
(2010) 10 RAJ CK 0022

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 1479 of 2006

Gulab Chand Mittal

APPELLANT

Vs

The Bar Council of India and Another

RESPONDENT

Date of Decision : 04-10-2010

Acts Referred:

Advocates Act, 1961 — Section 24A, 26(2)

Citation : (2010) 4 RLW 3654

Hon'ble Judges : Jagdish Bhalla, C.J.; Mohammad Rafiq, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Jagdish Bhalla, C.J.—This appeal is directed against the order of learned Single Judge dated 10.1.2006 by which the writ petition of the Appellant herein was dismissed.

2. In the writ petition, the Appellant challenged validity of order dated 27.8.2005 passed by the Enrollment Committee of Bar Council of Rajasthan and order dated 2.1.2006 passed by the Bar Council of India and communication sent to him by Bar Council of Rajasthan dated 16.2.2006 intimating refusal of his enrolment as an advocate.

3. Petitioner applied for enrollment with the Bar Council of Rajasthan on 18.8.2001. The enrollment committee of the Bar Council on the basis of fact that he was facing criminal charge and that he has been removed from service by disciplinary authority, expressed the opinion that if persons having such conduct unbecoming of an employee are allowed to be enrolled, they would then be subjecting the fates and fortunes of various litigants into unnecessary peril. Therefore, the enrollment committee recommended rejection of his enrollment application u/s 26(2) of the Advocates Act for confirmation vide its order dated 27.8.2005. The Bar Council of India by resolution dated 2.1.2006 accepted recommendations so made. It was thereupon that Secretary of the Bar Council of

Rajasthan by communication dated 16.2.2006 sent an information to the Petitioner about the same.

4. Shri Gulab Chand Mittal-Appellant has appeared in person. None has, however, appeared for the Respondents despite service.

5. Shri Gulab Chand Mittal-Appellant has argued that disqualification for enrollment has been enumerated u/s 24A of the Advocates Act, 1971, according to proviso thereof the disqualification for enrollment as aforesaid shall cease to have effect after a period of two years has elapsed from the date of release or dismissal or as the case may be, removal. It was argued that removal of the Petitioner from service was made by order dated 25.8.1998 and a period of two years had elapsed even before the date he applied for enrollment on 18.8.2001. Pendency of criminal case also would have no bar for registration of the Petitioner for enrollment because what is described as disqualification is conviction of an offence involving moral turpitude or untouchability and even that too ceases to have effect after expiry of two years from the date of release. In any case, however, the Petitioner has since been acquitted of all the charges because the matter was compromised between the parties and on the basis of compromise, proceedings of the criminal case pending in the Court of Judicial Magistrate No. 11, Jaipur City, Jaipur were quashed by this Court vide judgment dated 16.8.2010 passed in S.B. Civil Writ Petition No. 11307/2010. The concerned Court has thereafter passed the consequential order on 18.8.2010 dropping the proceedings against the Petitioner and cancelling the bail bonds. In view of this, the second ground on which the order declined to enroll the Petitioner has ceased to exist. The Appellant has relied on the judgments of Supreme Court in State of Gujarat v. Suryakant Chhunni Lal Shah (1999) 1 SCC 529 , Supreme Court Bar Association Vs. Union of India and Another, Hikmat Ali Khan v. Ishwar Prasad Arya 1997 LS 134 , Surajmal Surolia Vs. The Bar Council of India and Others, , judgment of Madras High Court in J. Sampath Kumar v. B.C.I. 1994 LS 631, judgment of Andhra Pradesh High Court in N. Ram Reddy v. Bar Council of State of A.P. AIR 2002 AP 485, judgment of Karnataka High Court in AIR 2002 Kar 274 and judgment of Allahabad High Court in Amrendra Nath Singh Vs. Bar Council of U.P. and Another,

6. None has appeared to oppose the appeal and even then we do not doubt correctness of the version that pendency of the criminal case, which was one of the reasons given by the Bar Council to refuse enrollment to the Petitioner, is no longer there.

7. In view of above discussion, we find that the matter requires reconsideration at the end of the Bar Council of Rajasthan. This appeal is therefore allowed. The impugned judgment passed by the learned Single Judge dated 10.1.2006 is set aside and also the impugned orders dated 27.8.2005, 2.1.2006 and 16.2.2006 are quashed and set aside. The matter is remanded to the Bar Council of Rajasthan for taking a fresh decision in accordance with law after giving opportunity of hearing to the Petitioner.