

Case :- WRIT - C No. - 4880 of 2022

Petitioner :- Ramgopal

Respondent :- Bar Council Of U.P. Thru. Its Chairman,
Prayagraj And Others

Counsel for Petitioner :- Yogendra Kumar Singh

Counsel for Respondent :- Subhash Chandra Pandey, Pankaj
Gupta

Hon'ble Attau Rahman Masoodi, J.

Hon'ble Narendra Kumar Johari, J.

Heard learned counsel for the petitioner, Sri Subhash Tripathi, learned counsel appearing for opposite party No.1 and learned Standing Counsel for the State.

Sri Pankaj Gupta, learned counsel has put in appearance on behalf of opposite party No.7 i.e. Gram Panchayat.

Resolutions dated 23 September, 2021 and 28 October, 2021 passed by Tehsil Bar Association, Tehsil Mahsi, District Bahraich, have been questioned in the present writ petition, on the ground that the legal services available to a litigant in the District Courts, cannot be restricted by the Bar Associations under any resolution passed, whatsoever. The petitioner before us is a private person against whom a suit for permanent injunction bearing suit No.31 of 2021, was instituted by a practicing lawyer i.e. opposite party No.7 before the court of Gram Nayayalay, Tehsil Mahsi District Bahraich.

The cause to institute the suit, appears to have arisen on account of a Khadanja being laid by the Gram Panchayat i.e. opposite party No.6. The entire Tehsil Bar Association at the instance of the lawyer passed the resolutions not to offer legal services to the petitioner and other co-defendants. It appears that on account of non availability of legal service to the petitioner and other co-defendants, an application under Section 24 C.P.C. came to be filed before the District Judge, Bahraich and the same was allowed. The said civil suit has been transferred to Civil Judge, Junior Division (F.T.C.) Bahraich. The petitioner and other co-defendants have already engaged a practicing lawyer at District Bahraich and are being represented. The resolution of the Tehsil Bar Association with the passing of the transfer order by the District Judge have virtually become ineffective, yet, a note of caution is to be struck for the Bar Associations, in such matters, where any such resolution passed may not only be against the professional ethics but the dictum

of Hon'ble Apex Court rendered in the judgement reported in **(1995) 1 SCC 732**. We may note that the legal services *pro-bono*, on payment of fee or under the Legal Services Authorities Act, are essential to a litigant. The flow of these services through any of the means cannot be restricted under the resolution of any Bar Association. We expect the Bar Council of Uttar Pradesh to take necessary measures against the office bearers of Tehsil Bar Association, Mahsi, District Bahraich in the light of the judgment mentioned above.

We would expect that the Bar Council of Uttar Pradesh would strike a note of caution for all Bar Associations operating in the State of U.P. not to repeat any such precedents. Professional ethics and the duty of legal professionals is to protect the rights of a litigant, which interest this profession has always recognized as supreme. It is this interest of the litigant for which the institution of judiciary exists and without which the value of justice cannot be weighed. Since, we have already struck a note of caution for the Bar Associations, we further expect that any such resolution passed by the Tehsil Bar Association, Mahsi may be withdrawn forthwith, so that, the legal services available to a litigant, who-soever, are made available free from any hindrance on any consideration whatsoever. In case, a matter is instituted under a practicing lawyer belonging to the legal fraternity, the duty of the lawyers becomes more responsible and in such a situation, bad precedent affect the image of the Bar Association as well as the institutions at large. Such a practice cannot be allowed to operate and we deprecate the same.

We expect the court concerned to proceed with the matter and pass necessary order expeditiously in accordance with law. We, however, have not expressed anything on the merits of the case, which may be decided independently and without being influenced by any of the observations made by us herein above.

The writ petition, is accordingly, **disposed of**.

Order Date :- 1.8.2022

Reena/-