

ITEM NO.23

COURT NO.10
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SECTION XVII

CONMT.PET.(C) No. 309/2022 in C.A. No. 7478/2019

CHARANJEET SINGH CHANDERPAL

Petitioner(s)

VERSUS

VASANT D. SALUNKHE & ORS.

Respondent(s)

FOR ADMISSION and IA No.58038/2022-EXEMPTION FROM FILING AFFIDAVIT
IA No. 769141 - PERMISSION TO FILE CONTEMPT PETITION

Date : 20-05-2022 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MRS. JUSTICE B.V. NAGARATHNAFor Petitioner(s) Mr. Charanjeet Singh Chanderpal, Adv./In-person
Mr. Anil Kumar, AOR

For Respondent(s) Ms. Radhika Gautam, AOR

UPON hearing the counsel the Court made the following
O R D E R

Permission to file the Contempt Petition is granted.

A grievance which is voiced in the present petition is non-compliance of the directions issued by this Court in our earlier judgment and order dated 17.12.2021 in C.A. No. 7478 of 2019 [K. Anjinappa vs. K.C. Krishna Reddy and Anr.]. The directions issued by this Court are as under:-

“12. Therefore, we direct the Bar Council of India to finally dispose of the transferred complaints, the particulars of which are referred to hereinabove expeditiously but not later than one year from today and for which even the Disciplinary Committee of the Bar Council of India may hold circuit hearings.

12.1 We also direct the respective State Bar Councils to decide and dispose of the complaint(s) received by it under Section 35 expeditiously and to conclude the same within a

period of one year from the date of receipt of the complaint as mandated under Section 36B of the Advocates Act.

12.2 Only in exceptional case and for the reasons to be recorded where it is found that for valid reasons, the proceedings could not be completed within the period stipulated under Section 36B of the Advocates Act, then and then only such proceedings shall stand transferred to the Bar Council of India and on such transfer the Bar Council of India shall also dispose of the such transferred proceedings/complaints within a period of one year from receipt of such transferred proceedings.

13. Having regard to the aforesaid provisions and bearing in mind the fact that 1273 complaints (minus 27 complaints which are disposed) are pending before the Bar Council of India, it is just and necessary that a mechanism be found for disposal of the said complaints in accordance with the procedure prescribed.

For an efficient and quick disposal of the complaints by the Bar Council of India vis-à-vis those complaints which have been transferred to it as per section 36B of the Act, the Bar Council of India may consider empanelling experienced and seasoned advocates and/or retired judicial officers to act as Inquiry Officers where an inquiry would be necessitated. On such inquiry being concluded the report of the Inquiry Officers could be received by the Bar Council of India. On consideration of the said inquiry report, the Bar Council of India could pass appropriate orders on the complaint.

The aforesaid suggestion is being made bearing in mind the number of complaints that are pending before Bar Council of India, that is, the transferred complaints which would act as the disciplinary authority on such transfer as it would be highly impossible for the said complaint to be disposed of within a reasonable time if the inquiry is also to be conducted by the Bar Council of India.

Hence the Bar Council of India may issue suitable directions to the State Bar Council to enlist a panel of Inquiry Officers for the purpose of conducting the inquiry on behalf of the Bar Council of India in the respective States itself and on conclusion of the said inquiry to transmit the inquiry report to the Bar Council of India for enabling it to take it further action in

the matter.

This would also enable the complainants and the concerned advocates against whom the complaints are made to appear before the Inquiry Officers wherever such an inquiry is instituted in the State where the complaint has been filed. This would also remove the difficulties caused to the parties to travel from various parts of the country to Delhi for appearing before the inquiry, if any, to be conducted on the complaints filed by the complainants.

Further and as directed hereinabove, the Bar Council of India to also issue suitable directions to the State Bar Council to conclude the proceedings from the complaints filed against the advocates within a period of one year since the intention of the Parliament appears to be to decide on the said complaint within the said period which is a reasonable period. The object and purpose of section 36B of the Act is not to encourage delay in the disposal of the complaint so as to enable the complaints to be transferred to the Bar Council of India by operation of law and thereby increase the burden on the All India body and at the same time create a leeway for the State Bar Council to not act on the complaints and to simply wait for the passage of time so that by operation of law the said complaint would stand transferred to the Bar Council of India.

In fact, section 36B of the Act mandates that there should be no tardiness by the State Bar Council in completion of the proceedings on the complaints received by them within a period of one year as stated in the said provision. When the number of complaints transferred from the State Bar Councils to Bar Council of India is noted from the aforesaid statistics, it implies that the States Bar Council have not been discharging their duties by not disposing the complaints within a period of one year as provided under section 36B of the Act.

Further in order to enable the State Bar Council to dispose of the complaints within a period of one year as provided under section 36B of the Act, it is incumbent for the respective disciplinary committees of the State Bar Councils meet on a regular basis.

The State Bar Council could also enlist a panel of Inquiry Officers who could be entrusted with the conduct of the

inquiry as and when the same is necessitated on a complaint.

The disciplinary committee of the State Bar Council on consideration of the said inquiry report may pass orders in accordance with the provision of section 35 of the Act.

14. We are constrained to issue the aforesaid directions and suggestions having regard to the observations of this Court which are extracted as under:-

- (i) “The Bar Councils are enjoined with the duty to act as sentinels of professional conduct and must ensure that the dignity and purity of the profession are in no way undermined. Its job is to uphold the standards of professional conduct and etiquette. Thus every State Bar Council and the Bar Council of India has a public duty to perform, namely, to ensure that the monopoly of practice granted under the Act is not misused or abused by a person who is enrolled as an advocate. The Bar Councils have been created at the State level as well as the Central level not only to protect the rights, interests and privileges of its members but also to protect the litigating public by ensuring that high and noble traditions are maintained so that the purity and dignity of the profession are not jeopardized.”
[**Indian Council of Legal Aid and Advice v. Bar Council of India, (1995) 1 SCC 732**]
- (ii) “The interest of the Bar Council is to uphold standards of professional conduct and etiquette in the profession, which is founded upon integrity and mutual trust. The Bar Council acts as the custodian of the high traditions of the noble profession.”
[**Bar Council of Maharashtra v. M.V. Dabholkar, (1975) 2 SCC 702**]
- (iii) “Every Bar Council is a body corporate. The functions of the State Bar Council are inter alia to admit persons as advocates, on its roll; to prepare and maintain such roll; to entertain and determine cases of misconduct against advocates on its roll; to safeguard the rights, privileges and interest of advocates on its roll. The functions of the Bar Council of India are to lay down standards of professional conduct and etiquette for advocates, to lay down the procedure to be followed by the Disciplinary Committee of the Bar Council of India and the Disciplinary Committees of the State Bar Councils, to safeguard the rights, privileges and interests of advocates. A Bar Council is empowered under the Act to constitute one or more Disciplinary Committees.”

[Adi Pherozshah Gandhi v. H.M. Seervai, Advocate General of Maharashtra, (1970) 2 SCC 484]

- (iv) “The Bar Council has a very important part to play, first, in the reception of complaints, second, in forming reasonable belief of guilt of professional or other misconduct and finally in making reference of the case to its Disciplinary Committee.”
[Bar Council of Maharashtra v. M.V. Dabholkar, (1975) 2 SCC 702]”

Ms. Radhika Gautam, learned Advocate-On-Record, has entered appearance on behalf of Respondent No.6-Bar Council of India, one advance copy be served upon her.

Ms. Radhika Gautam, learned counsel, has stated at the Bar that after the aforesaid judgment and order and the directions issued by this Court, the Bar Council of India has issued a Circular to all the State Bar Council/s on 27.12.2021. Mere issuance of the Circular and/or sending the intimation is not enough. The Bar Council of India is required to see that the directions issued by this Court are truly and fully complied with by the Bar Council of India as well as all the State Bar Council/s.

Let the Bar Council of India file a detail report on the compliance of our directions issued by this Court referred to hereinabove. Such a report to be filed on or before 14.07.2022.

Put up on 18.07.2022.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
ASSISTANT REGISTRAR