

Court No. - 5

Case :- MISC. BENCH No. - 23328 of 2018

Petitioner :- Yash Bharadwaj

Respondent :- U.O.I. Thru. Secy. Min. Of Electronics & I.T. And Others

Counsel for Petitioner :- Yash Bharadwaj(In Person)

Counsel for Respondent :- A.S.G.,Ajit Kumar Dwivedi,Shailesh Kumar Pathak,Subhash Chandra Pandey

Hon'ble Dr. Devendra Kumar Arora,J.

Hon'ble Rajan Roy,J.

The petitioner is directed to implead the Ministry of Law and Justice, Government of India as opposite party to the writ petition.

Heard Sri S.K. Kalia learned Senior Advocate along with learned counsel Sri Sudeep Chatterji as also Sri Yash Bharadwaj in person as well as Sri Shailesh Kumar Pathak for Bar Council of India, Sri Ramesh Kumar Singh, Additional Advocate General whom we requested to assist the Court in the matter and Sri S.B. Pandey learned Additional Solicitor General of India for Union of India.

On the earlier date i.e. 01.10.2018 the following order was passed:-

"Notice on behalf of Union of India has been accepted by the learned Assistant Solicitor General of India, whereas on behalf of respondent No.3, Mr. Subhash Chandra Pandey, Advocate, has accepted notice.

Shri Yash Bharadwaj, a practicing Advocate of this Court, has filed the present writ petition, raising his voice against the commercial exploitation of the noble legal profession for vested financial interest by the private respondents, which has marred the nobility of the profession.

Submission of the petitioner is that Rule 36 and 37 of the Code of Ethics formulated by the Bar Council of India prohibits advertising, touting and solicitation of work due to which the administration of justice has been polluted but respondents No. 4 to 21 published advertisement to the effect that they have handpicked best/top/expert lawyers or advocates in the Country constitutes advertisement which violates Rule 36 of the Code of Ethics and demoralizes the spirit of other practicing advocates. It has also been pointed out that private respondents are unauthorized agencies of law, which have neither been recognized nor affiliated with Bar Council of India or any State Bar Council or the Central or State Government, to tinker with

the legal profession in a manner which suites their financial interest. His submission is that since no rules have been prescribed to regulate the blatant advertisement by the practicing advocates, therefore, individual lawyers are taking recourse to advertise themselves which in turn reduces the integrity of the entire community of lawyers in the eyes of the public.

Petitioner has also submitted that lawyers enlisted with such websites/portals are not their employees because had they been their employees, then they would not have been entitled to practice which is prohibited as per Rule 49 of the Code of Ethics formulated under Section 49 (1) (c) of the Act. Furthermore, even sharing the remuneration or any other similar arrangement is violative of Rule 2 formulated by respondent No.2 under Section 49 (1) (ah) of the Act.

It has also been pointed out that the above illegal act of the private respondents was brought to the notice of the Bar Council of India as well as U.P. Bar Council through representation dated 2.5.2018 and 25.8.2017 but all his efforts for stopping the illegal act of the aforesaid respondent went in vain compelling the petitioner to approach this Court to highlight the illegal acts of the private respondents which is affecting the administration of justice as both direct and indirect advertisement are prohibited under Rule 36 of the Act.

As larger issue of noble profession of Advocacy is involved in the present writ petition, which requires consideration, we request Mr. S.K. Kalia, Senior Advocate of this Court to assist the Court for which he has given his gracious consent.

Accordingly, we appoint Mr. S.K. Kalia, Senior Advocate as amicus curiae to appear on behalf of the petitioner to assist the Court. The Senior Advocate would be at liberty to take assistance of any Advocate of his choice.

List this case on 10.10.2018.

In the meantime, learned Counsel for the Bar Council of India, learned Counsel for the U.P. Bar Council and learned Counsel for the Union of India shall fetch instructions in the matter."

Today, learned counsel for Bar Council of India has informed that a five members Committee has been constituted to look into the complaints of the petitioner in the light of the provisions of the Advocate Act and the Regulations framed thereunder whose report is still awaited.

Sri S.K. Kalia, learned Senior Advocate informs that as per his instructions the portals which are mentioned in the writ petition they are soliciting the Advocates to get themselves registered on the said portal with enticement that it would enhance their fee and the professional earning.

Having heard the learned counsel for the parties and perused the records as also the earlier order passed by this Court, we are of the view that the issue raised in this petition requires attention of the Court specially considering the documents annexed with the writ petition wherein the lawyers are seen soliciting cases by advertising themselves through these portals which, we are prima-facie of the view is in the teeth of Rules 36 and 37 of the Bar Council of India Rules made under Advocates Act, 1961.

Accordingly, we are of the view that the private opposite parties to whom we had not issued notice as yet are required to be put to notice.

Let notice be issued to opposite parties 4 to 21 returnable at an early date.

List this matter on 13.11.2011 as fresh.

Sri S.B. Pandey, learned counsel appearing for Union of India, the Ministry of Law and Justice as also the opposite party no.1 and the learned State counsel, learned counsel appearing for Bar Council of India and the private opposite parties shall file counter affidavit before the next date of listing.

Liberty is granted to the petitioner to serve the notice of this writ petition to the private opposite parties on their e-mail address mentioned on the portals and file an affidavit in proof of service.

In the meantime opposite parties shall adhere to the Rules of the Bar Council of India on the subject in letter and spirit and any deviation therefrom would invite legal consequences.

Order Date :- 10.10.2018

Vijay

. (Hon'ble Rajan Roy,J.) (Hon'ble Dr. Devendra Kumar Arora,J.)