by the Division Bench of this Court in W.A.Nos.1590 and 1670 of 2015 dated 09.08.2017. The relevant portion is extracted hereunder:

*"18. Ever increasing criminalisation of the Bar is not in dispute as recorded by the learned Single Judge in **S.M.Anantha Murugan Vs. The Chairman, Bar Council of India, New Delhi (2015 (6) CTC 22)**. A perusal of the order passed by the learned single Judge would show that he has recommended appropriate measures to be taken by the Bar Council of India in this regard.*



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*Pending the recommendation, it was ordered to ensure that candidates with serious offences are not allowed to be enrolled. After all, every stakeholder is interested in upholding the dignity of the profession. It is no doubt true that there is no provision as of now barring such persons from getting enrolled. But then, there is no quibble over the power of the Bar Council of India to act accordingly. That is precisely the reason why a direction has been issued by the learned single judge. When once the right to practice is governed and controlled by a statute, then it may not be claimed as absolute. The learned single judge has exercised his power under Article 226 of the Constitution of India, which we do not feel arbitrary. Had the recommendation been considered, by this time, the issue would have been resolved finally one way or other. The Division Bench has not taken into consideration the detailed order passed by the learned single judge in this regard though it may not be binding. The fact remains that the said decision insofar as the issue is concerned has become final and the Bar Council of India is willing to give its conscious consideration to it. Even the Division Bench seeks to make a difference between different set of offences. In that sense, there is not much of difference in the thinking process adopted by the learned single judge in **S.M.Anantha Murugan Vs. The Chairman, Bar Council of India, New Delhi (2015 (6) CTC 22)** and the division bench in **W.P.No.2309 of 2016 dated 21.10.2016 (S.Manikandan Vs.The Secretary, Tamil Nadu Bar Council, Chennai)**. The observation of the Division Bench that mere registration of F.I.r. would not take away the right to get enrolled has to be seen in its*



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own context. Suffice it is to state that the earlier decision of the learned Single Judge and the observation made by the Division Bench on 30.10.2015 have not been brought to the knowledge of the Division Bench. Thus, Direction No.3 issued by the learned single Judge would stand."

6. Mr.C.K.Chandrasekar, learned Counsel appearing on behalf of respondent would submit that none of the applicants, who face criminal proceedings have been enrolled as an Advocate. Therefore, the petitioner cannot seek any exception, in order to consider his application to enroll him as an Advocate. The petitioner is at liberty to move his application only after the disposal of the criminal cases and subject to the outcome of the criminal case, which is pending against him.

7. With these observations, the Writ Petition stands **dismissed**. No costs.

[S.M.S.J.] [C.K.J.]
04.06.2024

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