

(2022) 09 DEL CK 0152

In the Delhi High Court

Case No : Civil Writ Petition No. 12116 Of 2022, Civil Miscellaneous Application No. 36228 Of 2022

Pankaj Kumar

APPELLANT

Vs

Bar Council Of Delhi And Ors

RESPONDENT

Date of Decision : 23-09-2022

Acts Referred:

Constitution Of India, 1950 — Article 21, 226

Citation : (2022) 09 DEL CK 0152

Hon'ble Judges : Satish Chandra Sharma, CJ;Subramonium Prasad, J

Bench : Division Bench

Advocate : Srikant Prasad, Dewashish Viswakarma, Anurag Ahluwalia, Danish Faraz Khan, Anuj Aggarwal, Ayushi Bansal, Sanyam Suri

Final Decision : Dismissed

Judgement

Subramonium Prasad, J

1. The instant writ petition under Article 226 of the Constitution of India has been filed as a Public Interest Litigation with the following prayers:

"a) Honourable court may issue the writ of mandamus nature directing R1 and R2 to consider the financial difficulties to the all concerned and to provide the financial assistance of Rs.5000 to the petitioner and newly enrolled advocates in Bar council of delhi during his initial year of practice;

b) Honourable court may pass an direction for making rules for chamber/ coworking space allotment by creating equal opportunity to the newly enrolled advocates;

c) Honourable court may be pleased to pass any other order, judgement in the interest of justice as deems fit."

2. The Petitioner, who is 29 years of age, is a young advocate, who has enrolled himself in the Bar Council of Delhi and cleared the AIBE Examination in the year

2021. He is presently working as a junior in the chambers of a Senior Advocate. The Petitioner by way of the instant Public Interest Litigation wants to highlight the difficulties being faced by newly enrolled advocates who are finding themselves in a position where they cannot sustain themselves in Delhi. It is stated that the young advocates are unable to arrange for their accommodation, food, travelling and other expenses, and without there being any proper and consistent source of income, they are unable to make both ends meet.

3. It is stated by the Ld. Counsel for the Petitioner that Bar Council of India has issued a notification granting a minimum stipend for a sum of Rs.5,000/- to all the young advocates for the initial three years of their practice. It is stated that many junior advocates are not paid anything by their seniors owing to which they are unable to concentrate on the profession. It is also stated that a survey conducted by Vidhi Centre for Legal Policy demonstrates that more than 79% of the Advocates across 7 High Courts with less than two years of legal practice at the Bar are earning less than Rs.10,000/- per month.

4. The Ld. Counsel for the Petitioner by way of the instant Public Interest Litigation further highlights the unavailability of space for newly enrolled Advocates where they can sit and entertain clients. It is stated that there are no rules to accommodate the newly enrolled Advocates in the chambers.

5. The Ld. Counsel for the Petitioner relies upon a similar Public Interest Litigation filed in the High Court of Bombay seeking a permanent stipend scheme for junior lawyers with an annual income of less than Rs. 1 lakh for the first three years of their practice and states that the High Court of Bombay has issued notices to the Bar Council of Maharashtra and Goa. It is further stated that the High Court of Chhattisgarh and the High Court of Allahabad have also issued notices in similar Public Interest Litigations filed on the very same issue. The Ld. Counsel for the Petitioner also relies upon the decision of the Government of Kerala wherein sanction was accorded to pay a monthly stipend of a sum of Rs.5,000/- per month to junior lawyers of a specified category, payable out of the Welfare Fund created under Kerala Advocates' Welfare Fund Act, 1980.

6. Heard Ld. Counsel for the Petitioner and perused the material on record.

7. Undoubtedly, the Petitioner has highlighted the problems being faced by the young lawyers who have enrolled in this noble profession. This Court can take judicial notice of the fact that youngsters, who have just enrolled themselves as Advocates, face immense difficulties in sustaining themselves owing to the high cost of living in Delhi. It is indeed very difficult for young advocates to bear expenses for the purposes of accommodation food, and travelling expenses. This Court also takes note of the fact that many of these youngsters either do not get paid by their seniors or the salaries that are paid to them are so meagre that it barely covers the cost of living in a metropolitan city. Many of these young advocates, if fortunate enough, either have to depend on their families to meet day-to-day expenses or are reduced to a state whereby they are forced to take

up more lucrative and feasible job offers. This is indeed a sorry state of affairs of a noble profession whose dynamics end up excluding those with less financial resources as compared to their privileged counter parts.

8. Despite being cognizant of the above, the short question which arises for consideration before this Court is whether this Court can issue a writ of mandamus to the Bar Council of Delhi and Bar Council of India to make provisions for payment of a stipend to young law graduates who have just enrolled themselves at the Bar as Advocates.

9. At the outset, it becomes pertinent to note that, unfortunately, young professionals in all fields, be it from Medicine, Chartered Accountancy, Architecture and Engineering etc., face problems that are similar to the ones being faced by young advocates. Job opportunities are scarce and persons competing for these limited job opportunities are far too many which makes the competition arduous and the services of an individual dispensable. This Court while exercising its writ jurisdiction cannot single out the legal profession alone and hold that only young advocates have the right to claim a stipend. It is well settled that a writ can lie only for the enforcement of the right established by law and Article 21 of the Constitution of India cannot be stretched to encompass in itself a right of an Advocate to claim a monthly stipend from Bar Associations.

10. It is for the Bar Councils to make provisions to provide some kind of financial assistance so that the young advocates, who are the future of this noble profession, are able to sustain themselves. Other than making an earnest appeal to the Bar Council of Delhi and the Bar Council of India to make provisions for providing stipends to the young advocates, who have recently enrolled themselves in the profession, so that they can overcome the financial stress in the initial years of practice, this Court cannot pass a writ of mandamus directing them to mandatorily provide stipends to the young advocates.

11. This Court also makes an appeal to seniors in this profession to ensure that the stipend that is paid to their juniors is enough for their juniors to evade the financial stress that accompanies this profession and allows them to lead a more dignified life. We further appeal to them to be more mindful of the financial background of their juniors and employ a more empathetic approach towards the same, considering the virtuosity of this profession.

12. With regard to space in chambers for working, every Bar Association/ Court has rules for allotment of chambers, which is usually done on the basis of seniority. There are Advocates, with 10 to 15 years of standing at the Bar, who are unable to secure chambers for working. This Court takes note of the fact that many lawyers also operate from their vehicles, if they are fortunate enough to own one. However, in view of the fact that there are rules for allotment of chambers, the plea of the Petitioner to provide for specific chambers only for junior advocates cannot be entertained. This Court can only appeal to the Bar Councils/ Associations to be more sensitive to the difficulties of the younger

members of the Bar and to consider providing some specified space which can be utilised by the young advocates to further not only their career but also the future of this profession.

13. In view of the above, this Court is not persuaded to entertain the instant Public Interest Litigation.

14. The petition is dismissed, along with pending application(s), if any.