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W.P.No.30324 of 2017 and batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.P.Nos.30324, 30326, 30325, 30327, 30328, 30799 & 30800 of 2017 ,
31206, 31534, 31558, 31572, 31637, 32044, 32109, 33251 & 33253 of 2018;
699, 703, 707, 710, 2194, 4243, 4370, 4914 & 8965 of 2019

and

W.M.P.Nos. 33058, 33059, 33062, 33063, 33060, 33061, 33064, 33065,
33066, 33067, 33725 & 33726 of 2017; 36408, 36410, 36746, 36748, 36784,
36780, 36798, 36800, 36875, 36877, 37293, 37294, 37371 & 37374 of 2018;
769, 772, 776, 785, 2438, 2436, 4771, 4789, 4908, 4911, 5603, 5604, 10137
& 10136 of 2019.

[W.P.No.30324 of 2017 and
W.M.P.Nos. 33058, 33059 of 2017]

S.Sudharsan

... Petitioner

Vs.

1. The Bar Council of India,
Rep. by its Secretary, New Delhi.

2. The Bar Council of Tamil Nadu & Pondicherry,
Rep. by its Secretary,
High Court Buildings,
Chennai-600 104.

... Respondents



W.P.No.30324 of 2017 and batch

Prayer in W.P.No.30324 of 2017:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings bearing Resolution No.184 of 2017 dated 09.11.2017 and Ref: R.O.C. No.6362 of 2017 dated 11.11.2017 of the 2nd respondent herein and quash the same in so far as it relates to the petitioner herein and consequently forbear the respondents herein from, in any manner, interfering with the the petitioner's right to practice as a Lawyer.

For Petitioners in W.P.Nos.
30324, 30326, 30325, 30327,
30328 of 2017 : M/s.AL.Ganthimathi, Senior Counsel
for Mr.AR.Karthik Lakshmanan

For Petitioner in W.P.No.30799
& 30800 of 2017 : Mr.G.Padmanapan

For Petitioners in W.P.Nos.
332551 & 33253
of 2018 : Mr.Syed Anwar Ahamed

For Petitioners in W.P.Nos.
699, 703, 707 &
710 of 2019 : M/s.A.Kalaiselvan

For Petitioners in W.P.Nos.
4914 of 2019 : Mr.A.Jaishankar

For Petitioners in all other
Writ Petitions : Mr.A.Ramesh Manikandan



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For Respondent in W.P.Nos.
30799 & 30800 of 2017 :

Mr.M.R.Jothimanian.

For Respondents in all
other Writ Petitions :

Mr.S.R.Raghunathan (for R1);

: Mr.M.R.Jothimanian (for R2).

COMMON ORDER

(Order of the Court was delivered by S.M.Subramaniam J.)

All the writ petitions have been filed challenging either the show cause notice or the resolution passed by the Bar Council of Tamil Nadu & Pondicherry.

2. The validity of the degrees and the law degrees obtained by the candidates, submitted application for enrolment, are questioned by the Bar Council of Tamil Nadu & Pondicherry, and the Bar Council of India.

3. The degrees obtained by undergoing regular pattern of education alone is considered as a valid degree by the UGC as well as by the Hon'ble



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Supreme Court of India. Degrees obtained without undergoing the regular pattern of education is declared as invalid. Verifying the correctness and genuinity of the degree, is to be done by the respective Bar Council on receipt of applications seeking enrolment. The Bar Council of Tamil Nadu & Pondicherry is empowered to scrutinize the application and form an opinion whether the applicant is eligible for enrolment in the State Roll or not. In the event of forming an opinion that the applicant is not eligible for enrolment, the application is to be referred to the Bar Council of India under Section 26(2) of the Advocates Act for forming an opinion and only on receipt of the opinion from the Bar Council of India, the Bar Council of Tamil Nadu & Pondicherry has to take a final decision regarding enrolment of the candidate.

4. The procedures, as contemplated under the Advocates Act, is to be followed scrupulously on receipt of applications from the candidates seeking enrolment.

5. The respective learned counsel appearing on behalf of the writ petitioners would submit that the degrees obtained by the writ petitioners are



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valid for enrolment. However, we are not inclined to go into the validity, invalidity or the genuineness of the degree possessed by the candidates submitted applications seeking enrolment. It is for the Bar Council of Tamil Nadu & Pondicherry to verify the correctness and genuinity of the degrees with reference to the Advocates Act, Bar Council of India Rules, Judgements of the Supreme Court regarding open university degrees etc. Such an exercise must be done by the Bar Council of Tamil Nadu & Pondicherry for taking a decision on merits and in accordance with law.

6. Question raised regarding the applicability of the case of *Annamalai University v. Secretary to Govt., Information & Tourism Dept. ((2009) 4 SCC 590)* decided by the Hon'ble Supreme Court of India, holding that the open university degrees are invalid. We are of the considered opinion that the judgement would be applicable prospectively with reference to the applications submitted post-judgement, wherein it is found that the open university degrees are invalid. We are not inclined to go into the other aspects of the matter. It is for the writ petitioners to submit all their documents including the judgements, if any, to the Bar Council for consideration. We made it clear that the open university degrees, obtained



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after the judgement of Annamalai University case, cannot be considered as a valid degree for the purpose of seeking enrolment or otherwise. The Other conditions stipulated by the Bar Council of India for enrolment are to be scrupulously followed.

7. Since the writ petitions are filed challenging the show cause notice and the resolution passed by the Bar Council of Tamil Nadu & Pondicherry, the writ petitions are not entertainable and the Bar Council of India has to form an opinion for taking final decision under the Advocates Act. Thus, all the writ petitioners are at liberty to submit their documents and other relevant materials to the Bar Council of Tamil Nadu & Pondicherry for forming opinion and to take a decision to refer the matter either to the Bar Council of India under Section 26(2) or to consider the case, for enrolment as the case may be.

8. The Bar Council of Tamil Nadu & Pondicherry, and the Bar Council of India are directed to expedite the process of considering all these applications in the manner known to law.



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9. With these observations, all the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.J.,)

(C.K.J.,)

25.06.2024

Index : Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)

To

1. The Bar Council of India,
Rep. by its Secretary, New Delhi.

2. The bar Council of Tamil Nadu & Pondicherry,
Rep. by its Secretary,
High Court Buildings,
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S.M.SUBRAMANIAM, J.

and

C.KUMARAPPAN, J.

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