

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4448 of 2022

=====

Shahnaz Fatma, Daughter of Late S.M. Jameel Ahmad, Resident of Mohalla -
Batau Kuan, Post Office - Begampur, Police Station - Chowk, Patna City,
District – Patna.

... .. Petitioner

Versus

1. The Bihar State Bar Council, through its Officiating Secretary, 2nd Floor, Bar Council Building, Near Patna High Court, P.S. Kotwali, District - Patna.
2. The Disciplinary Committee, Bar Council of India, through its Officiating Secretary, Rouse Avenue Institutional Area, Near Bar Bhawan, New Delhi - 110002.
3. The Bihar School Examination Board (Senior Secondary), through its Secretary, Bihar, Patna.
4. The State of Bihar through the Director, Secondary Education, Government of Bihar, Patna.
5. The Chairman, Bar Council of India, Rouse Avenue Institutional Area, Near Bar Bhawan, New Delhi - 110002.
6. Prem Kumar Jha, Member Bihar State Bar Council, 2nd Floor, Bar Council Building, Near Patna High Court, P.S. Kotwali, District - Patna.

... .. Respondents

=====

Appearance :

For the Petitioner	:	Mr. Syed Masleh Uddin Ashraf, Advocate
For the State	:	Mr. Nilotpal Sharma, A.C. to G.P-21
For the BCI	:	Mr. P.K. Shahi, A.G. Mr. Vikas Kumar, Advocate
For the BSBC	:	Mr. Shantanu Kumar, Advocate Mr. Anand Kumar Ojha, Advocate Mr. Amit Shrivastava, Sr. Advocate (Amicus Curiae)

=====

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 05-07-2024

By way of this writ petition, the petitioner has
prayed for the following reliefs:-



- “(i) *That a writ of certiorari or other appropriate writ, order, or direction may kindly be issued to Respondent Nos. 1 and 2 thereby calling for the complete records pertaining to the removal proceedings, bearing Removal Proceeding No. 55 of 2021 titled "In the matter of Ms. Shahnaz Fatma", initiated on the reference of Respondent No. 1, by Respondent No. 2.*
- (ii) *That a writ of certiorari or other appropriate writ, order or direction may kindly be issued quashing the notification dated 03.01.2022 and order / letter dated 04.01.2022 whereby Respondent No. 1 Bihar State Bar Council has cancelled the enrollment of the Petitioner from the roll of advocates.*
- (iii) *That a writ of certiorari or other appropriate writ, order, or direction may kindly be issued quashing the recommendation dated 18.12.2021 given by Respondent No.2 whereby Respondent No. 1 has been recommended to cancel the enrollment of the Petitioner.*
- (iv) *That a writ of mandamus or other appropriate writ, order or direction, thereby directing Respondent No. 1 to reinstate the name of the Petitioner on the roll of advocates maintained by Respondent No.2 and restore all consequent privileges and rights to the*



Petitioner as were available before passing of the impugned orders.

(v) *That appropriate direction may be issued to the Respondents 1 and 2 to compensate the Petitioner for the loss of reputation and Income, psychological trauma suffered by her due to the arbitrary, illegal and mala fide act of the said Respondents in cancelling the enrolment of the Petitioner.*

(vi) *That appropriate direction may be issued to the Respondents 1 and 2 to reinstate the name of the Petitioner on the roll of advocates maintained by Respondent No.2 during the pendency of the present petition.”*

2. In the present case, the dispute revolves around the validity/recognition of *Vidya Vinodini* certificate issued by the Prayag Mahila Vidyapeeth, Allahabad, Hewett Road, Allahabad, which has been annexed by the petitioner along with her enrollment application before the Bihar State Bar Council.

3. It is the case of the petitioner that she passed the *Vidya Vinodini* examination conducted by Prayag Mahila Vidyapeeth, Hewett Road, Allahabad in the year 1998 and thereafter went on to pursue intermediate course on the strength



and foundation of the said *Vidya Vinodini* certificate from M.M Mahila College, Ara, which is affiliated to Bihar Intermediate Education Council, Patna and a constituent unit of Veer Kunwar Singh University, Ara. According to the petitioner, M.M. Mahila College, Ara accepts the *Vidya Vinodini* certificate for the purposes of admission in Intermediate course till today.

4. It is also the case of the petitioner that she passed her Intermediate examination in the year 2000 and thereafter she completed her graduation and Bachelor of Law (LL.B.) and on each and every occasion, the said certificate of *Vidya Vinodini* was scrutinized and duly accepted, thereby granting admission to the petitioner for pursuing various courses without objections of any nature from any institution or authority. After having successfully passed the Bachelor of Laws (LL. B) from Maharaja College, Veer Kunwar Singh University, Ara, the petitioner filed an application for enrollment as an Advocate with the Bihar State Bar Council on 13.04.2007 along with all requisite supporting documents including four academic certificates/degrees pertaining to her Matriculation, Intermediate, Graduation and LL.B. The Bihar State Bar Council recommended for conditional enrollment of the petitioner but according to the petitioner, in the resolution of the Enrollment Committee the



words “till the decision of Bar Council of India” was struck out and it carries the initials of the concerned official.

5. It is further the case of the petitioner that after having been enrolled as an Advocate with the Bihar State Bar Council, the petitioner went on to practice for 13 years and thereafter was even elected as a Member of the Bihar State Bar Council in the year 2018 but after a lapse of more than 13 years, the respondents have vexatiously set in motion the process of removing the petitioner from the rolls of Advocate.

6. According to the petitioner, she being a member of the Audit Committee of the Bihar State Bar Council observed certain irregularities in the finance matters and therefore, she raised questions on the same and certain other issues including corruption in the Bihar State Bar Council and as a retaliatory act, the members of Bihar State Bar Council passed a Resolution on 20.06.2021 to reconsider the decision / resolution dated 30.01.2008, by which the petitioner was enrolled as an Advocate along with the recognition/validity of the *Vidya Vinodini* Certificate. As a consequence, the Removal Proceedings No.55 of 2021 was initiated against the petitioner. In the said proceeding, the petitioner filed her reply before the Bar Council of India contending therein that the Bihar Intermediate Council



had granted recognition to Prayag Mahila Vidyapeeth, Allahabad. In the said reply, the petitioner raised preliminary objections based on non-compliance of statutory provisions for institution of the proceedings before the Bar Council of India. The respondent no.2 (Disciplinary Committee, Bar Council of India) vide letter dated 18.12.2021 recommended to cancel the enrollment of the petitioner. Consequently, the respondent no.1 (Bihar State Bar Council) issued notifications / orders dated 03.01.2022 and 04.01.2022 cancelling the enrollment of the petitioner.

7. Learned counsel for the petitioner submits that the petitioner was not afforded an effective hearing by the Bar Council of India as she was always asked to connect through video conferencing but the internet connection was inconsistent and unstable. He further submits that the impugned recommendation and consequent orders are illegal on account of violation of several statutory provisions made under the Bar Council of Bihar Rules, 1962.

8. Learned counsel for the petitioner further submits that Chapter-V and Rule-5 of the Bar Council of Bihar Rules, 1962 prescribe the degrees and certificates required for enrollment as an Advocate and this Rule provides a multi-stage mechanism to ensure that only duly qualified and eligible



applicants are admitted to the rolls of Advocate, however there is no material on record to establish or substantiate that any inquiry or other efforts having been made by the Enrollment Committee of the State Bar Council or the State Bar Council itself on the enrollment application of the petitioner. The petitioner further establishes this by pointing towards the reply received vide letter No. 49/2020 dated 24.01.2020 by the Bihar State Bar Council under R.T.I. Act 2005 stating therein that no inquiry / verification were done in respect to the validity/recognition of her *Vidya Vinodini* certificate.

9. It has been submitted by learned counsel for the petitioner that there has been a complete violation of the Rules by the Bihar State Bar Council, which have been framed by itself and if the Bihar State Bar Council did not follow its own Rules then it cannot make the petitioner suffer after 13 years. Further, there is no provision either in the Governing statute or the Rules made thereunder for a reconsideration of the decision to grant enrollment. Moreover, no material has been brought on record to indicate misrepresentation as to an essential fact or fraud or undue influence which are *sine qua non* for invoking proviso to section 26(1) of the Act.

10. The reliance placed by the respondents on



judgment and order dated 14.02.2019 passed by the Division Bench of this Court in *L.P.A. 455 of 2018 (Sangita Devi v. State & Ors.)* is misplaced since the same pertains to selection for the post of Anganbari Sevika and not for enrollment with a professional statutory body such as the Bar Council. Moreover, till date the respondents particularly the Bar Council of India has not issued any notification, order or direction to the effect that *Vidya Vinodini* certificate cannot be considered for admission to the LL.B. course.

11. Through supplementary affidavit, the petitioner brought on record the reply received from the Bihar School Examination Board dated 10.03.2022 and 04.06.2022 and the Press Release No.45/2003 and 40/2005 published in Hindustan newspaper on 15.11.2003 and 26.07.2005 respectively by the Bihar School Examination Board to illustrate and establish that the certificate of *Vidya Vinodini* was duly recognized and valid as late as 2005. In paragraph no.7 of the supplementary affidavit, it has been stated that the respondents vide letter dated 16.09.2021 and 15.11.2021 had only directed the petitioner to produce the original certificate of *Vidya Vinodini* obtained from Prayag Mahila Vidyapeeth and other educational certificates but, they never issued a show-cause on the validity/recognition of the



said certificate of *Vidya Vinodini*.

12. The petitioner, in her rejoinder affidavit, has stated that the custodian of the document is the Bihar State Bar Council itself, and any unauthorized interpolation or tampering could not be adverted to the petitioner and under the Rules or other provision of law, there is no requirement to submit the matriculation certificate with the enrollment application, which renders the exercise undertaken by the State Council as wholly illegal, without jurisdiction.

13. Learned counsel for the Bihar State Bar Council submits that the Removal Proceeding No. 55 of 2021 were instituted upon reference of the Bihar State Bar Council. Due notices were issued to the petitioner and after affording reasonable hearing, the matter was finally decided under section 26 of the Advocates Act, 1961. The Respondents further submit that the petitioner has not alleged any procedural lapse or mistake other than *mala fide* in the decision-making process.

14. Learned counsel for the Bihar State Bar Council further submits that the allegations and the conduct of the petitioner are very much explained in the Resolution No.98/2021 dated 20.06.2021. Furthermore, the Bihar State Bar Council received a complaint dated 24.06.2021 from the



President, District Bar Association, Patna with a request to take appropriate action against the petitioner and earlier also, the District Bar Association, Patna had informed vide its letter dated 06.03.2020 that the name of the petitioner was removed from the membership of the District Bar Association, Patna by its General Body.

15. Learned counsel for the Bihar State Bar Council also submits that in the resolution of the Bihar State Bar Council it has been mentioned that while conducting a case, the District Judge, Patna has doubted the certificate of the petitioner by which she claimed herself as Handwriting expert and directed the District Bar Association, Patna to enquire into the matter. Whereupon, a Three Member Committee was constituted and on an application made by the petitioner, the Vice Chairman, Bar Council of India vide order dated 13.02.2020, stayed the operation of the order of the District Bar Association, Patna by which the enquiry was initiated but subsequently, the Bar Council of India directed the District Bar Association, Patna to proceed with the enquiry and conclude it within a period of three months. Further, the Enrollment Committee of the Bihar State Bar Council had even initially objected for the enrollment of the petitioner on the ground of validity/recognition of the *Vidya*



Vinodini certificate issued by Prayag Mahila Vidyapeeth and had sought guidelines from the Bar Council of India.

16. It has also been submitted by the Bihar State Bar Council that since from the very beginning, the petitioner was fully aware of the fact that the recognition/validity of her matriculation certificate was under consideration and therefore, she made an application on 30.08.2007 stating the issue of her non-enrollment on ground of her matriculation certificate. On 31.08.2007, the Enrollment Committee convened its meeting and reiterated its earlier request on the issue of validity / recognition of the *Vidya Vinodini* certificate acquired by the petitioner. When the Enrollment Committee did not pass favourable order, the petitioner filed a representation before the Chairman, Bihar State Bar Council on 31.10.2007 to exert undue pressure upon the State Bar Council for not granting enrollment. Again, the matter of enrollment was placed before the Enrollment Committee of the Bihar State Bar Council on 30.01.2008 only on the strength of the recommendation by the then Chairman of Bar Council of India. It is submitted that the Enrollment Committee had to recommend for the enrollment of the petitioner and two others similarly situated persons only in light of the recommendation of the then Chairman of Bar Council of India.



17. It has further been submitted by the Bihar State Bar Council that the recommendation for enrollment as and Advocate was conditional as the same was granted till the decision of the Bar Council of India and though this line was resolved by the Enrollment Committee, yet the same was somehow struck out without any counter signature or order to that effect. The enrollment of the petitioner was only done under the influence of the then Chairman of Bar Council of India and even that was a conditional one.

18. Learned counsel for the Bihar State Bar Council has placed reliance on a decision of the Division Bench of this Court rendered in *Sanjeeta Devi vs. The State of Bihar and Ors.* (supra) and has submitted that in the aforesaid decision the Division Bench had categorically held that the validity/recognition of the *Vidya Vinodini* Certificate seized in the state of Bihar after 1987.

19. By making the aforesaid submissions, learned counsel for the Bihar State Bar Council submits that the petitioner was fully aware of her conditional enrollment and that she is not entitled to get enrollment by the Bihar State Bar Council since she does not hold requisite qualification and therefore, the enrollment of the petitioner has rightly been



cancelled.

20. Learned counsel for the Bihar School Examination Board has filed a counter affidavit in the matter wherein it has been stated that the petitioner had sought information from the Board with regard to the validity of letter No. BIEC-372/A dated 17.11.1983 issued by the erstwhile Bihar Intermediate Council, Patna and in connection thereof, the Assistant Public Information Officer, Bihar School Examination Board had replied vide letter no. BSEB/SS/PAT/EX/209/D-22 dated 10.03.2022 stating therein that the said letter dated 17.11.1983 was not available with the Board, however the Board had annexed a Press Release No.45/2003 which mentions that the *Vidya Vinodini* certificate is accepted as valid and recognized for the purposes of admission in the Intermediate courses.

21. This Court vide order dated 23.11.2023 has appointed Sri Amit Shrivastava, learned Senior Advocate as Amicus Curiae to assist in the present case.

22. Learned counsel for the *Amicus Curiae* submits that the equivalence of *Vidya Vinodini* certificate determined in the judgment of *Sanjeeta Devi vs. The State of Bihar and Ors. (supra)* was specifically for the appointment to the post of *Anganbari Sevika*. The aforesaid decision has nothing



to do with the enrollment of an applicant as an Advocate on the rolls of the Bihar State Bar Council. He has placed reliance on the judgments of the Hon'ble Supreme Court in the case of ***Regional Manager vs. Pawan Kumar Dubey*** reported as ***AIR 1976 SC 1766*** and in the case of ***Roger Shashoua vs. Mukesh Sharma*** reported as ***AIR 2017 SC 3166*** and has submitted that the aforesaid decisions are applicable to the facts of the present case.

23. Learned *Amicus Curiae* further submits that the recognition of the *Vidya Vinodini* Certificate by the Bihar Intermediate Council fully fortifies the contention in favour of the petitioner and that therefore, the respondent did not have any jurisdiction to take a contrary view. The petitioner undertook multiple levels of higher education on the strength, validity and recognition of the said *Vidya Vinodini* certificate. He has placed reliance on a decision of the Hon'ble Supreme Court in the case of ***Shri Krishan vs. The Kurukshetra University*** reported as ***AIR 1976 SC 376*** and has submitted that before issuing the admission card to a student to appear in the Examination, it was the duty of the University authorities to scrutinize the papers; and equally it was the duty of the Head of the Department before submitting the form to the university to see that it complied with



all requirements; and if they did not take care to scrutinize the papers, the candidature for the examinations cannot be cancelled subsequently on the ground of non-fulfilment of requirements.

24. It has also been submitted by learned *Amicus Curiae* that the show cause notice issued to the petitioner was limited to the production of the original certificates, save and except, the submission of the original academic/educational certificates, no other demand much less any other allegation was made in the show cause notice. The Bihar State Bar Council not only enrolled the petitioner but also allowed her to continue practice as an Advocate for more than thirteen years without any demur or hindrance. Furthermore, the proceedings dated 30.01.2008 of the Enrollment Committee was all along in the exclusive custody of the respondent no.1 and therefore the alleged unauthorised 'striking-off' cannot be ascribed to the petitioner.

25. I have considered the rival submissions of the parties and perused the materials on record. From the record, it appears that the petitioner having successfully passed the Bachelor of Laws (LL.B) from Maharaja College, Veer Kunwar Singh University, Ara, filed her application for the purposes of enrollment as an Advocate with the Bihar State Bar Council. On



30.01.2008 the Enrollment Committee, upon the recommendation of the then Chairman Bar Council of India considered the issue of enrollment and resolved to enroll the petitioner conditionally and finally he was enrolled as an Advocate bearing Enrollment No.235 of 2008 on 13.02.2008 with the Bihar State Bar Council.

26. The Hon'ble Supreme Court in the case of ***Shri Krishnan vs. Kurukshetra University*** (supra) has held as under:-

“We find ourselves in complete agreement with the reasons given by the Madhya Pradesh High Court and the view of law taken by the learned Judges. In these circumstances, therefore, once the appellant was allowed to appear at the Examination in May 1973, the respondent had no jurisdiction to cancel his candidature for that examination. This was not a case where on the undertaking given by a candidate for fulfilment of a specified condition a provisional admission was given by the University to appear at the examination which could be withdrawn at any moment on the non-fulfilment of the aforesaid condition. If this was the situation then the candidate himself would have contracted out of the statute which was for his benefit and the statute therefore would not have stood in the way of the University authorities in cancelling the candidature of the appellant.”

27. In another case, the Hon'ble Supreme Court



in the case of ***Sanatan Gauda vs. Berhampur University & Ors.***
reported as ***1990 AIR 1075*** has held in paragraph nos. 10 and 11
as under:-

“10. This is apart from the fact that I find that in the present case the appellant while securing his admission in the Law College had admittedly submitted his marks-sheet along with the application for admission. The Law College had admitted him. He had pursued his studies for two years. The University had also granted him the admission card for the Pre-Law and Intermediate Law examinations. He was permitted to appear in the said examinations. He was also admitted to the Final year of the course. It is only at the stage of the declaration of his results of the Pre-Law and Inter-Law examinations that the University raised the objection to his so-called ineligibility to be admitted to the Law course. The University is, therefore, clearly estopped from refusing to declare the results of the appellant's examination or from preventing him from pursuing his final year course.

11. For all these reasons, I am of the view that the University is not justified in refusing to declare the appellant's results of the Pre-Law and Intermediate Law



examinations. The appeal, therefore, succeeds. The respondent-University is directed to declare the said results as well as the result of the Final examination if the appellant has appeared for the same. The appeal is allowed accordingly. In the circumstances of the case, there will be no order as to costs.”

28. The Jharkhand High Court in the case of ***State of Jharkhand and Ors. vs. Razia Tarannum and Another*** reported as ***2023 SCC OnLine Jhar 2843*** has held in paragraph no.11 as under:-

“11. This Court finds that neither the advertisement provided for any particulars regarding the matriculation certificate nor there was any dispute regarding the validity of the higher qualifications obtained by the respondent no.1 subsequent to obtaining the certificate of Vidya Vinodini from Prayag Mahila Vidyapeeth, Allahabad. There was no such requirement in the advertisement that the candidate who was a graduate, as well as a B. Ed. from recognized institutes, must also have matriculation or equivalent as specifically recognized by the appellants. This Court also finds that the judgment relied upon by the



*appellants passed by Hon'ble Patna High Court dated 14.02.2019 (**Sangita Devi versus the State of Bihar & Ors.**) does not apply to the present case. In the said case the Principal Secretary, Human Resources Department, State of Bihar had issued a letter no.312 dated 25.08.2008 that Vidya Vinodini (matriculation) from Prayag Mahila Vidyapeeth, Allahabad was not recognized which was the basis of cancellation of appointment of Anganbari Sevika and accordingly, the writ petitioner of that case did not satisfy the eligibility criteria in terms of the advertisement. In the present case, the respondent no.1 satisfies all the requirements and qualifications mentioned in the advertisement and it is also not in dispute that the respondent no.1 has passed the required competitive examination for induction in service. In such circumstances, the candidature of the respondent no. 1 cannot be canceled by referring to her past educational qualification which itself was the base for her higher qualifications duly recognized as per the requirement of the advertisement involved in the present case. This Court is of the considered view that once the terms and conditions of the*



advertisement are satisfied, the candidature of a candidate cannot be rejected on grounds other than the requirements in terms of the advertisement.”

29. From the facts stated above, it is clear that the petitioner has acquired Intermediate degree, Graduation degree and Bachelor of Law (LL.B.) from recognized university which have not been challenged by the Bar Council of India. The decision of the Bar Council of India is only based on the observation made by a Division Bench of this Court in the case of *Sangita Devi vs. The State of Bihar and Ors.* (supra) and on the basis of the said decision, they say that if the matriculation certificate of the petitioner was not recognized in the State of Bihar then her enrollment as an Advocate is illegal and therefore, is liable for cancellation.

30. In this case, the Bihar School Examination Board has filed a counter affidavit and annexed a Press Release No.45/2003 which mentions that the *Vidya Vinodini* certificate is accepted as valid and recognized for the purpose of admission in the Intermediate course. It is not for the Bar Council of India to say otherwise and doubt the certificate and further admissions and acquisition of degrees upto Bachelor of Law (LL.B.) of the petitioner.



31. In the opinion of this Court, the judgment of the Division Bench of this Court in the case of *Sangita Devi vs. The State of Bihar and Ors.* (supra) was only for the purposes of appointment of Anganbari Sevika and the Division Bench was not considering the effect of acquisition of further degrees after matriculation examination from Prayag Mahila Vidyapeeth, Allahabad.

32. The Jharkhand High Court in the case of *Razia Tarannum and Another* (supra) has held that subsequent qualifications ought not to have been doubted by the authorities and similarly in the present case also, the qualification acquired by the petitioner after her matriculation have not been doubted or challenged by the Bihar State Bar Council and the requirement for enrollment as an Advocate is the Law degree from a Law College duly recognized by the Bar Council of India and therefore, at this point of time, the Bar Council of India cannot be allowed to doubt the matriculation degree of the petitioner and thereby cancel the registration of the petitioner as an Advocate under its Rules.

33. Under the aforesaid circumstances, I am of the view that the impugned orders are not sustainable in law. Accordingly, the impugned recommendation letter dated



18.12.2021 issued by the Bar Council of India as well as the notifications/orders dated 03.01.2022 and 04.01.2022 issued by the Bihar State Bar Council are hereby set aside. The respondent - Bihar State Bar Council is directed to restore the name of the petitioner on the roll of the Advocates maintained by the Bar Council of India and also restore all consequent privileges and right to the petitioner as were available before passing the impugned orders/letters.

34. With the aforesaid observations and directions, this writ petition is allowed.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	19.07.2024
Transmission Date	

