
(2013) 08 PAT CK 0102

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 15858 of 2013

Praveen Kumar

APPELLANT

Vs

Bihar State Bar Council

RESPONDENT

Date of Decision : 23-08-2013

Acts Referred:

Citation : (2013) 4 BBCJ 165

Hon'ble Judges : Ramesh Kumar Datta, J.

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ramesh Kumar Datta, J.—;Learned counsel for the petitioner submits that with respect to an occurrence which took place on 26.07.2013 after the proceedings of an election petition, in which the petitioner and respondent Nos.4 to 6 were participating in their capacity as parties, an application for initiating disciplinary proceeding against the petitioner was made before the Bihar State Bar Council by respondent Nos. 4 to 6 who are members of the Bar Council alleging that the petitioner had used unparliamentary language against the members of the Bar Council and on protest by respondent No.4 the petitioner became furious and heavily slapped respondent No.4 in the presence of respondent Nos. 5 and 6.

2. It is submitted by learned counsel for the petitioner that on the said complaint, the Chairman of the Bar Council by his order recorded on 27.7.2013 at 11 A.M. directed the same to be put up in the Governing Body for action and it should be given priority. However, learned counsel for the petitioner points out that curiously on 26.7.2013 itself the Officiating Secretary, Bihar State Bar Council prepared the first supplementary agenda for Governing Body meeting to be held on 27.7.2013 and 28.7.2013 to consider the said application for initiating disciplinary proceeding against the petitioner.

3. It is further submitted by learned counsel for the petitioner that as per the

requirement of Part VII Chapter-1 Rule-1 of the Bar Council of India Rules, the complaint had to be verified and affidavited in terms of the requirements of the Code of Civil Procedure and had to be accompanied by a fee which has not been done and thereafter the General Body of the Bar Council has referred the case of the petitioner to a Special Disciplinary Committee for enquiry.

4. It is submitted that the notice issued to the petitioner on 5.8.2013 to appear before the Special Disciplinary Committee on 11.8.2013 was actually issued on 6.8.2013 contrary to the requirement of the Rules for a minimum period of ten days" notice. The said notice refers to the complaint dated 26.7.2013 enclosing a copy of the same which was to be answered by the petitioner.

5. It is further submitted by learned counsel for the petitioner that the petitioner on the same day had filed a complaint on website "fironline.org" through E-mail and also filed a complaint through E-mail dated 27.7.2013 to the Chairman, Bihar State Bar Council. The said complaint was followed up by filing a regular complaint in proper form with due verification and affidavit on 30.7.2013 but while the respondent Bar Council has acted with undue haste in initiating the proceedings against the petitioner and appointing a Special Disciplinary Committee, even though there are eighteen Disciplinary Committees duly constituted by the Bar Council by its order dated 6.4.2013, it has not acted on the complaint of the petitioner as yet, although meeting of the General Body of the Bar Council is generally held on a weekly basis.

6. It is the further contention of learned counsel for the petitioner that when two complaints, which are evidently for the same incident, are there then both the complaints ought to have been taken up together and disposed of together instead of putting the petitioner's complaint in coldstorage and proceeding first with the complaint filed by the powerful members of the Bar Council.

7. It is also the contention of learned counsel for the petitioner that all the three members, namely, respondent Nos. 4 to 6, were present in the meeting of the Bar Council which vitiates the decision of the Bar Council.

8. It is also contended by learned counsel for the petitioner that while the Bar Council has the power to initiate disciplinary proceedings either on a complaint or otherwise but once a complaint has been made, as in the present matter, then it was not open to the Bar Council to have proceeded in the matter by making the Secretary of the Bar Council as the complainant of the case which also shows the bias with which the Bar Council is acting.

9. Learned counsel for the Bihar State Bar Council submits that he would be answering the contentions of the petitioner by filing a detailed counter affidavit but emphasizes that under Section 34 of the Advocates Act power to initiate suo motu proceedings is there in the Bar Council and proceedings against an advocate can be started suo motu. The question of compliance of the provisions of the Code of Civil Procedure on the complaint would not arise in such case.

10. It is also the contention of learned counsel for the Bar Council that the Special Disciplinary Committee was constituted because the other committees were over-burdened.

11. Learned counsel also submits that no General Body meeting has taken place since 30.7.2013 when the petitioner had filed his regular complaint.

12. Issue notice to respondent Nos. 4 to 6. Requisites, etc. both under ordinary process and registered cover with A/D must be filed within one week, failing which the writ application shall stand rejected without further reference to a Bench.

13. Put up on 30.9.2013.

14. Until further orders, proceedings in Disciplinary Enquiry No.02 of 2013 shall remain stayed.