



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JANUARY, 2024

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 26197 OF 2023 (GM-RES)

BETWEEN:

CHIKKANNA,

...PETITIONER

(BY SRI. ANIL SHEKAR K.S, ADVOCATE)

AND:

1. KARNATAKA STATE BAR COUNCIL,
REPRESENTED BY ITS SECRETARY,
OLD ELECTION COMMISSION OFFICE,
AMBEDKAR VEEDHI,
BANGALORE - 560 001.
2. KARNATAKA STATE BAR COUNCIL,
DISCIPLINARY COMMITTEE,
REPRESENTED BY ITS CHAIRMAN,
OLD ELECTION COMMISSION OFFICE,
AMBEDKAR VEEDHI,





BANGALORE - 560 001.

3. BAR ASSOCIATION (REGD) GUNDLUPET,
CIVIL JUDGE AND JMFC COURT COMPLEX,
GUNDLUPETE,
CHAMARAJANAGAR - 571 111
REPRESENTED BY PRESIDENT

...RESPONDENTS

(BY SRI. NATARAJ G, ADVOCATE FOR R1 AND R2)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ORDER BY QUASHING THE IMPUGNED NOTIFICATION ISSUED BY 1ST RESPONDENT VIDE NOTIFICATION NO. 25/2023 DATED 10.07.2023 (KSBC/DC-NOTIFICATION/1401/2023) (ANNEXURE-H) AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner is before this Court calling in question a notification dated 10.07.2023 by which the petitioner is suspended from practice as an advocate.

2. Heard Sri. Anil Shekar K.S., learned counsel appearing for the petitioner and Sri. Nataraj G., learned counsel appearing for respondents No.1 and 2.

3. Facts, in brief, germane are as follows:



The petitioner claims to have enrolled as an advocate in the year 2017 in the Karnataka State Bar Council and has set up practice before the Gundlupet Bar. On 27.03.2023, a crime comes to be registered against the petitioner in crime No.81/2023 for offences punishable under Sections 341, 323, 307, 504, 506 and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989. On the complaint so filed against the petitioner, the petitioner also files a complaint in crime No.82/2023 for the very same offences, except the one under the Atrocities Act. Therefore, it was a case and a counter case or a complaint and a counter complaint.

4. Respondent No.3 then files a complaint before respondent No.1 - Karnataka State Bar Council seeking disciplinary action against the petitioner alleging professional misconduct on the alleged incident that led to registration of the aforesaid crimes.

5. It transpires that the Karnataka State Bar Council issued a notice on 31.03.2023 and the petitioner did not receive the same, as he was in judicial custody at that point in



time. The notice was returned un-served. Noticing the fact that the petitioner did not defend his action, the impugned order comes to be passed on 10.07.2023 and later, the matter is referred for an enquiry in terms of the Advocates Act, 1961. The petitioner then gets enlarged on bail in CrI.A.1428/2023. It is then he comes to know that he has been suspended from practicing in terms of an order dated 10.07.2023.

6. The learned counsel appearing for the petitioner submits that the petitioner was not afforded an opportunity of hearing prior to the passage of the order of suspension of practice of the petitioner in the Courts. The learned counsel would also submit that it was impossible for the petitioner to receive notice and defend his action as at the relevant point of time he was in judicial custody. Therefore, seeks quashment of the order and further opportunity be granted to the petitioner to defend the action.

7. Sri. G. Nataraj, learned counsel appearing for the Karnataka State Bar Council would admit that the petitioner was not heard in the matter and not hearing for the petitioner



was an account of him being in judicial custody, which the Bar council was not aware of.

8. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the available material on record.

9. The afore-narrated facts are not in dispute. The issue lies in a narrow compass. An incident on 27.03.2023 leads to registration of two crimes in crime No.81/2023 and 82/2023, one by the petitioner, one against the petitioner. On the crime so registered, respondent No.3 was also an accused in the crime registered against the petitioner and files a complaint before the Bar council seeking initiation of disciplinary action against the petitioner for professional misconduct.

10. The petitioner was arrested on such crime and was on judicial custody. The issue was taken up and the order of suspension of practice of the petitioner in any Court of law is passed. Prior to said order, a notice is issued on 31.03.2023, which returns un-served. The notice being un-served was on the score that the petitioner was in judicial custody at the time



when the notice was issued. Therefore, he did receive the notice or defend himself. It is only after his enlargement on bail, the petitioner has preferred the subject petition seeking an opportunity of being heard.

11. The purpose for which the petition is preferred merits acceptance, as the practice of the petitioner is suspended without affording an opportunity of hearing to the petitioner and is violation of principles of natural justice. Therefore, the impugned order is to be obliterated and the matter remitted back to the hands of respondent No.1 to hear the petitioner and then pass appropriate orders in accordance with law.

12. For the aforesaid reasons, the following

ORDER

- I. Writ petition is allowed.
- II. The impugned notification issued by respondent No.1 vide notification No.25/2023 dated 10.07.2023 (KSBC/DC-Notification/1401/2023) stands quashed.



III. The matter is remitted back to the hands of Karnataka State Bar Council from the stage post issuance of notice to the petitioner.

IV. The petitioner shall be afforded an opportunity of hearing and appropriate orders be passed in accordance with law by respondent No.1.

All contentions are left open.

**Sd/-
JUDGE**

JY
List No.: 1 Sl No.: 29
CT: BHK