2023 STPL(WEB) 3 SC
SUPREME COURT OF INDIA

(VIKRAM NATH AND SANJAY KUMAR JJ.)

BAR COUNCIL OF INDIA

Appellant

VERSUS

RABI SAHU & ANR.

Respondents

Civil appeal no. 8571 of 2013-Decided on 9-6-2023

Advocate Enrolment – Institute Not Recognized – No Enrolment

JUDGMENT

Sanjay Kumar, J.-Bar Council of India (BCI) is in appeal against the order dated 21.09.2012 passed by a Division Bench of the Orissa High Court in W.P.(C). No. 32506 of 2011. By the said order, BCI was directed to forthwith enrol the writ petitioner, viz., respondent No. 1 herein, as an Advocate.

2. By order dated 28.01.2013, this Court stayed the operation of the impugned order.

3. Despite service of notice, neither of the respondents, viz., the writ petitioner and the Orissa State Bar Council, chose to appear before this Court.

4. Respondent No. 1 herein secured his law degree from Vivekananda Law College, Angul, in the year 2009. This college is not recognized/approved by BCI. In fact, by letter dated 05.01.2002, BCI had directed Vivekananda Law College, Angul, not to admit students in law course stating that students so admitted would not be eligible for enrolment as Advocates. BCI stated to this effect again in its letter dated 28.02.2011 addressed to the Orissa State Bar Council. As a corollary, the Orissa State Bar Council rejected the application of respondent No. 1 for enrolment as an Advocate, vide letter dated 04.05.2011. Aggrieved thereby, respondent No. 1 filed W.P.(C). No. 32506 of 2011 before the Orissa High Court.

5. The said writ petition was allowed by a Division Bench of the Orissa High Court under the impugned order dated 21.09.2012. Reliance was placed by the Division Bench on the earlier judgment of this Court in V. Sudeer vs. Bar Council of India and another [(1999) 3 SCC 176] and on the strength thereof, the Division Bench opined that once a candidate fulfilled the conditions stipulated in Section 24(1) of the Advocates Act, 1961 (for brevity, 'the Act of 1961'), and did not suffer any disqualification under Section 24A thereof, he would be entitled to enrolment as an Advocate. Further, the Division Bench held that BCI could not frame rules and add any condition for enrolment in addition to what was prescribed under Section 24 of the Act of 1961. Holding so, the Division Bench granted relief to respondent No. 1, as set out supra.

6. The earlier decision of this Court in V. Sudeer (supra) fell for consideration recently before a Constitution Bench in Bar Council of India vs. Bonnie Foi Law College & Ors. [Civil Appeal No. 969 of 2023 etc., decided on 10.02.2023]. Perusal of the Constitution Bench judgment reflects that the decision in V. Sudeer (supra) was held to be not good law. The Constitution Bench held that the BCI's role prior to enrolment cannot be ousted and the ratiodecidendiin V.Sudeer (supra), that it was not one of the statutory functions of BCI to frame rules imposing pre-enrolment conditions, was erroneous. It was categorically held that Section 49 read with Section 24(3)(d) of the Act of 1961

vested BCI with the power to prescribe the norms for entitlement to be enrolled as an Advocate and in consequence, the interdict placed by the decision in V. Sudeer (supra) on the power of BCI could not be sustained. The Constitution Bench, accordingly, held that V. Sudeer (supra) did not lay down the correct position of law.

7. Viewed thus, the rule framed by BCI requiring a candidate for enrolment as an Advocate to have completed his law course from a college recognized/ approved by BCI cannot be said to be invalid, as was held in the impugned order.

8. We, therefore, have no hesitation in holding that the Division Bench was not justified in directing the enrolment of respondent No. 1 as an Advocate, despite the fact that he secured his law degree from a college which was not recognized or approved by BCI.

9. The appeal is accordingly allowed, setting aside the order dated 21.09.2012 passed by the Orissa High Court in W.P.(C). No. 32506 of 2011. In the circumstances, there shall be no order as to costs.
