

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**MONDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

THE HON'BLE SRI JUSTICE ANIL KUMAR JUKANTI

WRIT APPEAL NO: 226 OF 2024

Writ Appeal under clause 15 of the Letters Patent Preferred against the Order dated 28.02.2020 in W.P.No.28948 of 2019 on the file of the High Court.

Between:

Dr. Eunice Chawngthu D/o. Mr.C.Dothanga, aged about 40 years, Advocate, C/o Bar Association, High Court, Hyderabad - 500066, Telangana State

...APPELLANT/PETITIONER

AND

1. Mr.Srikanth Reddy, Sub Inspector of Police, S/o. Unknown, Aged about 30 years, Nampally Police Station, Nampally, Hyderabad - 500001
2. SHO Nampally Police Station, Nampally Police Station, Nampally, Hyderabad- 500001
3. The State of Telangana, Rep. by its Principal Secretary for Home, T.S Secretariat Hyderabad - 500022

...RESPONDENTS/RESPONDENTS

**Counsel for the Appellant: Dr. EUNICE LALNUNMAWII CHAWNGTHU
(PARTY-IN-PERSON)**

**Counsel for the Respondent Nos. 2 & 3: Mr. MOHD. IMRAN KHAN,
ADDITIONAL ADVOCATE GENERAL**

The Court made the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

WRIT APPEAL No.226 OF 2024

JUDGMENT: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Dr. Eunice Lalnunmawii Chawngthu, appears as party-in-person.

Mr. Mohd. Imran Khan, learned Additional Advocate General appears for the State.

2. This intra court appeal emanates from an order dated 28.02.2022 passed by a learned Single Judge in W.P.No.28948 of 2019, by which the learned Single Judge has held that in view of Rule 33B of the Rules of the High Court of Judicature, Andhra Pradesh, at Hyderabad in its appellate jurisdiction (hereinafter referred to as 'the Appellate Side Rules'), the party-in-person is required to file an application to appear as party-in-person and to meet the requirements contained in Rule 33B(2) of the Appellate Side Rules, whereupon

only the case filed by the party-in-person can be taken on record and the party-in-person can appear and argue the matter.

3. Facts giving rise to filing of this Appeal briefly stated are that the party-in-person filed a writ petition *inter alia* seeking a direction to the respondents to register a First Information Report based on a complaint made by the petitioner dated 09.12.2019 within three days and to produce the pen drive containing CCTV footages of the court hall dated 26.10.2018 in one day and consequently sought a direction to punish the guilty as per law.


4. The party-in-person is an advocate. The said writ petition filed by the party-in-person was listed under the caption 'for admission' before the learned Single Judge. The Assistant Government Pleader (Home) brought to the notice of the learned Single Judge that the party-in-person has not complied with Rule 33B of the Appellate Side Rules.

6

5. Thereupon, a query was made to the party-in-person whether the party-in-person has complied with Rule 33B of the Appellate Side Rules. The party-in-person relied on G.O.Rt.No.637, Law (LA, LA&J-Home-Court.A2) Department, dated 03.12.2019 and contended before the learned Single Judge that the party-in-person being an advocate is exempted from the application of the said Rules. The learned Single Judge by an order dated 28.02.2022 *inter alia* held that the party-in-person has not complied with the requirement of Rule 33B(2) of the Appellate Side Rules and G.O.Rt.No.637, dated 03.12.2019 does not apply to a proceeding initiated by the party-in-person as petitioner. The learned Single Judge, therefore, directed the party-in-person to comply with the requirements contained in Rule 33B(2) of the Appellate Side Rules. In the aforesaid background, this intra court appeal has been filed.

6. The party-in-person submitted that if the interpretation put forth by the learned Single Judge on

Rule 33B of the Appellate Side Rules is accepted, Rule 33B(7) would be rendered nugatory. It is further submitted that the party-in-person who is an advocate is exempted from the requirement of appearing before the Committee in view of G.O.Rt.No.637, dated 03.12.2019. The party-in-person has also referred to the Supreme Court Rules, 2013 and has submitted that an advocate, who is party-in-person, can appear before the Supreme Court. It is contended that the petitioner has been issued licence to practice by the State Bar Council and therefore, the issue with regard to right of the petitioner to practice is finalised by law and the same amounts to *res judicata*. It is, therefore, contended that there is need to put an end to the litigation. It is also urged that under the Appellate Side Rules, if the party-in-person, who is an advocate, can appear to defend itself, it is illogical that the party-in-person cannot prosecute or initiate a proceeding. Reliance has been placed on the doctrine of *stare decisis* and the doctrine of *common sense*.



7. We have considered the submissions made by party-in-person.

8. The Advocates Act, 1961 seeks to establish an All India Bar Council, a common roll for the advocates and integration of the Bar into a single class of practitioners known as advocates. The Act was enacted with an object to create autonomous Bar Councils, one for the whole of India and one for each State. The Advocates Act deals with various aspects of the legal profession. Section 29 of the Act provides that only one class of persons is entitled to practice the profession of law, namely advocates. Section 30 of the Act provides that subject to provisions of the Act, every advocate whose name is entered in the State roll shall, as a matter of right, be entitled to practice throughout the territories to which this Act applies in all Courts including the Supreme Court of India. Section 33 of the Act provides that advocates alone are entitled to practice law. The provisions of the Act were taken into account by the Supreme Court in

N.K.Bajpai vs. Union of India¹ and it was held as under:

“24. A bare reading of these three provisions clearly shows that this is a statutory right given to an advocate to practise and an advocate alone is the person who can practise before the courts, tribunals, authorities and persons. But this right is statutorily regulated by two conditions—one, that a person's name should be on the State rolls and second, that he should be permitted by the law for the time being in force, to practise before any authority or person. Where the advocate has a right to appear before an authority or a person, that right can be denied by a law that may be framed by the competent legislature.

25. Thus, the right to practise is not an absolute right which is free from restrictions and is without any limitation. There are persons like Mukhtars and others, who were earlier entitled to practise before the courts, but the Advocates Act itself took away the right to practise which was available to them prior to its coming into force. Thus, the Advocates Act placed a complete prohibition upon the right to practise of those persons who were not advocates enrolled with the State Bar Council. Therefore, the right to practise, which is not only a statutory right under the provisions of the Advocates Act but would also be a fundamental right under Article 19(1)(g) of the Constitution is subject to reasonable restrictions.”

¹ (2012) 4 SCC 653

Thus, from the aforesaid enunciation of law, it is evident that right to practise is not an absolute right, which is free from restrictions and is without any limitation. It is also evident that whether an advocate has a right to appear before an authority or person, that right can be denied by a law that may be framed by a competent legislature.

9. At the outset, it may be noticed that the party-in-person has not assailed the validity of Rule 33B of the Appellate Side Rules in the writ petition. Before proceeding further, it is apposite to take note of Rule 33B of the Appellate Side Rules, as amended by G.O.Rt.No.637, dated 03.12.2019, which reads as under:

“ Rule 33 B

1. Whenever a party wants to appear and argue the case in person, he/she shall first file an application along with the proceedings, seeking permission to appear in person. The application shall indicate reasons as to why he/she cannot enlarge an Advocate and wants to appear and argue in person, and if he is willing to accept an

Advocate, who can be appointed for him by the Court.

2. Such application as filed along with the proceedings shall be placed before a Committee of two Officers of the Registry, who are working on deputation from the State Judicial Service, to be nominated by the Hon'ble the Chief Justice. The Committee shall scrutinize the matter/proceedings filed by Party-in-person so as to ensure that the party-in-person has complied with the requirements of the High Court Appellate Side Rules, and that the Party-in-person has not made any objectionable averments/allegations and has not used unparliamentary language in the pleadings. The Committee shall interact with the Party-in-person and give opinion by way of Office Report whether Party-in-person is competent to assist the Court for disposal of the matter.

3. In case a Party, who wishes to defend the matter/proceedings in person as respondent/opponent, the Court may direct such party to appear before the above committee and the above Committee shall ensure and certify that such person is 'Competent' to assist the Court in person.

Provided that such certification of competence to assist the Court, need not be insisted upon, in respect of practicing Advocates who choose to appear as party-in-person.

4. (a) If the certificate is not issued in both the cases mentioned in sub Rule (2) and (3) above and the Party-in-person is lawfully entitled to be referred to the High Court Legal Services Committee in accordance with law, the same will be referred to the Committee for offering legal services to the concerned litigant.

(b) If the concerned litigant is not entitled under law to get assistance of Legal Services Committee, he will be asked to appoint a lawyer to represent his case.

(c) In the event, it is certified that Party-in-person is 'competent' to assist the Court in person, the Party-in-person shall give an undertaking that he shall maintain decorum of the Court and shall not use or express objectionable and unparliamentary language or behaviour during the course of hearing in the Court or in the Court premises or in the further pleadings.

5. If the party-in-person fails to abide by his undertaking as above, Contempt Proceedings may be initiated against him and/or appropriate costs shall be imposed on him and/or the concerned party will not be allowed to appear in any case as Party-in-person for such period as the Court may think fit.

6. These Rules will not apply in the cases of applications for temporary bail, parole, furlough and habeas corpus.

7. Notwithstanding anything contained in these Rules, the concerned Court before which the matter lies, may, in its discretion permit a litigant/s to appear in person and conduct the proceedings."

Thus, from a careful scrutiny of Rule 33B of the Appellate Side Rules, it is evident that a party-in-person who wishes to defend the proceeding can do so with the leave of the party-in-person committee.

10. Rule 33B of the Appellate Side Rules is merely a regulatory provision and does not impose prohibition of practice of law. The Rule provides for a procedure to be followed in case a party-in-person or an advocate institutes a proceeding as party-in-person. The Rule does not place an absolute bar to appear to a litigant or a party-in-person, who is an advocate to appear before the Court and merely provides that they can do so with the leave of the party-in-person committee.

11. Rule 33B (3) applies only in case a party, who wishes to defend the proceeding. The proviso to Rule 33B (3) has to be read along with Rule 33B (3) of the

Appellate Side Rules. Therefore, the proviso which is incorporated by G.O.Rt.No.637, dated 03.12.2019, applies only where an advocate, who is a party-in-person, wishes to defend itself. Rule 33B does not enable an advocate practising before this Court to institute any proceeding as a matter of right. Such a proceeding can be instituted by an advocate only in the manner provided for under Rule 33B, namely with the permission of the party-in-person committee. Undoubtedly, the Court has power under Rule 33B (7) of the Appellate Side Rules to permit any litigant to appear in person and conduct the proceeding. The power under Rule 33B (7), which is vested in the Courts, exists independent of the remaining provisions of Rule 33B of the Appellate Side Rules. Therefore, the contention that if Rule 33B is read to mean that a party-in-person, who is an advocate has to appear before the committee, the same would render provisions of Rule 33B (7) illusory, is *sans substance*.

12. The contention that in view of G.O.Rt.No.637, dated 03.12.2019, an advocate is exempted from

requirement of appearing before the party-in-person committee also does not deserve acceptance, as the amendment brought about by G.O.Rt.No.637, dated 03.12.2019 applies in case a party-in-person, who is an advocate, defends the proceeding and not otherwise.

13. Neither the principles of *res judicata* nor the doctrine of *stare decisis* is applicable to the obtaining factual matrix of the case. Though reliance has been placed by the party-in-person on the doctrine of common sense, no material has been brought on record to substantiate the aforesaid contention and neither any statutory provisions has been brought to the notice of the Court nor it has been demonstrated that the same is legal principle evolved by the Courts.

14. For the aforementioned reasons, we do not find any ground to differ with the view taken by the learned Single Judge.

15. In the result, the Writ Appeal fails and is hereby dismissed. No costs.

Miscellaneous petitions, pending if any, shall stand closed.

//TRUE COPY//

Sd/- M. MANJULA
DEPUTY REGISTRAR

SECTION OFFICER

To,

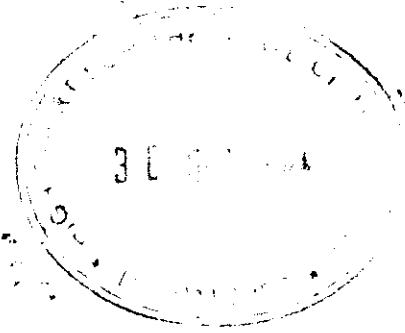
1. One CC Dr. EUNICE LALNUNMAWII CHAWNGTHU, Party-in-Person [OPUC]
2. Two CCs to Mr. MOHD. IMRAN KHAN, Additional Advocate General, High Court for the State of Telangana at Hyderabad [OUT]
3. Two CD Copies

MP



HIGH COURT

DATED:05/08/2024



JUDGMENT

WA.No.226 of 2024

**DISMISSING THE WRIT APPEAL
WITHOUT COSTS**

⑥
18/8/24
LW