
(1982) 10 GUJ CK 0005
In the Gujarat High Court

C	Vs	APPELLANT
Bar Council		RESPONDENT

Date of Decision : 01-10-1982

Acts Referred:

Advocates Act, 1961 — Section 24A
Constitution of India, 1950 — Article 226
Penal Code, 1860 (IPC) — Section 110, 120B, 34, 34

Citation : (1982) 2 GLR 706

Hon'ble Judges : M.P. Thakkar, C.J; R.C. Mankad, J

Bench : Division Bench

Judgement

M.P. Thakkar, C.J.—A public officer convicted for accepting illegal gratification in respect of his official duty u/s 110 and u/s 120B read with Section 34 of the Indian Penal Code has invoked our extraordinary jurisdiction under Article 226 of the Constitution of India in order to seek a direction calling upon the Bar Council to enroll him as a member of the Bar without waiting for the lapse of the period of 2 years after his release from imprisonment as enjoined by Section 24A of the Advocates Act, 1961. (Does 2 years" waiting make him suitable for enrollment as a member of the Noble Profession is a question which causes mental turmoil to which we will give vent in passing after a few moments). 2. Section 24A may now be placed under spotlight:

24A. Disqualification for enrollment:

(i) No Person shall be admitted as an advocate on a State Roll:

(a) if he is convicted of an offence involving moral turpitude;

(b) if he is convicted of an offence under the provisions of the Unsociability (Offences) Act, 1955;

Provided that the disqualification for enrollment as aforesaid shall cease to have effect after a period of two years has elapsed since his release, (ii) Nothing contained in Sub-section (i) shall apply to a person who having been found guilty

is dealt with under the provisions of the Probation of Offenders Act, 1958.

We will deal with the Constitutional challenge to the aforesaid provision anon. We, however, wish to observe that even if we had been persuaded to admit this petition, we would not have granted mandatory interim order and directed the Bar Council to enroll as a member of the Bar a person who has been convicted for such offences. Under the circumstances, the petition in any case would not have come up for hearing for more than two years and the petition would have become infructuous or superfluous by reason of the fact that as per the position of law as at present, in view of Section 24A, on the expiry of two years after his release from imprisonment an ex-convict becomes entitled to be enrolled as a member of the Bar. But as we indicated at the commencement, we are not inclined to admit the petition on merits.

We, however, wish to avail of this opportunity to place on record our feeling of distress and dismay at the fact that a public servant who is found guilty of an offence of taking an illegal gratification in the discharge of his official duties by a competent Court can be enrolled as a member of the Bar even after a lapse of two years from the date of his release from imprisonment. It is for the authorities who are concerned with this question to reflect on the question as to whether such a provision is in keeping with the high stature which the profession (which we so often describe as the noble profession) enjoys and from which even the members of highest judiciary are drawn. It is not a crime of passion committed in a moment of loss of equilibrium. Corruption is an offence which is committed after deliberation and it becomes a way of life for him.

3. A corrupt apple cannot become a good apple with passage of time. It is for the legal profession to consider whether it would like such a provision to continue to remain on the Statute Book and would like to continue to admit persons who have been convicted for offences involving moral turpitude and persons who have been found guilty of acceptance of illegal gratification, rape, dacoits, forgery, misappropriation of public funds, relating to counter felt currency and coins and other offences of like nature to be enrolled as members merely because two years have elapsed after the date of their release from imprisonment. Does passage of 2 years cleanse such a person of the corrupt character trait, purify his mind and transform him into a person fit for being enrolled as a member of this noble profession? Enrolled so that widows can go to him, matters pertaining to properties of minors and matters on behalf of workers pitted against rich and influential persons can be entrusted to him without qualms. Court records can be placed at his disposal, his word at the Bar should be accepted? Should a character certificate in the form of a Black Gown be given to him so that a promise of probity and trustworthiness is held out to the unwary litigants seeking justice? A copy of this order may, therefore, be sent to the appropriate authorities concerned with the administration of the Bar Council of India and the State Bar Council, Ministry of Law of the Government of India and Law Commission in order that the matter maybe examined fully and closely with

the end in view to preserve the image of the profession and protect the seekers for justice from dangers inherent in admitting such persons on the rolls of the Bar Council.

4. Subject to the aforesaid observations, the petition is rejected. Petition rejected.