



W.P.No.15074 of 2017

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.15074 of 2017
and
W.M.P.No.16327 of 2017

V.K.Sethukumar

... Petitioner

Vs.

1. The Bar Council of Tamil Nadu and Puducherry,
Represented by its Secretary,
High Court Campus, Chennai - 600 104.
2. The Chairman,
Disciplinary Committee III,
Bar Council of Tamil Nadu and Puducherry,
High Court Campus, Chennai - 600 104.
3. The Bar Council of India,
Represented by its Secretary,
21, Rouse Avenue, Institutional Area,
Near Bal Bhavan, New Delhi - 110 002.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of certiorari, calling the records relating to the DCC No.62 of 2017 on the file of the 2nd Respondent which was referred pursuant



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to the Resolution No.337 of 2016 dated 18.06.2016 on the file of the first respondent and was communicated to the petitioner along with their letter dated 05.06.2017 and quash the same.

For Petitioner	: Mr.V.K.Sethukumar (party-in-person)
For R1 & R2	: Mr.C.K.Chandrasekar
For R3	: Mr.S.R.Raghunathan

ORDER

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

The writ petition has been instituted challenging the Resolution No.337 of 2016 dated 18.06.2016.

2. It is the case of the petitioner that a *suo motu* disciplinary proceedings was initiated against the petitioner, who is a practicing advocate at Chennai.

3. Mr.V.K.Sethukumar, the party-in-person would submit that the allegations are flimsy and for issuance of a legal notice no disciplinary proceedings needs to be undertaken by the Bar Council. It is beyond the scope of the realm of misconduct as contemplated under the Advocates Act and the Bar Council Rules. Thus, the resolution is to be set aside.



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4. Mr.C.K.Chandrasekar, learned Counsel appearing on behalf of the respondents 1 and 2 would submit that the disciplinary proceedings are pending for more than one year, on account of the pendency of the writ petition and by invoking Section 36B of the Advocates Act, the proceedings have already been transferred to the Bar Council of India for disposal. Pursuant to the order of the Hon'ble Supreme Court of India, retired Judges are appointed to deal with the disciplinary matters across the country. Therefore, the said exercise is to be completed by following due process.

5. No writ against initiation of proceedings are normally entertainable under Article 226 of Constitution of India. Such resolutions regarding initiation of disciplinary proceedings can be challenged, if it is tainted with the allegations of malafides or issued by an incompetent Authority having no jurisdiction. High Court cannot conduct a roving enquiry in respect of the allegations regarding misconduct under the provisions of the Act and the Rules. All such grounds are to be raised before the Disciplinary Committee for adjudicating the issues on merits.



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6. In the present case, the resolution impugned reveals that the Bar Council of Tamil Nadu & Puducherry resolved to refer the complaint to the Disciplinary Committee for disposal after due enquiry. The said reference made would not provide a cause for adjudication on merits in the present writ petition. Therefore, the petitioner is at liberty to defend his case before the Committee constituted by the Bar Council of India for the purpose of disposal of the disciplinary matters. Since the matter is pending for longtime, the Bar Council of India is requested to dispose of the matter as expeditiously as possible by affording opportunity to the petitioner and by following due process.

7. With these observations, the writ petition stands **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

[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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