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W.P.No.30091 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2025

CORAM:

**THE HON'BLE MR.JUSTICE M.S.RAMESH
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR**

W.P.No.30091 of 2017
and
W.M.P.Nos.32664 & 32665 of 2017

G.Udhayashankar

...Petitioner

Vs

The Secretary,
Bar Council of Tamil Nadu & Puducherry,
High Court Buildings,
Chennai – 600 104.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the notice of the respondent dated 11.11.2017 made in ROC.No.6362 of 2017, insofar as the petitioner is concerned, quash the same and consequently direct the respondent/Bar Council of Tamil Nadu and Puducherry to permit the petitioner to continue his practice.

For Petitioner : Mr.P.Ravikumar

For Respondent : Mr.C.K.Chandrasekar



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ORDER

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

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The order impugned in this Writ Petition is a show cause notice issued by the Bar Council of Tamil Nadu and Puducherry under the proviso to Section 26(1) of the Advocates Act, 1961, calling upon the petitioner as to why the petitioner should not be removed from the rolls of the Bar Council of Tamil Nadu and Puducherry, since one of the required pattern of education has not been undergone by him, before obtaining the law degree.

2. For ready reference, Section 26(1) of the Advocates Act reads as follows:-

“26. Disposal of applications for admission as an advocate.—

(1) A State Bar Council shall refer every application for admission as an advocate to its enrolment committee, and subject to the provisions of sub-sections (2) and (3) and to any direction that may be given in writing by the State Bar Council in this behalf], such committee shall dispose of the application in the prescribed manner:

Provided that the Bar Council of India may, if satisfied, either on a reference made to it in this behalf or otherwise, that any person has got his name entered on the roll of advocates by misrepresentation as to an essential fact or by fraud or undue influence, remove the name of such person



from the roll of advocates after giving him an opportunity of being heard.]”

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3. The impugned show cause notice records that the pattern of education of the petitioner before obtaining a law degree, is not in conformity with Rule 5 of the Legal Education Rules, 2008 framed by the Bar Council of India and thereby extends an opportunity to the petitioner herein to tender his explanation.

4. Under Article 226 of the Constitution of India, the High Court will not normally venture to interfere with a show cause notice, unless under a very few exceptions, like lack of authority or jurisdiction, etc. This legal position has been reiterated in several decisions of the Hon'ble Supreme Court, as well as this Court, including the case in ***Union of India and Another Vs. Kunisetty Satyanarayana*** reported in ***(2006) 12 SCC 28***, wherein the Hon'ble Supreme Court held as follows:-

“14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has



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been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ petition lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of anyone. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.”

5. The grounds raised by the petitioner does not fall under any of the exceptions and therefore, we are not inclined to interfere with the impugned show cause notice. However, if the petitioner is granted liberty to render his explanation to the said notice, within a stipulated time, the ends of justice could be secured.

6. Accordingly, the following orders are passed:-

(i) The petitioner is granted liberty to give his explanation to the impugned show cause notice, if not already submitted, within a period of 30 days from the date of receipt of a copy of this order.

(ii) In case if the petitioner has already submitted his explanation, an



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opportunity to file his additional reply to the show cause, within a period of 30 days from the date of receipt of a copy of this order, shall be given.

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(iii) On receipt of the explanation to the show cause notice, the State Bar Council shall forward the proposal to the Bar Council of India, as contemplated under Section 26 of the Advocates Act, for further course of action.

(iv) On receipt of the proposal from the State Bar Council, the Bar Council of India shall consider the proposal and pass final orders on its own merits and in accordance with law, after giving due opportunity of hearing to the Advocate concerned, preferably within a period of 6 months from the date of receipt of the proposal from the State Bar Council.

(v) Till such time the final orders are passed by the Bar Council of India, as indicated above, the order of suspension of practice issued by the Bar Council of Tamil Nadu and Puducherry to the petitioner, shall be stayed.

7. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(M.S.R.,J.) (N.S.,J.)
04.03.2025

Index:Yes/No
Neutral Citation:Yes/No
Speaking order/Non-Speaking Order
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M.S.RAMESH,J.
AND
N.SENTHILKUMAR,J.

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To

The Secretary,
Bar Council of Tamil Nadu & Puducherry,
High Court Buildings,
Chennai – 600 104.

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