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W.P.No.18387 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.05.2025

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.No.18387 of 2025

Harikrishnakumar. R
S/o.Rajkumar,
No.4A, Srinivasaperumal Koil Street,
Munisalai,
Madurai District.

... Petitioner

Vs.

1. The Bar Council of India,
21, Race Avenue, Institutional Area,
Near Bal Bhawan,
New Delhi – 110 002.
2. The Bar Council of Tamil Nadu
and Puducherry,
Rep. by its Secretary,
Bar Council Building,
High Court Complex, N.S.C. Bose Road,
Chennai – 600 104.
3. The Inspector of Police,
E3, Teynampet police station,
494, Anna Salai,
JJ Nagar, Teynampet,
Chennai – 600 006.

... Respondents



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PRAYER: Writ Petition under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to permit the petitioner to enrol as an Advocate on the roll of the second respondent based on the application of the petitioner dated 02.09.2024 bearing No.PR/2024/35527 and the representation made by the petitioner to the second respondent dated 08.05.2025.

For Petitioner : Mr.Nithyaesh Natraj
for Mr.Abhinav Parthasarathy

For R-1 & R-2 : Mr.C.K.Chandrasekar

For R-3 & R-4 : Mr.R.Muniyapparaj,
Additional Public Prosecutor

ORDER

(By G.R.SWAMINATHAN, J.)

Heard the learned counsel on either side.

2.The writ petitioner comes from a very ordinary social and economic background. His father passed away on 17.12.2012. The petitioner's mother is not an educated woman. The family is involved only in agricultural activities. The petitioner is the first graduate in his family. He successfully completed his law degree and passed out of Government Law



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College, Ramanathapuram in the year 2024. Though he applied for enrollment with the second respondent Bar Council on 02.09.2024, it could not be processed on the ground of pendency of two criminal cases. Hence, this petition has been filed to direct the respondents 1 and 2 to permit him to enrol as an advocate.

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3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He also referred to a catena of case laws enclosed in the typed set of papers. He called upon this Court to grant relief as prayed for.

4.The learned counsel appearing for the jurisdictional police submitted that the petitioner could not succeed in getting the FIR registered against him quashed. The fact remains that as on date the petitioner figured as an accused in more than one criminal case. He called upon this Court to dismiss the writ petition.

5.The learned Standing counsel appearing for the Tamil Nadu Bar Council strongly submitted that the Bar Council of Tamil Nadu and Puducherry is merely following the dictum issued by this Court. He



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submitted that the petitioner cannot deny his involvement in the criminal cases. He emphasized that the Bar Council is statutorily mandated to maintain the purity of process and that therefore keeping out such applicants though legally qualified from enrolling as Advocates would serve larger public interest. He called upon this Court to dismiss the writ petition.

6. We carefully considered the rival contentions and went through the materials on record.

7. It is not in dispute that one T.Susila who was also a co-accused in Crime No.53 of 2022 on the file of the E3 Teynampet Police Station was placed in a similar predicament. She filed WP No.13952 of 2024 and the same was allowed vide order dated 24.05.2024. Paragraphs 7, 8, 9, 10, 11, 12 and 13 of the said order read as follows :

“7.....The question that calls for consideration is whether the enrolment of the petitioner deserves to be deferred any further. Article 19(1)(g) of the Constitution of India guarantees to all citizens, the fundamental right to practise any profession. This of course is not absolute right. It is subject to reasonable restrictions set out in Article 19(6) of the Constitution of India. Article 19(6) reads as follows:-



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(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.”

8. A careful reading of Article 19(6) indicates that the reasonable restrictions can be imposed on the fundamental right conferred by Article 19(1)(g). The restrictions should be reasonable and the State is not prevented from making any law relating to technical qualifications necessary for practising the profession. The Parliament enacted the Advocates Act, 1961. Section 24-A of the Act catalogues the disqualifications for enrolment. The said provision reads as follows:-

“24-A. Disqualification for enrolment.-(1) No person shall be admitted as an advocate on a State roll-

(a) if he is convicted of an offence involving moral turpitude;



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(b) if he is convicted of an offence under the provisions of the Untouchability (Offences) Act, 1955 (22 of 1955);

(c) if he is dismissed or removed from employment or office under the State on any charge involving moral turpitude.

Explanation.-In this clause, the expression “State” shall have the meaning assigned to it under article 12 of the Constitution:

Provided that the disqualification for enrolment as aforesaid shall cease to have effect after a period of two years has elapsed since his release or dismissal or, as the case may be, removal.

(2) Nothing contained in sub-section (1) shall apply to a person who having been found guilty is dealt with under the provisions of the Probation of Offenders Act, 1958 (20 of 1958).”

9.A bare reading of Section 24-A of the Act indicates that the said provision has no application to the petitioner. This is because, the petitioner has not been convicted of any offence at all. The petitioner was admittedly a student leader. The cases registered against the petitioner are rather political in nature. They involve participation in agitations. Since she has not been convicted and has not been dismissed or removed from employment, obviously, Section 24-A cannot be invoked against the petitioner at all.



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10. Of course Section 24(1)(e) of the Act states that subject to the provisions of the Act and Rules made thereunder, a person shall be qualified as an Advocate only if he fulfils such other conditions as may be specified in the rules made by the State Bar Council. Even according to the Bar Council, no rule had been framed by them for declining to entertain the enrolment application by citing mere implication in criminal cases not involving moral turpitude of the applicant in criminal cases. According to the Bar Council, the only bar is judicial order passed by this Court. **(Order dated 06.10.2015 in Crl.O.P.(MD)No.14573 of 2014(S.M.Anantha Murugan V. Chairman, Bar Council of India, New Delhi).** The sentiments expressed by the Hon'ble Judge are no doubt laudable. But there is no ratio underlying the said direction so as to disqualify even candidates in whose cases there is no moral turpitude involved.

11. Our attention has been drawn to the decisions taken by the subsequent Division Benches. **Vide order dated 21.09.2021 in W.P.(MD)No.3609 of 2021(K.Siva V. The Bar Council of Tamil Nadu and Pondicherry),** the Hon'ble Division Bench directed the Bar Council to enrol the petitioner. In some cases, the matters were remanded and the Bar Council was directed to take decision.

12. **The Hon'ble Madhya Pradesh High Court vide order dated 11.09.2018 in W.P.No.11350 of 2018 (BRAJ MOHAN**



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MAHAJAN Vs BAR COUNCIL OF STATE OF MADHYA PRADESH & OTHERS) had held that Section 24(1)(e) of the Act cannot override Section 24-A of the Act.

13.The right to practise any profession is a constitutionally guaranteed fundamental right. Any clause restraining the exercise of the fundamental right has to be strictly construed and kept within its bounds. The restriction clause cannot receive expansive or liberal interpretation. Section 24-A of the Advocates Act sets out the circumstances that may disqualify the applicant from being enrolled as an Advocate. Unless the applicant falls within the scope of Section 24-A, the applicant's enrolment ought not to be rejected. In this case, when the application was submitted, there is nothing on record to show that the petitioner was ever aware of her implication in any criminal case. We will proceed on the premise that what position obtaining on the date of enrolment is material. Even if the worst case is put against the petitioner, still it is obvious that the petitioner cannot be accused of having committed an act of moral turpitude. We went through the FIRs registered against the petitioner. It is true that this Court declined to quash one of the FIRs. But we independently come to the conclusion that the criminal cases registered against the petitioner do not involve any act of moral turpitude. Therefore, we are of the view that the petitioner has made out a case for enrolment. However, as rightly pointed out by the learned Standing counsel appearing for the Bar



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Council, we will not fault the Bar Council for having followed the directions issued by this Court. In view of the reasons already mentioned, we direct the respondents 1 and 2 to permit the petitioner to enrol as an Advocate on the rolls of the State Bar Council at the earliest. This writ petition stands allowed. No costs.”

8.It is true that E2-Tynampet Police Station have also registered a case against the petitioner and others for not having given correct particulars. In fact, in the arrest card prepared by the police, the petitioner's name has been correctly mentioned. During the relevant time, the petitioner was staying in the office of the Students Organisation in which he was a member. The petitioner cannot be faulted for having given the said address as his place of stay. The petitioner had raised a public issue as a member of a Students Organisation. To deny the benefit of enrollment to the petitioner as an advocate is inequitable. Lawyers are known to take up public causes. Our freedom movement was led by lawyers. Law students cannot be faulted for raising public issues. The approach which this court adopted in T.Susila's case deserves to be followed in this case also.



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9. In this view of the matter, we hold that case has been made out for issuing a Writ of Mandamus. We direct the respondents 1 and 2 to permit the petitioner to enrol as Advocate on the rolls of the second respondent at the earliest. This writ petition is allowed. No costs.

(G.R.S.,J) & (V.L.N.,J)

21.05.2025

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
SKM/KST

To:

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