



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 3RD DAY OF JANUARY, 2024
BEFORE
THE HON'BLE MR JUSTICE M.NAGAPRASANNA
WRIT PETITION NO. 27909 OF 2023 (GM-RES)**

BETWEEN:

H. MANJUNATH (KAR/1260/2014)

...PETITIONER

(BY SRI H. MANJUNATH, PARTY-IN-PERSON)

AND:

1. KARNATAKA STATE BAR COUNCIL
OLD ELECTION COMMISSION BUILDING
BANGALORE- 560 001,
REPRESENTED BY SECRETARY.



...RESPONDENTS

(BY SRI NATARAJ G, ADV., R-1;
SRI MAHESH ARKALGUD, ADV., FOR R-2;
SMT. ANU CHENGAPPA, ADV.FOR POSH COMMITTEE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET
ASIDE AND QUASH THE IMPUGNED EX PARTE EXTRACT OF THE



PROCEEDINGS OF THE BAR COUNCIL MEETING HELD ON 4TH AND 5TH NOVEMBER, 2023 IN THE PREMISES OF THE BAR COUNCIL IN RESPECT OF COMPLAINTS, ITEM NO. 15. CONSIDERATION OF THE COMPLAINTS, 239. SRI AHALEKYA V. BENGALURU V/S SRI H MANJUNATH, BENGALURU, THE EX PARTE ORDER IN RES. NO. 634/2023 AND THE NOTIFICATION NO. 29/ 2023 DATED 23.11.23 I.E. IMPUGNED PER INCURIAM ORDERS ANNEXURE-A AND ANNEXURE-B AND ETC.,

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner is before this Court calling in question the order dated 05.11.2023 and consequent Notification dated 23.11.2023 passed by the first respondent-Karnataka State Bar Council (hereinafter referred to as 'the Council' for short) suspending the petitioner from practising in any Courts of the country.

2. Heard Sri H.Manjunath, petitioner-in-person, learned counsel Sri. Nataraj .G appearing for first respondent/Council and learned counsel Sri. Mahesh Arkalgud appearing for second respondent/complainant.

3. The petitioner is a practicing Advocate, who claims to have set-up his practice and is practising in several Courts of



the country. The issue relates to a complaint being filed by second respondent against certain alleged activities of the petitioner, which would touch upon sexual harassment of second respondent, by the petitioner. Several instances of messages being sent or whatsapp messages being sent to the complainant, form the fulcrum of the complaint. The complaint was registered on 02.09.2023 by the second respondent. The complaint was numbered as C-164/2023. The petitioner was issued a notice on 21.09.2023. After receipt of notice from the hands of the Council, the petitioner by his representation requested 10 to 14 days time to submit his explanation. The communication was sent to the Council on 05.10.2023. The Council appears to have waited for 30 days from 05.10.2023 and then passed an order which is impugned in the subject petition. The order reads as follows:

"Hence, the following order;

The complaint filed by the complainant against the Respondent Advocate is referred to the Disciplinary Committee of the Bar Council and considering the gravity of the circumstances, the enrolment of the Karnataka State Bar Council bearing No. KAR/1260/2014 of the Respondent Advocate, is hereby suspended with immediate effect. IT IS RESOLVED TO SUSPEND the Respondent pending enquiry and IT IS FURTHER RESOLVED TO REFER



the same to Disciplinary Committee No. 1 for enquiry."

(Emphasis added)

The order results in a Notification being issued by the Council suspending the petitioner from practising, pending enquiry in complaint in C-164/2023. It is this order and the Notification that has driven the petitioner to this Court in the subject petition.

4. The petitioner appearing in person would vehemently contend that all that is sought at the hands of the Council was time for 15 days. No doubt there has been delay on his part for 15 more days. The Council could not have suspended the practice of the petitioner without affording reasonable opportunity to the petitioner to state his defence. He would submit that if the complaint averments which forms the contents of the order of suspension are looked into, it would result in serious consequences and therefore, he ought to have been afforded reasonable opportunity of defence in his submission.



5. Learned counsel representing the Council, on the contrary would submit that the petitioner was afforded adequate opportunity, which he has not availed of. Therefore, no fault could have been found with the proceedings initiated or the order and the Notification so impugned in the subject petition. He would seek dismissal of the petition.

6. Learned counsel representing respondent No.2 would toe the lines of the learned counsel representing the Council to seek dismissal of the petition projecting the conduct of the petitioner being unworthy of any indulgence at the hands of this Court.

7. The petitioner in person would join the issue, to contend that the complaint itself is not maintainable as, if it is an allegation of sexual harassment against a co-advocate, the matter ought to have been placed before the Committee constituted under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as 'the POSH Act' for short). Therefore, he would submit that he had to be afforded opportunity to



submit his defence in the case as the complaint and entertainment of the complaint was without jurisdiction.

8. I have given my anxious consideration to the submissions made by petitioner in person and other respective learned counsel appearing for the parties.

9. Afore narrated facts are not in dispute. The issue that falls for consideration in the case on hand at this juncture lies in a narrow compass. The issue is whether the petitioner was afforded a reasonable opportunity prior to passing of the order and the Notification, suspending the petitioner from practising as an Advocate in the Courts of the Nation. The complaint is registered on 02.09.2023. The complaint is taken up for its consideration by the Council and a Notice is issued to the petitioner on 21.09.2023. After receipt of notice, petitioner on 05.10.2023 seeks 10 to 14 days time to submit his response to the complaint so registered. The representation of the petitioner reads as follows:-

"Hon'ble Secretary
KSBC Old Election Commission Office
Dr Ambedkar Veedhi
Bangalore - 560 001



REF : KSBC/Comp-Notice/2023 in Complaint No. C 164/2023

SUB : REQUEST FOR 10-14 DAYS TIME TO FILE EXPLANATION

Respected Sir,

I, the undersigned Respondent in Complaint No. C 164 / 2023 hereby request you to grant me another 10 - 14 days to file my explanation in the said Complaint received by me on 21/09/2023 under the doctrine of audi alteram partem.

The said request is bonafide given that I have to attend 5 Trial Matters governed by the mandamus of the Hon'ble High Court of Karnataka in addition to my cases before the Hon'ble Supreme Court of India , the Hon'ble High Courts et Hon'ble Trial Courts.

*The said request is also warranted given the colossal **FRAUD & PERJURY of the Complainant one AHALEKYA (KAR / 2167 / 2021)** as I have applied for the evidence that can be judicially noticeable by this august body.*

I beseech your kind indulgence et approval."

10. Subsequent representations were also made on 01.11.2023 and 07.11.2023. The petitioner appears to have been unaware of an order or resolution that is passed as his representation on 17.11.2023 reads as follows:

"Hon'ble Secretary
KSBC Old Election Commission Office
Dr Ambedkar Veedhi
Bangalore - 560 001

REF : KSBC/Comp-Notice/2023 in Complaint No. C 164/2023

SUB : REQUEST FOR FINAL EXTENSION TO FILE EXPLANATION



Respected Sir,

I, the undersigned Respondent in Complaint No. C 164 / 2023 hereby request you to grant me another 10 - 14 days finally i.e. by 02/12/2023 to file my explanation in the said Complaint received by me on 21/09/2023 under the doctrine of audi alteram partem.

The said request is bonafide given that I have to attend 5 Trial Matters governed by the mandamus of the Hon'ble High Court of Karnataka in addition to my cases before the Hon'ble Supreme Court of India , the Hon'ble High Courts et Hon'ble Trial Courts.

*The said request is also warranted given the colossal **FRAUD & PERJURY of the Complainant one AHALEKYA (KAR / 2167 / 2021)** as I have applied for the evidence that can be judicially noticeable by this august body.*

I beseech your kind indulgence et approval."

11. It is the averment in the petition, that the petitioner comes to know of an order and a Notification being issued through social media, and it is then he has made efforts to file the petition and also knock at the doors of the Council or any other *fora*. The issue is the order that is passed is admittedly passed without considering or without the objections in defence being in place. The order that records adequate opportunity have been granted to the petitioner, reads as follows:-

"On 05.10.2023, the Respondent Advocate has submitted a letter, requesting and seeking 10-14 days' time to file his explanation on the complaint filed against him.



Even after a lapse of 30 days' of time, the Respondent Advocate has failed to file any explanation or any objections, before the Bar Council Authority, on the complaint filed against him by the complainant."

12. Reference that is made is 15 days time was granted. He has not filed his objections. 15 more days time was granted and he has not filed his objections. So Council would pass an order. The other observation in the order with regard to compliance of principle of natural justice is as follows:-

"The principle of natural justice is fully complied with and the contents of the complaint make it clear that the Respondent Advocate is indulged in extreme sexual harassment/criminal intimidation against the woman junior Advocate."

The extract of the order afore-quoted, would clearly indicate that the petitioner was not afforded a reasonable opportunity to submit his defence. His defence projected before this Court is that the complaint itself was not maintainable as it had to be placed before the Committee constituted under the POSH Act. Be those submissions as they may.

13. The Court is now considering the effect of the order without the defence of the petitioner being in place. The contents of the order no doubt would result in serious



consequences to the petitioner both civil and professional. Therefore, the petitioner ought to have been afforded an opportunity to submit his defence in the light of the allegations being of nature that would result in serious consequences. Therefore, I deem it appropriate to grant the petitioner one more opportunity upto 10.01.2024 to file his objections before the Council.

14. Learned counsel Sri. G. Nataraj submits that the next date of hearing before the Committee is on 13.01.2024. Therefore, objections shall be placed before the Council/Committee by the petitioner on or before 10.01.2024. The Committee would hear the petitioner on 13.01.2024. Objections shall be placed before the Council *qua* the notice issued to the petitioner on the complaint made by the complainant and appropriate orders would be passed in accordance with law after considering the objections of the petitioner. At the time when the matter was being heard, learned counsel Smt. Anu Chengappa, submits that she is the Secretary of the POSH Committee of the Council and is not aware of any proceedings or any communication through the Council. It is only when the petitioner after securing the order



under Right to Information Act, has communicated certain orders, comes to know of proceedings, which is akin to sexual harassment.

15. The submission need not merit consideration except making a reference to them in the subject order, as it is the proceedings are taken up only for the violation of principles of natural justice.

16. All the contentions of the parties, which is not considered in this order, shall remain open to be urged and considered before the Council/Committee as the case would be. For the aforesaid reasons, the following order:-

ORDER

- i) The order impugned dated 05.11.2023 is set-aside.
- ii) The matter is remitted back to the hands of the Council to consider the objections of the petitioner that would be filed on or before 10.01.2024.



- iii) The Council is at liberty to regulate the procedure for continuation of the proceedings before it.

**Sd/-
JUDGE**

DN