

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2646 OF 2009

BAR OF INDIAN LAWYERS

Appellant(s)

VERSUS

D.K.GANDHI & ANR.

Respondent(s)

WITH

CIVIL APPEAL NO. 2647 OF 2009

CIVIL APPEAL NO. 2648 OF 2009

CIVIL APPEAL NO. 2649 OF 2009

O R D E R

1. The question before a Division Bench of this Court was as to whether the legal professional could be covered by the provisions of Section 2(1) (o) of the Consumer Protection Act, 1986 (Now Section 2(42) of the Consumer Protection Act, 2019).

2. While considering the said question, this Court came to a specific conclusion that the legal profession is *sui generis*, that is it is unique in

nature and cannot be compared with any other profession.

3. This Court has also held that the service hired or availed of an advocate is a service under a contract of personal service and, therefore, would fall within the exclusionary part of the definition of service contained in Section 2(42) of the Consumer Protection Act, 2019 [Section 2(1)(o) of the Consumer Protection Act, 1986].

4. While considering the said question, this Court was of the opinion that in the case of *"Indian Medical Association Vs. V.P. Shantha"*, reported in (1995) 6 SCC 651 wherein this Court was considering whether medical practitioners would be covered under the provisions of the Consumer Protection Act requires to be revisited.

5. The Division Bench of the this Court further observed that the question as to whether a 'profession' could be treated as 'business' or 'trade' and, therefore, covered within the ambit of the definition under Section 2(42) of the Consumer Protection Act, 2019 [Section 2(1)(o) of the Consumer Protection Act, 1986], requires a revisit.

6. We find that the issue before the Court regarding the legal profession was addressed in unequivocal terms, leading to the conclusion that the legal profession is not covered by the provisions of the Consumer Protection Act.

7. We, therefore, find that since this Court came to the aforesaid conclusion, irrespective of the finding in the case of *Indian Medical Association (Supra)*, the reference to a larger Bench was not necessary.

8. The question as to whether the other professionals, excluding the legal professionals could be covered by the Consumer Protection Act, can be considered in an appropriate case, having a factual foundation for deciding the same.

9. The reference is answered in the above terms. Consequently, the appeals are disposed of.

10. Pending application(s), if any, stand(s) disposed of.

.....J
(B.R. GAVAI)

.....J
(PRASHANT KUMAR MISHRA)

.....J
(K.V. VISWANATHAN)

New Delhi
November 07, 2024

ITEM NO.102

COURT NO.3

SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 2646/2009

BAR OF INDIAN LAWYERS THROUGH
ITS PRESIDENT JASBIR SINGH MALIK

Appellant(s)

VERSUS

D.K.GANDHI PS NATIONAL INSTITUTE
OF COMMUNICABLE DISEASES & ANR.

Respondent(s)

WITH

C.A. No. 2647/2009 (XVII-A)

C.A. No. 2648/2009 (XVII-A)

C.A. No. 2649/2009 (XVII-A)

Date : 07-11-2024 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Appellant(s)

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Mr. Prabhas Bajaj, Adv.
Mr. Priyanshu Tyagi, Adv.

Mr. Daya Krishan Sharma, AOR

Mr. Guru Krishna Kumar, Sr. Adv.
Mr. Akshay Amritanshu, AOR
Ms. Anjul Dwivedi, Adv.
Ms. Drishti Saraf, Adv.
Ms. Pragya Upadhyay, Adv.
Ms. Swati Mishra, Adv.

Mr. Mohinder Jit Singh, AOR

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For Respondent(s)

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Dr. Sandeep Singh, Adv.
Ms. Sasmita Tripathi, Adv.
Mr. Susheel Tomar, Adv.
Mr. Shashank Shekhar, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. The civil appeals are disposed of in terms of the signed order.
2. Pending application(s), if any, stand(s) disposed of.

(DEEPAK SINGH)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)

[Signed order is placed on the file]