

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.17976 of 2019

Farida Begam

... Petitioner

Vs.

- 1.The Puducherry Government,
Represented by the Chief Secretary to Government,
Chief Secretariat Buildings,
Puducherry – 605 001.
- 2.The Secretary to Government,
Home Department, Chief Secretariat Buildings,
Puducherry – 605 001.
- 3.The Secretary to Government,
Finance Department, Chief Secretariat Buildings,
Puducherry – 605 001.
- 4.The Secretary to Government,
Law Department, Chief Secretariat Buildings,
Puducherry – 605 001.
- 5.The Chairman,
Bar Council of Tamil Nadu,
Madras High Court Buildings,

Chennai – 600 104.

6. Advocates Association,
Pondicherry.

7. The Principal Secretary to Government,
Government of Tamil Nadu,
Finance Department,
Fort St. George, Chennai – 600 009.

8. The Secretary to Government,
Government of Tamil Nadu,
Law Department,
Fort St. George, Chennai – 600 009.

9. Puducherry Bar Association,
Represented by the President,
District Court Buildings,
Puducherry – 605 001.

10. Karaikal Bar Association,
Represented by the President,
Karaikal Court Buildings.

11. Mahe Bar Association,
Represented by the President,
Mahe Court Buildings.

12. Yanam Bar Association,
Represented by the President,
Yanam Court Buildings.

13. Inhabitants Puducherry Advocates' Welfare
Association, Reg S.No.141 of 2021,
IPAWA, District Court Buildings,
Puducherry,
Represented by the General Secretary
M.Sivasubramanian.

... Respondents

[R6 suo-motu impleaded as per order dated 21.11.2019 made in WP.No.17976/2019]

[R7 and R8 are suo-motu impleaded as per order dated 03.06.2024 made in WP.No.17976/2019]

[R9 to R11 impleaded as per order dated 03.06.2024 made in WMP.No.26690/2021 in WP.No.17976/2019]

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directions to R1 to R5 to implement and enforce The Advocates' Welfare Fund Act, 2001 to Puducherry Union Territory in accordance with Puducherry LA GAZETTE DE L' ETAT vide in G.O.Ms.No.14/2008-LD., dated 02.07.2008; and R1 to R5 pay a compensation of Rs.25,00,000/- to the petitioner with costs; or any other suitable writ.

For Petitioner	: Mr.C.Elangovan
For R1 to R4	: Mr.A.Tamilvanan Additional Government Pleader
For R5	: Mr.C.K.Chandrasekar
For R7 & R8	: Mr.S.John J.Raja Singh

ORDER

[Order of the Court was made by **S.M.SUBRAMANIAM, J.**]

It is brought to the notice of this Court that about 200 applications were submitted seeking benefits under The Tamil Nadu Advocate's Welfare Fund are pending.

2. Mr.C.K.Chanrdasekar, learned counsel appearing on behalf of the Bar Council of Tamil Nadu would submit that the Government has to sanction and release the funds for the purpose of payment of fund to the eligible members under the Welfare Fund Scheme.

3. As far as the Government of Puducherry is concerned, the benefits are yet to be paid to the lawyers under the scheme and the Government has to take a decision. In this context, the learned Additional Government Pleader appearing on behalf of Puducherry seeks one week time to get instructions.

4. It is needless to state that the lawyers practicing in Puducherry is also the Advocates enrolled in the Bar Council of Tamil Nadu and

Puducherry and the legal practitioners in Puducherry Courts, are therefore eligible to avail the benefits under the welfare Scheme. There cannot be any discrimination amongst the members in Tamil Nadu and Puducherry. Uniformity is to be maintained in this regard in order to redress the grievances of lawyers, who all are practicing in Puducherry also.

5. Thus, the learned Additional Government Pleader has to place all the facts before the Government and secure necessary instructions to extend financial contribution enabling the Bar Council to conduct the Welfare Scheme in accordance with the terms of the scheme.

6. Since, large number of applications are pending as far as of the State of Tamil Nadu is concerned, we are inclined to suo-motu implead the Principal Secretary to Government, Government of Tamil Nadu, Finance Department, Fort St. George, Chennai – 600 009 and Secretary to Government, Government of Tamil Nadu, Law Department, Fort St. George, Chennai – 600 009 as respondents.

7. The learned Additional Government Pleader takes notice on behalf

of the suo-motu impleaded respondents and seeks time to secure instructions, why the funds are not released for the applications pending for long time.

8. The petitioner has to serve the copy of the papers to the learned Additional Government Pleader for Government of Tamil Nadu.

9. Further, it is brought to our notice that young brilliant lawyers after enrolling themselves as Advocates in Bar council of Tamil Nadu is unable to survive on account of the fact that the senior lawyers / lawyers engaging the services of the these junior lawyers, are not paying even the minimum stipend to meet out their livelihood.

10. Extracting work without payment is an exploitation and directly in violation of the fundamental rights enshrined under the Constitution. The livelihood of these young brilliant lawyers, who have started their practice with a fond hope must be encouraged by the senior lawyers, legal fraternity and the Courts.

11. In this context, Section 6 of the Advocates Act, 1961 denotes

“Functions of the State Bar Councils”. Section 6(1)(d) stipulates “to safeguard the rights, privileges and interests of advocates on its roll”. Sub Clause (e) states that “to promote and support law reform”.

12. Safeguarding the rights, privilege and interest of the advocates is one of the function of the State Bar Council and therefore, the livelihood of these young lawyers, who have enrolled with great ambitions are also to be protected. In order to protect the livelihood of these young lawyers, Bar Council should ensure that minimum stipend is paid by the lawyers, who all are engaging the services of the young lawyers.

13. Exploitation at no circumstances can be permitted nor be appreciated. Therefore, it is the function of the Bar Council to ensure that the livelihood of these lawyers are protected by fixing minimum stipend to be paid in the event of engaging the services of the junior lawyers, who have enrolled.

14. In this regard, the learned counsel appearing on behalf of the Bar Council has to secure necessary instructions for framing guidelines /

instructions for the advocates, who have enrolled in the Bar Council of Tamil Nadu and Puducherry.

15. Post the matter on 12.06.2024.

[S.M.S., J.] [C.K., J.]
03.06.2024

Jeni

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

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and
C.KUMARAPPAN, J.

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