

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

(Original Jurisdiction)

W.P. No. _____/2020 (PIL)

In the matter of Public Interest Litigation:

Between:

Ramesh Naik. L

...Petitioner

And:

Karnataka State Bar Council and Ors.

...Respondents

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Bengaluru,

Date :

Advocate for Petitioner/Petitioner-In-Person

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SYNOPSIS

Sl. No.	Date	Events
1.	Nil.	Legal profession is the noblest and dignified. It commands great honour. The practice of Advocacy has the public utility flavor. This petition in the nature of Public Interest Litigation is filed in the larger interest of Brother/Sister Advocates across the State of Karnataka. Section 6 (d) and (dd) of the Advocate Act, 1961 imposes duty upon the Karnataka State Bar Council, Respondent No.1 herein, 'To safeguard the rights, privileges and interest of Advocates on its roll' and 'To promote the growth of Bar Associations for the purpose of effective implementation of the welfare scheme' respectively.
2.	09.01.2020	Mysore City police booked one student named 'NALINI BALAKUMAR' under sedition provision, Section 124A, of Indian Penal Code(IPC) for holding a placard written with the wordings 'FREE KASHMIR' during peaceful protest organized in opposition to Citizenship(Amendment) Act, 2019 (CAA) and proposed National Register of Citizen(NRC) at Mysore University campus on 08.01.2020.
3.	16.01.2020.	The Executive Committee of Mysore District Bar Association, Respondent No.2 herein, is said to have passed a controversial resolution to not to file vakalath and appear on behalf of the accused student 'NALINI

		BALAKUMAR' and others, stating the act of accused as Anti-National . A copy of such a decision claimed to have been taken by the Respondent No.2, was attached at multiple locations of Mysore City Court Complex and a warning message has been sent through print/electronic media to all its Advocate members of the Respondent No.2 Bar Association to abide by its decision, otherwise stringent action would be taken.
4.	20.01.2020.	Knowing the decision of the Respondent No.2 through print/electronic media, Hundreds of Advocates across the State, including the Petitioner , have tried to file vakalath on behalf of the accused student ' NALINI BALAKUMAR' . A lot of verbal conflict had taken place among the Advocate members of the Respondent No.2 Bar who have opposed the decision of Respondent No.2 and in fact couple of Bar members were suspended for filing vakalath on behalf of the accused student ' NALINI BALAKUMAR' .
5.	23.01.2020.	Petitioner made a Requisition/Representation to Karnataka State Bar Council, Respondent No.1 herein, to issue proper and appropriate direction to the Respondent No.2 to protect the rights, privilege and interest of the Brother/Sister Advocates. But no response from Respondent No.1. Hence this petition in the nature of Public Interest Litigation.

BRIEF FACTS OF THE CASE

Mysore City police booked one student named '**NALINI BALAKUMAR'** under sedition provision, **Section 124A, of Indian Penal Code(IPC)** for holding a placard written with the wordings '**FREE KASHMIR'** during peaceful protest organized in opposition to Citizenship(Amendment) Act, 2019 (CAA) and proposed National Register of Citizen(NRC) at Mysore University campus on 08.01.2020.

The Executive Committee of Mysore District Bar Association, Respondent No.2 herein, is said to have passed a controversial resolution to not to file vakalath and appear on behalf of the accused student '**NALINI BALAKUMAR'** and others, stating the act of accused as **Anti-National**. A copy of such a decision claimed to have been taken by the Respondent No.2, was attached at multiple locations of Mysore City Court Complex

and a warning message has been sent through print/electronic media to all its Advocate members of the Respondent No.2 Bar Association to abide by its decision, otherwise stringent action would be taken.

Knowing the decision of the Respondent No.2 through print/electronic media, Hundreds of Advocates across the State, **including the Petitioner**, have tried to file vakalath on behalf of the accused student '**NALINI BALAKUMAR**'. A lot of verbal conflict had taken place among the Advocate members of the Respondent No.2 Bar who have opposed the decision of Respondent No.2 and in fact couple of Bar members were suspended for filing vakalath on behalf of the accused student '**NALINI BALAKUMAR**'.

Petitioner made a Requisition/Representation dated 23.01.2020 to Karnataka State Bar Council, Respondent No.1 herein, to issue proper and appropriate direction to the Respondent No.2 to protect the rights, privilege and interest of the Brother/Sister Advocates. But no response from Respondent No.1. Hence this petition in the nature of Public Interest Litigation.

Bengaluru,

Date :

Advocate for Petitioner/Petitioner-In-Person

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Between:

Ramesh Naik. L S/o Late Lakshman Naik. R

... Petitioner

And:

1. Karnataka State Bar Council

Represented by its Chairman,
Old KGID Building, Dr. Ambedkar,
Veedhi, Bangalore-560001

2. Mysore District Bar Association,

Represented by its President,
Mysore City Law Court Complex,
K.G.Koppal, Chamarajapuram Mohalla,
Lakshmipuram, Mysuru-570005

... Respondents

**Memorandum of Writ petition under Article 226 of the
Constitution of India in the matter of Public Interest Litigation**

- 1) That the petitioner is filing the instant writ petition in public interest. The petitioner has no personal interest, individual gain, private motive or oblique reasons in filing this PIL. It is not guided by self-gain or for gain of any other person / institution / body and that there is no motive other than of public interest in filing the writ petition.
- 2) That the petitioner is a public spirited person and an Advocate by profession, is associated with the couple of non-profit organization based in Tumkur, Karnataka which are in forefront for the education of rural children, Environmental protection and also fighting for the cause of human dignity, civil liberty and social justice. **Petitioner seeks the**

leave of this Hon'ble Court to appear and argue as Petitioner-In-Person in this petition.

- 3) There is no civil, criminal or revenue litigation, involving Petitioner, which has or could have legal nexus with the issue involved in this petition. It is totally bona-fide.

Facts of the case

- 4) It is submitted that there was an peaceful protest organized by the Mysore University students at Manasa Gangothri campus on 08.01.2020 in opposition to **Citizenship(Amendment) Act, 2019 (CAA) and proposed National Register of Citizen(NRC)**. In the aforesaid protest one student named 'Nalini Balakumar' was holding a placard written with the wordings '**FREE KASHMIR**' to mark her dissent against the implementation of CAA and proposed NRC.
- 5) It is further submitted that the Mysore City police booked that student '**NALINI BALAKUMAR**' along with others under sedition provision, **Section 124A, of Indian Penal Code(IPC)** for holding a placard written with the wordings '**FREE KASHMIR**' during the aforesaid peaceful protest organized in opposition to **CAA/NRC**.
- 6) Petitioner submits that there was widespread discussion, perhaps the condemnation from the people of different spectrum of the society against the action of police to book the student and other organizers of the protest under the **stringent provision i.e. section 124A of IPC** for peacefully holding a protest in the democratic manner and the entire incident and subsequent developments were widely reported in all most all Kannada and English daily newspapers and telecasted in the electronic media.
- 7) It is submitted that the Executive Committee of Mysore District Bar Association, Respondent No.2 herein, is said to have passed a controversial resolution to not to file vakalath and appear on behalf of the accused '**NALINI BALAKUMAR**' and others, stating the act of accused as **Anti-National**. A copy of such a decision claimed to have been taken by the Respondent No.2, was attached at multiple locations of Mysore Court Complex and a warning message has been sent through print/electronic media to all the Advocate members of the Respondent No.2 Bar Association to abide by its decision, otherwise stringent action would be taken.

- 8) Petitioner submits that the more controversial act of the Respondent No.2 is that they were not sharing the copy of the resolution stated by them to have passed, to not to file vakalath on behalf of the accused, despite the oral/written requisition made to them by many Advocates. But copy of such instructions are being attached at multiple locations including the notice board of Mysore City Court Complex. Two such copies of instructions attached at Mysore City Court Complex are produced herewith as **Annexure-A and Annexure-B** along with its typed and English translation for the kind perusal of this Hon'ble Court.
- 9) It is submitted that, after knowing the aforesaid decision of the Respondent No.2 through print/electronic media, Hundreds of Advocates across the State, **including the Petitioner**, have tried to file vakalath on behalf of the accused student '**NALINI BALAKUMAR**'. A lot of verbal conflict had taken place among the Advocate **members of the** Respondent No.2 Bar who have opposed the decision of the Respondent No.2 and **in fact couple of Bar members were suspended for filing vakalath on behalf of the accused student 'NALINI BALAKUMAR'**.
- 10) Petitioner submits that the **Legal profession is the noblest and dignified. It commands great honour.** The practice of Advocacy has the public utility flavor. An Advocate is to do his part individually and as a member of the organized Bar to improve his profession, the Court and the law. **In a free society Advocate has a responsibility that of acting as an intelligent, unselfish leader of public opinion.**
- 11) Petitioner being a law abiding citizen and an Advocate by profession, **has made a requisition/representation dated 23/01/2020 to Karnataka State Bar Council, Respondent No.1 herein**, to direct the Respondent No.2, not act against to the **Right, Privileges and interest of the Advocates of Mysore District so that it will set a wrong precedent and politicization of the Bar and imposition of individual thought on all Advocates** and the same has been produced herewith as **Annexure-C** along with its typed and English translation for the kind perusal of this Hon'ble Court. Petitioner neither received response nor see any positive steps taken by the Respondent No.1 in this regard. Hence this petition in the nature of Public Interest Litigation with the following, in addition to the above, grounds.

Grounds

- 12) **Section 6 (d) and (dd) of the Advocate Act, 1961** imposes duty upon the Karnataka State Bar Council, Respondent No.1 herein, **‘To safeguard the rights, privileges and interest of Advocates on its roll’** and **‘To promote the growth of Bar Associations for the purpose of effective implementation of the welfare scheme’** respectively. Hence any inaction on the part of Respondent No.1 in this regard, amounts to violation of the aforesaid provisions of the Advocates Act, 1961.
- 13) **Right to Practice** is a Fundamental right guaranteed under **Article 19(1)(g) of the Constitution of India**. The decision of the Respondent No.2 or anyone for that matter, to restrict any of its Advocate members not to file vakalath on behalf of any accused person without sufficient cause, **offends Article 19(1)(g) of the Constitution of India**.
- 14) An Advocate is to do his part individually and as a member of the organized Bar to improve his profession, the Court and the law. **In a free society Advocate has a responsibility that of acting as an intelligent, unselfish leader of public opinion**. Hence the decision of the Respondent No.2 or anyone for that matter, to restrict any of its Advocate members not to file vakalath on behalf of any accused person without sufficient cause, **is arbitrary, unmindful and without application of mind**.
- 15) Having no other alternative and efficacious remedy, the Petitioner has filed this writ petition before this Hon’ble Court. The Petitioner has not filed any other petition, claim, suit or proceeding in any court or tribunal throughout the territory of India regarding this matter.

PRAYER

1. Issue a writ of mandamus to the Respondent No.1 to take necessary and appropriate action available in law to give direction to the Mysore District Bar Association or any other District Bar Association for that matter **‘To safeguard the rights, privileges and interest of the Advocates on its roll’** and not to indulge in the activities which lower the dignity of our esteemed judicial institution.

2. Pass such other order or orders as this Hon'ble Court deems fit to grant in the facts and circumstances of the case, so as to meet the ends of justice and equity.

Bengaluru,

Date :

Advocate for Petitioner/Petitioner-In-Person

Address for service

Ramesh Naik.L

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Karnataka State Bar Council and Ors.

...Respondents

VERIFYING AFFIDAVIT

I, Ramesh Naik. L,

do hereby solemnly affirm and state on oath as follows :

1. I state that I am the petitioner and I am well conversant with the facts of the case.
2. I state that the averments contained in the accompanying writ petition are true and correct.
3. I state that the Annexure-A to Annexure-C are the true copies of the original.

VERIFICATION

I, the deponent, do hereby verify and declare that the averments contained in para 1 to 3 are true and correct.

Identified by me,

Advocate,

Bengaluru,

Date :

No. of corrections

Deponent