

At the stage of hearing on IA no.VIII, sri VMS advocate has filed vakalath on behalf of respondent no.9 to 24 along with IA's no.IX to XIV. For this, Sri CKV advocate appeared on behalf of petitioners has submits no objection to aforesaid IA's. Whereas, Smt. SLS advocate who appeared on behalf of respondent no.1 to 8, 17 to 19 and 24, have objected for filing of vakalath by sri VMS advocate on behalf of their clients.

In this regard, Smt. SLS advocate has filed memo by contending that, the aforesaid Sri Veerendra M has filed vakalath on behalf of respondent no.9 to 24 without no objection certificate from earlier counsel whose vakalath already on record. Further it is contended in the memo that, the above named Veerendra M do not have eligibility to file vakalath as per information received by K.S.B.C. He has not completed All India Bar Examination and K.S.B.C. has not issued Certificate of Practice to him, hence he is not entitled to file vakalath and contest election, not eligibility to caste vote, and he is not eligibility to become a member of Bar Association. As per information received on 07.02.2024 by K.S.B.C., he has not only cheated judiciary advocate association and general public at large. Hence, the illegal act of said Veerendra M has punishable U/sec 193 of IPC, is not excusable in any court of Law and prayed to reject his vakalath. The said memo is annexed with copy of R.T.I. application and reply received by Karnataka State Bar Counsel.

Per contra, Sri VMS advocate has filed counter memo along with 2 documents such as 10(1)(E) of Bar Counsel of India Rules which reads "An un-successful advocate may

appear again for the bar examination, without any limit on the number of attempts”,

Rule 11(1) of Bar Council of India Rules reads “The Certificate of Practice shall be issued by the Bar council of India to the address of Successful advocate within 30 days of the date of declaration of the results”. Rule 11(2) of of Bar Council of India Rules states, “The certificate of practice by the Bar council of India under the signature of the chairman, Bar council of India”

The disability to practice Law would come in to force only when the name/s of such advocate/s are published U/rule 20.4. Whereas Rule 20.4 speaks that, the list of non practicing advocate and the name/names of advocates whose application for issuance/verification of Certificate of Practice stands dismissed under Rule 13 shall also be punishable by State Bar council as per law after such list/name is approved by the Bar Council of India.

List of such non practicing advocates is to be furnished by the concerned State Bar Council to the Registrar of the Supreme Court of India, Registrar of All the High Courts, Subordinate Courts of the States, Bar Association of Supreme of Court of India, Bar association of all the High Courts and Subordinate Courts.”

To the contrary, Sri. VMS has filed another memo along with three documents, the copy of complaint given to Karnataka State Bar Council of India, reply given by KSBR and the list of COP-defaulting list Bantwal.

Sri VMS advocate has submitted documents such as notarized copy of Certificate of Practice, the passing certificate of All India Bar Examination, the copy of application given to

Secretary of TLISA Bantwala to provide documents stated there in and its reply, copy of information given by Bar Association Bantwala, copy of application given to TLISA Bantwala and its reply, the circular of Karnataka State Legal Service Authority dated 19.12.2022 and the enrollment certificate of KSBC and the counsel has prayed before this Court to permit him to come on record by considering the document produced by him.

Another memo is filed with notification no.11/23 passed in KSBC dated 25.05.2023 and the order passed by Member Secretary, TLISA Bantwala, dated 14.09.2020. Rule 5 of Bar Council of India Certificate and place of practice (verification) Rules 2015, wherein it states that an advocate shall not entitled to practice law unless he holds a valid and verified certificate of practice issued either under All India Bar Examination Rules or under these Rules. This disability to practice law could come in to force only when their name/names of such advocates is published under Rule 20.4.

The perusal of materials produced in this petition with respect to C.O.P. of the counsel Sri VMS is concerned, the counsel has produced Certificate of Practice issued by Bar Council of India vide no.2021/361135 on 30.03.2021. This document very much discloses that Sri Veerendra M advocate is entitle to practice the profession of law in India by successfully qualified in All India Bar Examination 15th vide AIBE Roll No.5110749. It is no doubt prior to 30th March 2021 the aforesaid counsel has no Certificate of Practice to practice the profession of law. But as on the date of filing of Vakalath on behalf of Respondent no.9 to 24, the counsel is very much having certificate of practice by passing All India Bar Examination as stated Supra. As such there is no name of the

said counsel in the list of defaulting advocate issue by Bar Council of India. Certainly the said counsel was not having any C.O.P. before passing All India Bar Examination, to practice the profession of law in any Bar. But, the said situation does not arise, when he filed vakalath on behalf of respondents no.9 to 24 as on 19.06.2024. Despite of objection raised by the counsel Smt. SLS by questioning the authenticity of document produced by the counsel Sri V.M.S., the same is hereby over ruled in the presence of genuine documents produced by the counsel who now appeared on behalf of respondent no.9 to 24. Infact, the court has taken the copy of C.O.P. default list of Bantwal Taluk on this day through online, but there is no name of the Sri Veerendra M. is found placed in the said list. Despite of serious objections raised with respect to authenticity of the documents, that has been clarified by producing certificate of practice and the result sheets of All India Bar Examination. More so, Sri VMS advocate has not being suspended at no point of ground by any of the notification issued by Karnataka State Bar Council. Obviously there is no bar to attend Bar Examination number of times and accordingly Sri Veerendra M. has passed Bar Examination as stated Supra and succeeded in getting C.O.P. Thus, he is entitled to the practice of profession of law in India.

Consequently, no question arose to issue summons to the Secretary of Karnataka State Bar Council as a witness as prayed. Hence IA no.XV is not sustainable, does not survive for consideration and the same is hereby **dismissed**.

Sri VMS advocate has files another memo by keeping present the respondent no.9, 10, 13 to 15, 17 to 24 and copy of notice given by respondent no.17 to 19 and 24 to the counsel Smt. S.L.S. stating that, they have not received any notice issued

by the court in this petition, they came to know about the petition through their brother and accordingly they appeared before this court through an advocate Sri VMS. They are ready to pay court fee in respect of their shares. Then they came to know Smt. SLS advocate has appeared on their behalf in the petition, but they have neither visited their office, nor signed vakalath to appear on their behalf. Even the signatures found in the vakalath are not belongs to them. Similarly the respondent no. 9 to 16 and 20 to 23 have given notice to the counsel Sri DRP and Smt. ADR by mentioning that they neither visited their office, nor signed the vakalath to appear on their behalf. Even the signatures found in the vakalath are not belongs to them.

Further Smt. SLS advocate has placed reliance of the judgment of Hon'ble High Court of Karnataka rendered in RFA No.831/2013 dated 13.02.2019 and another judgment of Hon'ble Orissa High Court in the matter BLAPL No.9893/2019 by contending that there is no objection to file vakalath from earlier counsel.

The perusal of materials available on record, Smt. SLS advocate filed vakalath on behalf of respondent no.1 to 8, 17 to 19 and 24 in this petition on 18.01.2017. Where as, Sri DRP advocate files vakalath on behalf of respondent no.9 to 11, 13 to 16, 20 to 23 on 17.07.2018. It is true that, until and unless a no objection is obtained from the existing advocate no counsel can enter appearance on record. Here in the petition, the respondents no.17 to 19 and 24 have given notice to the counsel Smt. SLS and respondent no. 9 to 16 and 20 to 23 have given notice to the counsel Sri DRP and Smt. ADR. They clearly narrated in the notice given to their respective counsel intending that they

neither visited their office, nor signed the vakalath to appear on their behalf, even the signatures found in the vakalath are not belongs to them. Further more, the respondents no.9, 10, 13 to 15, 17 to 24 who are present before the court submitted that they never engaged the counsel Smt. Shobhalatha in this petition since they neither received any notice from this court. It is true that, the Counsel Smt. SLS has appeared and conducted on behalf of only respondents no.1 to 8, 17 to 19 and 24 from 18.01.2017. But the counsel resisted the filing of vakalath on behalf of other respondents as well. Either the counsel Sri DRP or Smt. ADR have raised objection for the appearance of respondent by another counsel. Herein, the respondents no. 9 to 24 have intended to engage the counsel of their choice and in this regard they have filed separate affidavits with IA's no. IX to XIV and prayed to allot shares as per decree. According to them, they never given vakalath to the counsel smt. SLS and Sri DRP/Smt. ADR. This being the fact, by overruling whatever objections raised by the counsel Smt. SLS there is no legal impediment to accept the fresh vakalath filed by sri VMS advocate on behalf of the respondents no.9 to 24 to proceed further in this petition.

To hear on IA no.VIII, call on: 30.07.2024.

Sr. Civil Judge & J.M.F.C.,Bantwal, D.K.