

SUPREME COURT OF INDIA

Anand Kumar Sharma

Vs.

Bar Council of India

C.A.No.294 of 2007

(L.Nageswara Rao and M.R.Shah,JJ.,)

01.03.2019

JUDGMENT

L.Nageswara Rao,J.,

1. Leave granted in S.L.P. (C)..CC Nos. 10531 - 10532 of 2013.
2. The Appellant was enrolled as an advocate in the Bar Council of Himachal Pradesh in July, 1988. He applied for transfer of his enrolment to the State of Rajasthan which was permitted by the Bar Council of India on 27th May, 1989. The Bar Council of Rajasthan received a complaint that the Appellant's enrolment in the State of Himachal Pradesh was obtained by suppression of facts and relevant material. The enrolment of the Appellant was cancelled on 6th November, 1995 by the Bar Council of India. The said order was affirmed by this Court as the Special Leave Petition filed by the Appellant was dismissed on 5th August, 1996.
3. Thereafter, the Appellant applied for enrolment as an advocate seeking exemption from training of one year in view of his experience as an advocate earlier. He approached the High Court of Rajasthan seeking a direction to the Bar Council of Rajasthan to decide his application for exemption from training. The said Writ Petition was dismissed by a learned Single Judge by holding that the Appellant was not entitled for enrolment. In the Appeal filed against the said judgment of the learned Single Judge, a Division Bench directed the Bar Council of Rajasthan to consider the application filed by the Appellant without being influenced by the observations made by the learned Single Judge.
4. The Bar Council of Rajasthan dismissed the application of the Appellant for enrolment on 16th January, 2000 and referred the matter for confirmation of the Bar Council of India. The Bar Council of India confirmed the order passed by the Bar Council of Rajasthan on 16th January, 2000.
5. The Appellant filed yet another application for enrolment as an advocate before the Bar Council of Rajasthan which was rejected on 29th June, 2003. The Bar Council of India confirmed the order of 29th June, 2003 by its resolution dated 3rd January, 2004.

6. The Appellant made another attempt for enrolment by filing an application before the Bar Council of Rajasthan. Initially, the said application was rejected on the ground that the Appellant cannot be admitted as an advocate since he has crossed the age of 45 years in view of Rule 1-A of the Enrollment Rules, Bar Council of Rajasthan framed under Section 28 (1) (d) read with Section 24 (1) (e) of the Advocates Act, 1961. The said Rule was struck down by the High Court of Rajasthan by judgment dated 19th August, 2008. Taking into account the earlier order dated 16th January, 2000 by which the application for enrolment filed by Appellant was rejected, the Bar Council of Rajasthan refused to enroll the Appellant as an advocate by the order dated 14th July, 2012. The order dated 14th July, 2012 of the Bar Council of Rajasthan was affirmed by the Bar Council of India on 15th September, 2012.

7. C.A. 294 of 2007 is filed by the Appellant challenging the order dated 29.06.2003 of the Bar Council of Rajasthan and the consequential orders dated 02.01.2004 of the Bar Council of India and the order dated 18.03.2004 of the Bar Council of Rajasthan. The legality of the orders dated 14th July, 2012 of the Bar Council of Rajasthan affirmed by the Bar Council of India on 15th September, 2012 is subject matter of Special Leave Petitions (Civil)... CC Nos. 10531-10532 of 2013.

8. The Appellant is a qualified medical doctor who was appointed as a Medical Officer on contract basis by the Government of Himachal Pradesh. In the affidavit filed in Special Leave Petitions (Civil)..CC Nos. 10531-10532 of 2013, the Appellant stated that a FIR registered against him at Police Station Dhambola on 15th April, 1988. He was arrested and sent to judicial custody. He further stated that he was absent from service without obtaining leave for which reason his services were terminated by the Director. The Appellant has also referred to his conviction under Section 419 of the Indian Penal Code, 1860 by the Judicial Magistrate on 7th January, 1988. He has also filed the judgment of the Sessions Judge, Dungarpur, Rajasthan by which his appeal against the conviction under Section 419 IPC was allowed. The suppression that was alleged against the Appellant at the time of seeking enrolment in the Bar Council of Himachal Pradesh pertains to his being in Government service in the State of Himachal Pradesh and his involvement in a criminal case. Subsequent acquittal cannot come to the rescue of the Appellant. Section 26 of the Advocates Act, 1961 confers power on the Bar Council of India to remove the name of a person who entered on the Roll of Advocates by misrepresentation. It is in exercise of this power that the enrollment of the Appellant was cancelled. The first order that was passed by the Bar Council cancelling his enrolment as an advocate was confirmed by this Court. The repeated attempts made by the Appellant later amount to an abuse of process. The Appellant would be better advised not to indulge in pursuing the matter pertaining to his enrollment as Advocate. The orders impugned in the Appeals do not suffer from any infirmity and are upheld.

9. The Appeals are dismissed accordingly.