

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

W.P. NO.

OF 2020

Between:

Syed Ziauddin, S/o Usman,

..Petitioner

AND

1. Bar Council of Andhra Pradesh,
Rep. by its Secretary,
High Court Buildings, Nelapadu, Amaravathi.
2. State of Andhra Pradesh, Rep. by its Secretary,
Law Department, Secretariat, Velagapudi,
Guntur.
3. Advocate General for the State of Andhra Pradesh,
High Court of Andhra Pradesh, Velagapudi,
Guntur.

..Respondents

AFFIDAVIT

I, Syed Ziauddin,

do hereby solemnly and sincerely
affirm and state as follows:

1. I submit that I am the Petitioner herein and as such I am well acquainted with the facts of the case.
2. I humbly submit that the present writ petition is filed challenging the proceedings of the 1st respondent in R.O.C.No. 173 / 2020 dated 10.08.2020 thereby providing Loans to the needy advocates, out of the amount released by the Government of Andhra Pradesh, being part of 100 Crores sanctioned by the Government for Welfare of the Advocate Community, as illegal, iregular, irrational and arbitrary and unjust.
3. I humbly submit that I completed B.L. in the year 1985 from Andhra University, Visakhapatnam. Thereafter, I enrolled on the rolls of Bar Council of Andhra Pradesh in the year 1987. I was given enrollment

Government through a GO. The relevant GO is GO Ms.No: 185 dated 08.07.2020. The GO was issued with respect to release of Rs.25,00,00,000/- towards Trust for Welfare of Lawyers.

8. I submit that para 4 of the said GO says hereunder

“The said amount shall be utilized for the welfare of the needy Advocates selected by the committee under the Chairmanship of Advocate General, High Court of Andhra Pradesh along with Four (4) Bar Council members selected by him in consultation with the Chairman, Bar Council of Andhra Pradesh. The guidelines shall be prescribed by the Committee with regard to disbursal of the amount.”

9. I submit that as seen from the proceedings emanated from the 1st respondent, no such reference is there that a Committee under the Chairmanship of Advocate General, High Court of Andhra Pradesh along with Four (4) Bar Council members selected by him in consultation with the Chairman, Bar Council of Andhra Pradesh was formed. The 1st respondent proceedings show that, A Special Committee was constituted under the Chairmanship of the Advocate General to disburse the said amount. The Committee has decided to provide Health Insurance to the needy Advocates and also to provide loan facility to all those needy advocates, who have already filed COP Applications OR Declarations. The proceedings would show that the Committee has decided to provide Health Insurance and also to provide loan facility. In fact the GO issued by the 2nd respondent would show that the amount released is only for the Assistance of the Advocates and there is no scope of Health Insurance.

10. I submit that apart the 1st respondent is a Statutory Body created for the welfare of the Advocates. Whereas the Government issued the GO and released Rs.25,00,00,000/- for the welfare of the Advocates. The 2nd respondent is utilizing the same and offering loan to the Advocates by

imposing conditions. As seen from the proceedings there are two types of loans i.e Rs.10,000/- and Rs.20,000/- and both are chargeable with interest of 5% and 9% which is not permissible under the Advocates Act, 1961. Section 6(2) of the Act clearly states that Bar Council shall provide assistance and not loan. The wording there used is only Assistance and not loan. In case of Assistance, there cannot be any repayment.

11. I submit that as can be seen from the GO issued by the 2nd respondent, there is no scope and jurisdiction for the 1st respondent to issue the circular towards loan and imposing interest and also repayment. In fact the wording of the GO is clear that a Committee is to be formed by the Advocate General. The Committee shall decide the said issue. In fact the wording used in the GO is that the amount is released towards the Trust for Welfare of Lawyers. In fact a trust has to be formed and the said Trust has to decide the same or in the alternative, the committee constituted under the Advocate General shall do such exercise of distribution of amounts to the Advocates. The amounts released is towards Assistance of Advocates and not towards trading the money as if it's a commercial Bank. 1st respondent is a statutory Body created for the welfare of the Advocates and it cannot go beyond the Statute. Also Provision of Health Cards with the released amount is not permissible and thus the said portion is also coming in the way of the Distribution of Assistance Amount.

12. I submit that during Covid-19 all the Bar Councils through out the country are distributing money to the Advocates without any repayment clause. Delhi Bar Council distributed 5000 to the Advocates without any repayment clause, Telangana Bar Council distributed 10000 to the Advocates without any repayment Clause. Thus the 1st respondent having requested the Government to grant Aid for the purpose of covid-19 Assistance cannot trade with the money. Thus the 1st respondent does

not have any jurisdiction to issue the circular and it is only the Committee constituted by the Advocate General who shall issue such circular. The entire burden is on the Advocate General to answer this and the other Members will be in the Committee and also equally responsible. The role of the 1st respondent Bar Council is neither specified in the GO nor any scope is given to the 1st respondent to trade with the money.

13. I submit that the proceedings doesn't show who are the members of the Committee and when the decision was taken and why the interest portion was added which runs contrary to section 6(2) of the Advocates Act, 1961 and G.O. Ms.No: 185 dated 08.07.2020. Thus, all of these portions are remaining blank and thus the proceedings doesn't have any sanctity, as they are running against the welfare of the Advocates on the Rolls of the 1st respondent. I submitted a representation dated 10.08.2020 through email to official email of 1st respondent on secapbc@gmail.com. The same was received by them. I also sent the same representation through whatsapp to the Bar Council Members.

14. I submit that in State of Telangana, The Telangana State Advocates Welfare Trust was created and under the able guidance of Honb'le Chief Justice, High Court for the State of Telangana, an amount of Rs.10,000/- was released to the Advocates and Rs.5000/- was released to the Avocate Clerks towards Covid-19 Assistance. There also the Committee dealt with the entire money and not the Bar Council. The Bar Council acted as a medium and effectively played an important role. I am herewith filing the guidelines of The Telangana State Advocates Welfare Trust for better understanding. Now that here the said role of the Trust is being taken over by the 1st respondent and sitting as an Authority towards granting loans on interest. Thus such decision is illegal, irregular, irrational and violation of principles of natural justice. Thus, I am constrained to file this writ petition.

15. We have no other alternative remedy except to approach this Hon'ble Court invoking the jurisdiction in its extra ordinary jurisdiction under Article 226 of the Constitution of India. I have not filed any suit or Writ or any proceedings before any court or Tribunal nor any Writ or suit is pending before any court or Tribunal seeking the relief sought for in this Writ Petition.

It is therefore prayed that this Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings in R.O.C.No. 173/2020 dated 10.08.2020 of 1st respondent thereby providing Loans to the needy advocates, out of the amount released by the Government of Andhra Pradesh, with repayment and interest clause, as illegal, irregular, arbitrary, without jurisdiction, violative of principles of natural justice and Articles 14 and 21 of Constitution of India and consequently suspend the proceedings R.O.C.No. 173/2020 dated 10.08.2020 of 1st respondent and direct the respondent No: 3 to constitute a Welfare Trust for the purpose of Andhra Pradesh Advocates Welfare and pass such other order or orders may deem fit and proper in the circumstances of the case.

It is also just and necessary that this Hon'ble Court may be pleased to suspend the proceedings R.O.C.No. 173/2020 dated 10.08.2020 of 1st respondent and direct the respondent No: 3 to constitute a Welfare Trust for the purpose of Andhra Pradesh Advocates Welfare pending disposal of the above writ petition and pass such other order or orders may deem fit and proper in the circumstances of the case.

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Solemnly and sincerely affirm this
the day of 11th August, 2020
and signed his name in my presence.

Deponent