



2025:TSHC:27321

[3166]

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**WEDNESDAY, THE EIGHTEENTH DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION NO: 16463 OF 2025

Between:

Vipul Garg, S/o Deen Dayal Garg Aged. 52 years, Occ. Advocate R/o Flat No. G1. Yeshokiran Residency, Plot 126 and 127, Saptagiri Colony, Neredmet X Roads, Hyderabad - 500 094.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Law Department, Secretariat Buildings, Saifabad, Hyderabad - 500 022.
2. The Bar Council of India,, Rep. by its Secretary, 21, Rouse Avenue Institutional Area, Near Bal Bhawan, New Delhi 110 002
3. The Bar Council of Delhi, Rep. by its Secretary 2/6 Siri Fort Institutional Area, Khel Gaon Marg. New Delhi - 110049.
4. The Bar Council of Telangana, Rep. by its Secretary, High Court Complex, Hyderabad.
5. Sri Anil Kumar Kohli, Age. about 72 years, Occ. Advocate Enrollment No.. D/257/1977 E-57, Sainikpuri, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to declare the inaction of Respondent No. 2 in not promptly registering the Petitioner's complaint dated 29.10.2024 as illegal, arbitrary, unconstitutional and violative of fundamental rights of the Petitioner under Article 21 of Constitution of India and consequently pass such appropriate writ, order or directions, more particularly one in the nature of Writ of Mandamus directing appropriate authority to register the Petitioner's representation / complaint dated 29.10.2024 against Respondents No. 2 to 5



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IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to pass appropriate order or orders or direct appropriate authorities to bar practice of Respondent No. 5 in the courts of Hyderabad, Telangana State with immediate effect

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the transfer application, processes, orders etc of Respondent No. 5 from Bar Council of Delhi pursuant to the Petitioner's complaint dated 29.10.2024

Counsel for the Petitioner: SRI. VIPUL GARG (PARTY IN PERSON)

Counsel for the Respondent No.1: GP FOR LAW LEGISLATIVE AFFAIRS

Counsel for the Respondent No.2: SRI AADESH VARMA

Counsel for the Respondent Nos.3&5: ----

Counsel for the Respondent NO.4: SRI G M MOHIUDDIN

The Court made the following: ORDER

**THE HON'BLE SRI JUSTICE T. VINOD KUMAR****W.P.No.16463 of 2025****ORDER:**

Heard the petitioner, who is appearing as party-in-person, learned Government Pleader for Law & Legislature appearing for Respondent No.1, Sri Aadesh Varma, learned Standing Counsel appearing for respondent No.2, Sri G.M.Mohiuddin, learned counsel appearing for respondent No.4, and with their consent the Writ Petition is taken up for hearing and disposal at admission stage.

2. Having regard to the manner of disposal of the writ petition and the nature of *lis* involved, this Court is of the view that notice to respondent Nos.3 & 5 is not necessary for adjudication of the present Writ Petition

3. The case of the petitioner, in brief, is that the 5th respondent, who is enrolled as an advocate on the rolls of Bar Council of Delhi-3rd respondent herein, has been practicing in the State of Telangana, particularly in the Hyderabad and Secunderabad and is filing Vakalats in various matters without getting his enrolment transferred to the Bar Council of Telangana-4th respondent herein, which action of the 5th respondent it is contended as being in contravention of the provisions of Advocates Act, 1961 (for short 'the Act') and the Bar Council of India Rules (for short 'the Rules') framed thereunder.



4. It is the further case of the petitioner that he had approached the 3rd respondent by lodging a complaint against the 5th respondent on 29.10.2024 seeking to initiate action against him; and that in spite of the petitioner lodging the aforesaid complaint, no action has been taken thereon.
5. Petitioner further contends that while no action is taken on his complaint, dt.29.10.2024, the 3rd respondent by its communication, dt.28.03.2025, addressed to the 4th respondent had directed the 4th respondent to take appropriate action as it may deem fit and proper, in accordance with law; that in spite of the aforesaid communication, no action has been taken by the 4th respondent against the 5th respondent till date; and is thus, aggrieved by the inaction on the part of respondent Nos.2 to 4.
6. *Per contra*, learned counsel appearing on behalf of the 4th respondent by drawing attention of this Court to Section 35 of the Act, would contend that the petitioner by his own admission, admit to the fact of the 5th respondent being enrolled on the rolls of the 3rd respondent, and as such, if any action is to be initiated with regard to the conduct of the said advocate in terms of the Act, it is only the 3rd respondent which can initiate action and not the 4th respondent.
7. Learned counsel for the 4th respondent would further contend that the petitioner having rightly approached the 3rd respondent by submitting a representation/complaint, dt.29.10.2024, ought to have



complied with the communication, dt.09.11.2024, addressed to him by the 3rd respondent, instead of taking advantage of the communication addressed by the Disciplinary Committee of the 2nd respondent, dt.28.03.2025, to file the present Writ Petition without any locus to maintain the same.

8. Learned counsel for the 4th respondent would further contend that in terms of Part VI Chapter III of the Bar Council of India Rules, it is the obligation of an Advocate, whose name appears on the roll of a State Council, to seek transfer of his name to the rolls of the State Bar Council, within whose jurisdiction he ordinarily practices (underline supplied by Court) within six months of the start of such practice, failing which he shall be deemed to be guilty of professional misconduct within the meaning of Section 35 of the Act.

9. Learned counsel for the 4th respondent would further contend that in order to initiate action under Section 35 of the Act, the pre-requisite is that the Advocate, against whom such complaint of misconduct is made, should be an Advocate on the rolls of the respective Bar Council; and that inasmuch as the 5th respondent is not an Advocate on the rolls of the 4th respondent, the 4th respondent cannot initiate any action even if a communication is addressed by the Disciplinary Committee of the 2nd respondent, which is only in the form of forwarding the representation/complaint made by the petitioner herein.



10. Learned counsel for the 4th respondent would further contend that neither the averments of the representation/complaint made before the 3rd respondent nor the writ averments would show that the 5th respondent, against whom the aforesaid complaint is made, is ordinarily practicing in the State of Telangana, for the petitioner to feel aggrieved of the alleged misconduct by the said person.
11. I have taken note of the respective submissions made.
12. *Firstly*, a reading of Section 35 of the Act would show that in order to initiate any action of misconduct by a Bar Council against any Advocate, the said Advocate should be on the rolls of the said Bar Council, for it to exercise jurisdiction over the said Advocate.
13. As rightly pointed out on behalf of the 4th respondent, the 5th respondent, against whom the petitioner had made a complaint, is not an Advocate on the rolls of the 4th respondent, whereby the 4th respondent can exercise jurisdiction by initiating disciplinary proceedings for misconduct.
14. Further, taking note of the fact that the petitioner himself having approached the 3rd respondent by lodging a complaint against the 5th respondent on 29.10.2024 and the 3rd respondent having taken note of the said complainant having addressed a communication, dt.09.11.2024, to the petitioner asking him to comply with certain deficiencies noted therein, however, it is not shown to



this Court of the petitioner having complied with the deficiencies, for him to feel aggrieved by the inaction of the 3rd respondent in considering his complaint.

15. The petitioner while having not shown to this Court of he having complied with the aforesaid communication addressed by the 3rd respondent, however, taking advantage of the communication addressed by the Registrar, Disciplinary Committee, Bar Council of India, dt.28.03.2025, to the 4th respondent, has filed the present Writ Petition alleging inaction on the part of the 4th respondent, who as noted herein above, does not have any jurisdiction on the 5th respondent on the date of complaint.

16. The petitioner having invoked the jurisdiction of the 3rd respondent, ought to have *firstly* complied with the deficiencies as noted in the communication, dt.09.11.2024, addressed to him, for the 3rd respondent to take further action on his complaint.

17 The petitioner not only did not comply with the deficiencies noted in the communication addressed to him, on the other hand filed the present Writ Petition before this Court making allegations against the 4th respondent herein of their inaction without even noting that the 4th respondent does not have any jurisdiction or control over the 5th respondent.



18 It is also important to note that as the petitioner himself claims to be an Advocate, ought to have known the provisions of the Act and the Rules made thereunder, while initiating action by filing the present Writ Petition.

19. Further, it is also to be noted that if the petitioner is aggrieved by the inaction of the 3rd respondent, he has to avail the remedy provided under the Act by way of an Appeal under Section 37 of the Act to the 2nd respondent, and thereafter further appeal to the Apex Court under Section 38 of the Act,; and that the petitioner, instead of availing the remedies provided under the Act, chose to file the present Writ Petition invoking the jurisdiction of this Court under Article 226 of the Constitution of India.

20. It is settled position of law that when the Act provides for an alternative remedy, the person aggrieved should avail the said remedy, except when he falls within the exceptions of - *i*) violation of principles of natural justice, *ii*) action taken is without jurisdiction or *iii*) the challenge is to the vires of the Act and not otherwise as laid down by the Apex Court in ***Whirlpool Corporation v. Registrar Of Trade Marks, Mumbai & Ors***¹.

21. In the facts of the present case, it is not shown to this Court that the case of the petitioner falls within any of the above exceptions

¹ (1998) 8 SCC 1



carved out by the Apex Court for him to bye-pass the alternative remedy provided under the Act.

22. Since, the petitioner without availing the remedies provided under the Act has filed the present Writ Petition, more so, without showing to this Court of himself being in compliance with the communication addressed by the 3rd respondent, dt.09.11.2024, this Court is of the view that the present Writ Petition as filed is devoid of merit and is clearly an abuse of process of law.

23. Accordingly, the Writ Petition is dismissed with exemplary costs of Rs.5,000/- (Rupees Five thousand) payable by the petitioner to the Telangana High Court Legal Services Committee, High Court Buildings, within a period of four (04) weeks from the date of receipt of copy of order.

24. Consequently, miscellaneous petitions, if any, pending shall stand closed.

MEMORANDUM OF COSTS

W.P.NO.16463 OF 2025

Costs Quantified by Hon'ble Court (That the Petitioner herein is directed to pay costs of Rs.5,000/- (Rupees Five Thousand Only) in favour of Telangana High Court Legal Services Committee, High Court Buildings, High Court for the State of Telangana, within a period of 4 weeks from the date of receipt of order.

Rs. Ps.

5,000-00

5,000-00

TOTAL

//TRUE COPY//

SD/ S. MALLIKARJUNA RAO
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. One CC to SRI. VIPUL GARG (PARTY IN PERSON) [OPUC]



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2. One CC to SRI AADESH VARMA Advocate [OPUC]
 3. One CC to SRI G M MOHIUDDIN Advocate [OPUC]
 4. Two CCs to GP FOR LAW LEGISLATIVE AFFAIRS ,High Court for the State of Telangana. [OUT]
 5. Two CD Copies
- KKS 6 The Secretary, Telangana High Court Legal Services Committee, High
LS 19 Court Buildings, Hyderabad.



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HIGH COURT

DATED:18/06/2025

ORDER

WP.No.16463 of 2025



**DISMISSING THE WRIT PETITION
WITH COSTS**

*accepted
Kf
11/7/25*