

**CWP-25167-2018****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****220****CWP-25167-2018****Date of Decision : January 20, 2025****ASHWANI KUMAR****-PETITIONER****V/S****COUNCIL OF ARCHITECTURE AND ANR -RESPONDENTS****CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Harsh Aggarwal, Advocate
for the petitioner.

Mr. Naveen R. Nath, Sr. Advocate with
Mr. Tanmoy Gupta, Advocate
for the respondents.

*********KULDEEP TIWARI, J. (ORAL)**

1. The petitioner, who holds a degree in Bachelor of Architecture from Panjab University, Chandigarh, has instituted the instant writ petition for quashing the order dated 10.10.2013 (Annexure P-9), whereby, his subsequent Registration No. CA/93/16070 has been cancelled on account of its being a duplicate registration. Vide the said order, the petitioner has also been given option to continue with his initial registration No. CA/75/128 by making the requisite payment, out of the two payment options indicated therein.

2. In addition, the petitioner also seeks quashing of the Fee Due Notices issued in respect of his initial registration No. CA/75/128. The said Fee Dues Notices are enclosed respectively in Annexures P-10 and P-12.

3. The learned counsel for the petitioner submits that, post

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completion of his Bachelors Degree in Architecture, the petitioner enrolled himself in the Register maintained by the respondent No.2 and he was allotted the registration No. CA/75/128. Post his enrollment, the petitioner started working in private capacity and subsequently he joined as Assistant Architect in the Government of Haryana. Upon completion of his service tenure, the petitioner superannuated from the post of Chief Architect on 31.12.2008. Since the petitioner was in government job, he was required to re-register himself, therefore, after starting his private practice, he again applied with the Council of Architecture and accordingly he was granted Registration No. CA/93/16070.

4. In his challenging the impugned order dated 10.10.2013 (Annexure P-9), the learned counsel for the petitioner submits that, the respondent No.2 does not have any power to cancel the petitioner's subsequent registration number, and that, even the principles of natural justice have also been violated inasmuch as no show cause notice was served to the petitioner before cancellation of his registration number. He also places reliance upon Section 26(2) of The Architects Act, 1972 (hereinafter referred to as the 'Act of 1972') to submit that, there was no necessity for the petitioner to surrender his initial registration number, rather he could yet apply for a fresh registration number.

5. The arguments made by the learned counsel for the petitioner are opposed by the learned senior counsel for the respondents. He submits that, the respondent No.2 is only a trustee of the Register, which is maintained in view of Section 23 of the Act of 1972. The respondent No.2 is

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maintaining the Register on behalf of the Central Government, therefore, is bound to follow the provisions of the Act of 1972 and the rules framed thereunder.

6. The learned senior counsel for the respondents also draws attention of this Court towards the hereinafter extracted Section 27 of the Act of 1972, wherein becomes prescribed the procedure regarding renewal fee.

“27. Renewal fees.—(1) The Central Government may, by notification in the Official Gazette, direct that for the retention of a name in the register after the 31st day of December of the year following the year in which the name is first entered in the register, there shall be paid annually to the Council such renewal fee as may be prescribed by rules and where such direction has been made, such renewal fee shall be due to be paid before the first day of April of the year to which it relates.

(2) Where the renewal fee is not paid before the due date, the Registrar shall remove the name of the defaulter from the register: Provided that a name so removed may be restored to the register on, such conditions as may be prescribed by rules.

(3) On payment of the renewal fee, the Registrar shall, in such manner as may be prescribed by rules, endorse the certificate of registration accordingly.”

7. Furthermore, by drawing attention of this Court towards the powers of the Council regarding removal of name of the persons enrolled in the Register, the learned senior counsel for the respondents submits that, it was within the domain of the Council to remove the name of the person, who without disclosing about his initial registration, applied for and obtained another registration number by changing his name.

8. Finally, the learned senior counsel for the respondents submits

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that, the impugned order (Annexure P-9) was in fact in the nature of show cause notice inasmuch as therethrough the petitioner was informed to deposit the requisite payment, by choosing one of the two payment options, for continuing with his initial registration number.

9. This Court has heard the submissions made by the learned counsels for the contesting litigants and also perused the record. For the reasons to be recorded hereinafter, this Court does not find any merit in the instant writ petition.

10. The argument made by the petitioner's counsel that, without surrender of his initial registration number, the petitioner can yet maintain subsequent registration, is without any merit. Perusal of Section 26 of the Act of 1972 nowhere authorizes any person to retain two registration numbers. The Registrar of the Council can only enter the name of a person, who in his opinion, is entitled to have his name entered in the Register. Even the proviso attached to sub-Section (2) of Section 26 clearly postulates that, no person, whose name has under the provisions of this Act been removed from the register, shall be entitled to have his name re-entered in the register except with the approval of the Council.

11. Moreover, although the petitioner joined the government service, yet he was required to be holding a valid registration number from the Council of Architecture. Gainful reference in this regard can be made to the verdict rendered by the Hon'ble Supreme Court in "Council of Architecture Vs. Mukesh Goyal and Others", wherein, the following relevant question was framed and answered in affirmative.

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“38.2 (ii) Question 2: Whether a post titled “Architect”, “Associate Architect” or any other similar title using the term or style of “Architect” can be held by a person not registered as an architect under the Architects Act ?

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54. In the present case, we recognise the power of Noida to provide and modify the minimum eligibility criteria for promotion of candidates to the posts of Associate Town Planner and Associate Architect. We further recognise that the authority has significant discretion in how it chooses to title the various posts under its supervision. However, to permit Noida to continue to title a post that includes individuals who are not registered architects under the Architects Act as “Associate Architect” would result in a violation of Section 37 of the Architects Act. In Tulya Gogoi the High Court of Gauhati expressly held that the prohibition on the use of title and style of architect contained in Section 37 of the Architects Act applies to both private individuals and government employees. The reasoning of the High Court on this issue commends itself for our acceptance. The text of Section 37 makes no distinction between government employees and private individuals.

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56. For the reasons stated above, in response to the first question we affirm the decision of the High Court of Allahabad and hold that Section 37 of the Architects Act does not prohibit individuals not registered under the Architects Act from undertaking the practice of architecture and its cognate activities. In response to the second question we disapprove of the view of the High Court of Allahabad and hold that Noida cannot promote or recruit individuals who do not hold a degree in architecture recognised by the Architects Act to a post that uses the title or style of “architect”. However, the authority is free to change the nomenclature of the post to any alternative as long as it does not violate the provisions of the Architects Act by using the style and title of “architect” in its name.”

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12. Finally, insofar as the argument constructed by the learned counsel for the petitioner that no show cause notice was served before cancellation of subsequent registration number is concerned, this Court has perused the impugned order dated 10.10.2013 (Annexure P-9). It is clearly mentioned in the impugned order that, since the petitioner obtained the subsequent registration number without disclosing about his initial registration, therefore, his subsequent registration number has been cancelled and he has been informed to, by choosing one of the two payments options given therein, make payment of the requisite fee for continuing with his initial registration number. Consequently, no prejudice has been caused to the petitioner through passing of the impugned order dated 10.10.2013 (Annexure P-9).

13. In summa, the instant writ petition is **dismissed**, being devoid of merits. However, liberty is reserved to the petitioner to approach the Council of Architecture, and, in case he do so and furnishes the requisite fee to be calculated by the Council of Architecture, he shall be granted the old registration number.

January 20, 2025
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No