

The Disciplinary Committee of the Bar Council of India

D.C APPEAL NO. 35/2021

WITH STAY PETITION NO. 26/2021

LAWERS VOICE

through its secretary Shri Neeraj,

APPELLANT

VS

BAR COUNCIL OF DELHI & ORS

RESPONDENTS

COMMITTEE MEMBER:

MANAN KUMAR MISHRA, CHAIRMAN, DC

APURBA KUMAR SHARMA, MEMBER, DC

SATISH ABARAO DESHMUKH, MEMBER, DC

ORDER DATED 12.10.2021

The application for permission to file appeal/ application is allowed.

Heard Mr. Himanshu Pathak and Mr. S.N.Verma, the counsels for the applicant/ appellant.

The applicant "Lawyers voice" has stated that it is a registered organization of advocates, with the object to promote the rights, interest and privileges of the advocates.

The applicant is aggrieved with the order dated 6.10.2021 passed by the disciplinary committee of Bar Council of Delhi in the matter of Complaint by Mr. Sohan Singh Tomar @ Sonu against Mr. Iqbal Malik, Advocate (D/759/2003).

By the impugned order, the committee of State Bar Council, Delhi has made following general and omnibus observations and directions which have made the applicant aggrieved and has given the cause of action to move the present appeal before this council.

"We may note that if such activities are not nipped at the bud, the courts as well the legal profession will lose its sanctity, dignity and credibility and would turn into a place for rampant religious activities and programs, which cannot be permitted, as such, while so far as two advocates are concerned, suffice would be to issue the necessary warning to them and at the same time, we make it clear that so far as the Bar Associations and Advocates are concerned, it cannot conduct any religious functions or programs/activities in the chambers corridors, parking or any other place within the precinct of court premises.

In view of the present facts and circumstances, there is no evidence on record to establish the other misconduct of Respondents. We have no option except to dismiss the



complaint, therefore, the complaint is hereby dismissed and needless to say order dated 05.07.2021 for suspension of Enrolment and Sealing of Chamber is withdrawn."

We have heard the parties and perused the impugned order carefully.

Prima-facie it appears that the main issue before the committee was to examine the conduct of an advocate, who had arranged the conversion of Hindu girl and had facilitated the Nikah of the said girl with a man belonging to other religion in his chamber only.

The Committee was required to examine whether the conduct of said advocate could be covered under the definition of professional or other misconduct or not ?

From the concluding paragraph of the impugned order, it appears that the complaint against the said advocates has finally been dismissed by the committee;. However without framing any issue prima-facie, it appears that the committee of Bar Council of Delhi has issued the impugned general directions and has exceeded its jurisdiction.

Before, making any such direction / observation, the Bar Council of Delhi was required to examine whether it was /is competent to pass such orders. The Bar council of India Rules (which deals with the conduct of advocates) does not prohibit any advocate from performing a religious function in his chamber. It is not out of place to mention that even some High Court's administration has provided space to some particular religion to offer prayers in their premises.

Therefore, prima facie it appears that such general direction restraining the advocates or the Bar Associations from performing any religious function or programme is beyond the jurisdiction of any Bar Council, particularly when this issue was not there before the Disciplinary Committee of Bar Council of Delhi. The case in hand relates to allowing conversion of religion and performance of Nikah in the Lawyer's chamber, which was/is apparently an illegal act and can not be allowed to be performed in the Lawyer's Chambers or in the premises of any Bar Association. But the Bar Council of Delhi has dismissed that complaint.

The impugned order thus, prima facie appears to be nonest and without jurisdiction.

We therefore, find it an appropriate case for grant of interim stay of the part of the impugned order by which the general advocates/Bar associations have been restrained from holding any religions functions/programs/activities in their chambers or in the premises of the Bar Associations. The application for interim stay is accordingly allowed.

Issue notice to the respondent No. 2 [B.ii] Shri Sohan Singh Tomar @ Sonu and Respondent 3. [B.iii] Shri Mr. Iqbal Malik fixing 18th December, 2021 as the date of hearing , the respondents may file their reply, if any, within 4 weeks from the date of receipt of the notice.

Call for the records from the Bar Council of Delhi.

The case will be heard physically at 3.00p.m. on 18th December, 2021 .

Sd/-
Chairman

Sd/-
Member

Sd/-
Member

Certified to be a True Copy


Registrar

Disciplinary Committee
Bar Council of India

