

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-06-2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN**

WP 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 Chairmann,
Bar Council of Tamil Nadu,
Madras High Court Buildings,
Chennai-600 104.

6.Advocates Association,
Pondicherry.

[R-6 suo motu impleaded as per order dated
21.11.2019 made in WP 17976 of 2019]

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.

[R-7 and R-8 are suo motu impleaded
as per order dated 03.06.2024 made in
WP No.17976 of 2019]

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

[R-9 to R-13 are impleaded as per order of
Court dated 03.06.2024 made in WMP No.26690
of 2021 in WP No.17976 of 2019]

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus with suitable directions to R-1 to R-5 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 R-1 to R-5 pay a compensation of Rs.25,00,000/- to the petitioner with costs.

For Petitioner : Mr.C.Elangovan
For Respondents-1 to 4 : Mr.A.Tamilvanan,
Additional Government Pleader.
For Respondent-5 : Mr.C.K.Chandrasekar
For Respondents-7&8 : Mr.S.John J.Raja Singh
For Respondents-9 to 13 : Mr.G.Masilamani,
Senior Counsel.

INTERIM ORDER

[INTERIM ORDER OF THE COURT WAS MADE

BY S.M.SUBRAMANIAM, J.]

The *lis* on hand is all about the Welfare Schemes and the safeguards to be provided to the Advocates enrolled in the State Roll and practising in various Courts across the State of Tamil Nadu and Puducherry.

2. The grievances of the Advocates and the Junior Advocates though addressed in many platforms, not redressed suitably. Thus, this Court has impleaded the Government of Tamil Nadu also to ensure that the

applications received to settle the Welfare Fund Scheme benefits are paid to the eligible members without causing undue delay.

3. Firstly, regarding the Welfare Fund Scheme in Pondicherry, we have invited Mr.G.Masilamani, learned Senior Advocate, who is holding the post of Chairman of Trust Committee constituted under Section 32 of the Advocates' Welfare Fund Act, 2001. Mr.G.Masilamani, Chairman of Trust Committee would submit that he held several meetings with the Stakeholders and the Government of Puducherry and submitted a proposal for implementation of Schedule-I to the Act and for enhancement of Scheme amount. The proposal is yet to be approved, on account of internal dispute between the Advocates' Association in Pondicherry and Karaikkal. It is brought to our notice that the issues are resolved and elections were conducted. Thus, the Bar Council of Tamil Nadu and Puducherry is directed to conduct a meeting with the recognised Associations at Pondicherry and Karaikkal and to ensure that the proposals submitted by the Trust Committee has been materialised by the Government of Pondicherry by issuing suitable amendments enhancing the Welfare Fund Scheme amount. Delay in finalising the proposal would result in hardship to the eligible

members, who all are waiting to receive the Welfare Fund benefits. Thus, the Bar Council of Tamil Nadu and Puducherry, Government of Puducherry and the recognised Associations in Pondicherry and Karaikkal are directed to co-ordinate and ensure that the proposal for amendment of Schedule-I submitted by the Trust Committee constituted is finalised and the enhanced benefits due to the members are settled as expeditiously as possible.

4. Secondly, we have considered the issue relating to safeguarding of the livelihood of Junior Advocates employed by the Advocates / Senior Advocates.

5. Section 6 of the Advocates Act, 1961 enumerates **functions of a State Bar Council**. Section 6(1)(d) stipulates that the rights, privileges and interest of the Advocates on its roll to be safeguarded by the State Bar Councils. Safeguarding of rights, privileges and interest of the Advocates being one of the functions of the Bar Council, it is duty bound to ensure that the Junior Lawyers, who all are entering into legal profession with great ambition are encouraged and their livelihood is protected. We are particularly, concerned about the livelihood of the Junior Lawyers, who all

are coming from marginalised section, and from rural areas to the City to practice law

6. Earlier, the access to professional courses like Law was reserved only for the people with privileged background. But today, the Constitutional ideals played a pivotal role in creating a pathway to all Young graduates to come from multi-cultural, multi-social, multi-economic and diverse backgrounds. The noble profession of law is one of the frontrunners in reinventing itself as and when the need arises. Especially, post the Covid-19 pandemic, the Lawyers have adopted themselves in tune with technology and we are striving forward as a community to address pertinent issues in the field of law.

7. Young Lawyers today are post with numerous challenges. Their enthusiasm should not be stifled solely because of economic factors. Many youngsters are forced to quit the profession due to economic instability in the profession. A fair question may be put forth, *Isn't it a common challenge faced in all professions?*

8. True as this is, but this court strongly believes that as history as shown earlier, where Lawyers as a community have emerged as the biggest change makers and the forerunners of change in our Country, **we must lead the change we want to be.**

9. The common message that we put across to youngsters have always been that, we have gone through all kinds of difficulties to be heard, so you should be ready to face the same. With utmost humility this Court finds this opinion insensitive. Why should our future Lawyers be made to undergo the same difficulties we encountered? Why can't we come together to provide them with a safe and robust ecosystem? This should be the vision we must create for ourselves in today's time and age.

10. There is a common idea that has been doing the rounds in legal circles that economic instability and sufferings as a Junior Lawyer is a part and parcel of this profession and that the Juniors 'must get used to it'. This is wholly unacceptable and demeaning. There is no need for the young Lawyers to get used to anything. Rather, we must ensure that a safe and all conducive atmosphere be provided for their learning and growth in the

profession.

11. Since many of the graduates come from afar places to Metro Cities, in their earlier faces of their carrier they have to deal with their day-to-day living costs in cities. Article 21, Right to a Livelihood extends to these young graduates. Once the services of Junior Lawyers are utilised their arises a consequential right on their part to get paid for the services rendered. Though they are here to learn, their livelihood also must be given importance and efforts must be made to ensure that their economic instability do not come in their way of learning. The success of any profession is weighed based on the future we create for the newcomers in that profession.

12. It is also seen that welfare schemes have been introduced by the Government to provide aid and assistance to Junior Lawyers. A monthly stipend of a minimum amount is provided to support the Lawyers. But this Court is not venturing into the Welfare Schemes. Instead the vision here is to create an inbuilt system to support our very own Juniors by providing them with support systems to thrive on. Our profession also is proud to

possess a sizeable number of first generation lawyers and it is only their minimum need and expectations that they earn a monthly stipend to cover their cost of living. These Junior Lawyers travel from different parts of the State including villages to come to cities and begin their career. We are succeeding in making space to the youth from diverse social and economic background. But it is also equally important to keep their momentum from diminishing as they wade through the challenges in this complex profession. Their longevity in the profession can be etched only based on their early experiences in the profession.

13. It is important to note that young Lawyers especially from the marginalised sections of the society hold immense potential. Through the unified and concerted efforts of the Bar and the Bench in supporting these young Lawyers, the institution can move forward in leaps and bounds. Hence, this Court is of the opinion that by providing them with an adequate monthly stipend in return for their services, it will definitely serve as a catalyst for their development.

14. Mr.C.K.Chandrasekar, learned Counsel appearing on behalf of

the Bar Council of Tamil Nadu and Puducherry, would submit that the Bar Council is very much interested in safeguarding and protecting the interest of the young Advocates in their rolls. The positive approach of the Bar Council is to be materialised by actually supporting our young Lawyers including first generation lawyers moving towards Cities to practice law.

15. Considering the issues, we are inclined to issue the following directions:

(i) The Bar Council of Tamil Nadu and Puducherry, Government of Puducherry and recognised Associations at Pondicherry and Karaikkal are directed to co-ordinate and finalise the proposal for amendment of Schedule-I to enhance the Welfare Fund Scheme amount submitted by the Trust Committee as expeditiously as possible preferably within a period of four (4) months from the date of receipt of a copy of this order.

(ii) The Bar Council of Tamil Nadu and Puducherry is directed to issue Guidelines/Instructions/Circulars to all the Advocates/Senior Advocates in the State rolls of the Bar Council of Tamil Nadu and Puducherry the following directions:

- (a) Any Advocate/Senior Advocate employing the services of Junior Advocates shall pay a minimum stipend of Rs.20,000/- (Rupees Twenty Thousand Only) per month for Advocate practising in the major cities of Chennai, Coimbatore and Madurai. [The minimum amount is derived taking into consideration the cost of living and expenditure costs prevalent as on today].
- (b) Any Advocate/Senior Advocate employing the services of Junior Advocate shall pay a minimum stipend of Rs.15,000/- (Rupees Fifteen Thousand Only) per month for Advocates practising in other areas across the State of Tamil Nadu and Puducherry.
- (c) In the context of fixing of this minimum monthly stipend, this Court would also like to bring to the fore the issue of pay disparity based on gender. Though this systemic issue of gender pay gap is beginning to gain attention, this issue is rarely spoken about. It is high time that we start making the difference. Hence the minimum stipend fixed above shall be extended to all Junior Lawyers without kind of discrimination based on Gender.

16. It is the incumbent duty of all the stakeholders in the legal profession to provide an environment where every member of the legal fraternity feel valued and treated with respect. Opinions and thoughts may differ but the pages of our history have shown that the Lawyer community

as a whole have always been the torchbearers of self expression.

17. The Bar Council of Tamil Nadu and Puducherry is directed to issue circular/instructions/guidelines as directed above within a period of four weeks from the date of receipt of a copy of this order.

18. In respect of the settlement of welfare fund amount to the eligible members in the State of Tamil Nadu, the Government of Tamil Nadu has to respond.

List the matter on 20.06.2024, for further considerations.

(S.M.SUBRAMANIAM,J.) (C.KUMARAPPAN,J.)

12-06-2024

Veda

S.M.SUBRAMANIAM, J.
AND
C.KUMARAPPAN, J.

Veda

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