

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present :- Hon'ble Justice Amrita Sinha

WPA 25994 of 2024

Kanishk Sinha
Vs.
Bar Council of West Bengal & Ors.

The writ petitioner in-person	:-	Mr. Kanishk Sinha
For the State	:-	Mr. Santanu Mitra, SGA. Md. Ahsanuzzaman, Adv.
For the WBBC	:-	Ms. Sabnam De Bardhan, Adv. Mr. Kartick Goyale, Adv.
For the BCI	:-	Ms. Shree Chatterjee, Adv.
For the respondent no. 4	:-	Mr. Simanta Kumar, Adv. (VC)
Heard on	:-	12.08.2025
Judgment on	:-	12.08.2025

Amrita Sinha, J.:-

1. The complaint filed by the complainant/respondent no. 4 against the petitioner advocate before the Bar Council of West Bengal on 11th November, 2022 was disposed of 12th July, 2024 by imposing penalty upon the petitioner.
2. The petitioner challenges the same and prays for setting aside the same as the impugned order was passed long after expiry of one year from the date of filing the complaint.

3. Section 36 B (1) of the Advocates Act, 1961, mandates the Disciplinary Committee of the State Bar Council to dispose of the complaint filed under Section 35 expeditiously within a period of one year from the date of receipt of the complaint.
4. The State Bar Council has filed a report before this Court today wherefrom it cannot be ascertained as to why there has been delay in concluding the disciplinary proceeding within a period of one year from the date of filing. The report merely mentions about several previous cases pending before the Disciplinary Committee and that the Committee decides cases chronologically. The aforesaid ground cannot be an explanation to the delay in disposal of the complaint within a year from the date of filing.
5. The Bar Council admits that the petition for complaint being Case No. 32/22 was filed on 11th November, 2022, the Bar Council started acting upon it on 21st September, 2023 and the same stood disposed of on 12th July, 2024 which is within a period of one year.
6. It appears that the Bar Council has missed to notice that the time period for conclusion of the disciplinary proceeding only when the complaint is at the instance of the State Bar Council, is one year from the date of initiation of the proceeding. In case when complaint is filed by a third party before the State Bar Council, the same has to be concluded within one year from the date of receipt of the complaint.
7. The Bar Council ought not to have delayed in initiating proceeding in response to the complaint when the law mandates that the complaint

is to be disposed of within a period of one year from the date of receipt of the same.

8. The petitioner relies upon the judgment dated 17th December, 2021 passed by the Hon'ble Supreme Court in the matter of ***K. Anjinappa – vs- K. C. Krishna Reddy & Anr.*** reported in ***(2022) 17 SCC 625*** wherein the Court in clear terms held that a complaint received by the State Bar Council under Section 35 of the Act has to be mandatorily disposed of within one year from the date of receipt of the complaint.
9. The petitioner has also relied upon the judgment passed by this Court in the matter of ***Shri Brojo Gopal Bhattacharyya –vs- Bar Council of West Bengal & Ors.*** reported in ***(2000) 1 CLT 77 (HC)*** wherein the Hon'ble Division Bench of this Court inter alia held that once the Disciplinary Committee of the State Bar Council fails to conclude the proceeding within a period of one year, the proceeding stands automatically transferred to the Bar Council of India for disposal in accordance with Section 36(B) of the Act. Any order passed after expiry of a period of one year is without jurisdiction and in violation of Section 36(B)(1) of the Act. The Court also held that transfer of the proceeding before the Bar Council of India does not mean that the proceeding stands dropped.
10. In view of the above, the Court has no other alternative but to set aside the order passed by the State Bar Council and to direct the State Bar Council to transmit to the Bar Council of India all documents, papers

in connection with the complaint filed by the complainant at the earliest but positively by 20th August, 2025.

11. Learned advocate representing the State Bar Council shall produce evidence to show that all papers of the subject disciplinary proceeding have been forwarded to the Bar Council of India.
12. It is made clear that setting aside of the order passed by the State Bar Council does not mean that the complaint has been closed and/or the disciplinary proceeding has been dropped. The disciplinary proceeding merely gets transferred from the State Bar Council to the Bar Council of India. It will be open for the complainant/respondent no.4 to follow up the proceeding with the Bar Council of India.
13. List the matter on 22nd August, 2025 for ascertaining compliance.
14. All parties to act on the basis of the server copy of this judgment duly downloaded from the official website of this Court.
15. Urgent certified photocopy of this judgment, if applied for, be supplied to the parties or their advocates on record expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)