



W.P.Nos.29340 & 29341 of 2017

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2024

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

W.P.Nos.29340 & 29341 of 2017

A.Kandaswamy .. Petitioner in
W.P.No.29340 of 2017

N.P.Kailasam .. Petitioner in
W.P.No.29341 of 2017

Vs.

1. The Bar Council of India
Rep. by its Secretary
21, Rouse Avenue Institutional Area
New Delhi – 110 002.

2. The Bar Council of Tamil Nadu and Puducherry
Rep. by its Secretary
High Court Campus
Chennai 600 104.

Respondents
.. in both W.Ps

Common Prayer: Petition filed under Article 226 of the Constitution of India, seeking a writ of certiorari, calling for the records in the order bearing R.O.C.No.6362 of 2017 dated 11.11.2017 passed by the respondent No.2 and quashing the same so far as it relates to the petitioner.

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For the Petitioners : Mr.M.Radhakrishnan
in both W.Ps
For the Respondents : Mr.S.R.Raghunathan
in both W.Ps for R1
Mr.M.R.Jothimanian
for R2

COMMON ORDER

(Delivered by the Hon'ble Mr. Justice S.M.SUBRAMANIAM)

Two writ petitions have been filed challenging the show cause notice and the resolution passed by the Bar Council of Tamil Nadu and Pondicherry.

2. The validity of the Degrees and the Law Degrees obtained by the candidates, submitted applications for enrolment, are questioned by the Bar Council of Tamil Nadu and 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 University Grants Commission as well as by the Hon'ble Supreme Court of India. Degrees obtained without undergoing the regular pattern of education is declared as invalid. Verifying the correctness and genuinity of the



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Degree is to be done by the respective Bar Council on receipt of the applications seeking enrolment. The Bar Council of Tamil Nadu & Pondicherry is empowered to scrutinize the applications and form an opinion whether the applicants are eligible for enrolment in the State Roll or not. In the event of forming an opinion that an 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, 1961, for forming an opinion and on receipt of the opinion from the Bar Council of India, the Bar Council of Tamil Nadu and Pondicherry has to take a final decision regarding enrolment of the candidate.

4. The procedures, as contemplated under the Advocates Act, 1961, is to be followed scrupulously on receipt of the applications from the candidates seeking enrolment.

5. The learned counsel appearing on behalf of the writ petitioners would submit that the Degrees obtained by the writ petitioners are valid for enrolment. However, we are not inclined to go into the validity, invalidity or the genuineness of the Degree



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possessed by the candidates, who submitted applications seeking enrolment. It is for the Bar Council of Tamil Nadu and 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 and etc. Such an exercise must be done by the Bar Council of Tamil Nadu and Pondicherry for taking a decision on merits and in accordance with law.

6. The question raised is regarding the applicability of the case of ***Annamalai University v. Secretary to Govt., Information & Tourism Dept.***¹, 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.

¹ (2009) 4 SCC 590



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We made it clear that the Open University Degrees, obtained after the judgement of ***Annamalai University (supra)*** 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. It is made clear that the enrolments already made in the State Roll prior to the date of judgement of ***Annamalai University (supra)*** case alone must be held valid.

7. Since the writ petitions are filed challenging the show cause notice and the resolution passed by the Bar Council of Tamil Nadu and 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, 1961. Thus, all the writ petitioners are at liberty to submit their documents and other relevant materials to the Bar Council of Tamil Nadu and Pondicherry for forming an 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, as the case may be.



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

9. With these observations, all the writ petitions are disposed of. No costs. Consequently, W.M.P.Nos.31600 to 31603 of 2017 are closed.

(S.M.S., J.)

(C.K., J.)

09.07.2024

Index : Yes/No

Neutral Citation : Yes/No

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