



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 18<sup>TH</sup> DAY OF DECEMBER, 2025**



**BEFORE**

**THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ**

**WRIT PETITION NO. 1949 OF 2024 (GM-RES)**

**BETWEEN:**

M A HAMEED  
ADVOCATE. KAR/387/1989  
C/O MOHAMMED ABDUL HAFEEZ,  
VILLA NO.134, ARATT AMORA, NARAYANA HALLI,  
LINGAPURA, JIGANI, BENGALURU-560105

AND ALSO AT NO.1-4-88/413 I B ROAD,  
RAMALINGESHWARA LAYOUT,  
RAICHUR 584101

...PETITIONER

(BY SRI.MD.AKRAM UPPIN, ADVOCATE FOR SRI.R.KOTHWAL,  
ADVOCATE)

**AND:**

KARNATAKA STATE BAR COUNCIL  
REP. BY SECRETARY,  
OLD KGID BUILDING, DR. AMBEDKAR ROAD,  
BENGALURU-560001

...RESPONDENT

(BY SRI.G.NATARAJ, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE  
CONSTITUTION OF INDIA PRAYING TO DIRECTION TO THE  
RESPONDENTS TO ACCEPT THE REPRESENTATION GIVEN BY THE  
PETITIONER DATED 19/09/2023 TO ADD THE NAME OF THE  
PETITIONER IN THE PRACTICING ADVOCATES LIST AND GIVE BACK  
HIS SANAD AND ENTER HIS NAME IN RAICHUR BAR ASSOCIATION.  
AS MENTIONED IN ANNEXURE-G.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN  
'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE SURAJ GOVINDARAJ





### **ORAL ORDER**

1. The petitioner is before this Court seeking for the following reliefs:
  - a. *Issue a writ of mandamus/direction to the respondents to accept the representation given by the petitioner dated 19/09/2023 to add the name of the petitioner in the practicing advocates list and give back his Sanad and enter his name in Raichur bar association. As mentioned in Annexure-G.*
  - b. *To grant such other relief/s as this Hon'ble Court deems fit to grant under the facts and circumstances of the case, in the interest of justice and equity.*
2. Petitioner was a practising advocate who had practised for more than 25 years, having registered himself with the respondent, Karnataka State Bar Council.
3. During the COVID-19 pandemic, the petitioner had submitted an application for surrender of his Sanad (right to practice) and requested the respondent to make payment of the monies as provided for under the Karnataka Advocates Welfare Fund Act, 1983. The said application was accepted by the Bar Council and an amount of Rs.1,42,000/- was paid to the



petitioner by way of deposit in his bank account and the surrender of Sanad (right to practice) was accepted by the respondent.

4. Subsequently, the petitioner apparently having a change of heart and mind has submitted a representation on 12.07.2022 and 19.09.2023 for cancellation of the withdrawal. However, the said representations were not considered by the respondents and in that background the petitioner is before this Court seeking for the aforesaid reliefs.
5. The submission of learned counsel for the petitioner is that the petitioner is ready to withdraw his surrender and on the same being accepted the amount which has been received by the petitioner would be returned to the respondents.
6. Learned counsel for KSBC/respondent firstly contended that there is no provision for withdrawal of the surrender made by an advocate and secondly, he submits that the respondents having returned the



money have lost income on that money which forms one of the incomes for running of the Bar Council.

7. The submission of Sri.G.Nataraj., learned counsel for respondents, is that the petitioner, having surrendered his Sanad and retired from practice voluntarily, cannot now seek to withdraw his retirement and come back into practice and that there is no provision which enables such withdrawal of the surrender.
8. Heard Sri.Md.Akram Uppin., learned counsel appearing for the petitioner and Sri.G.Nataraj., learned counsel appearing for the respondents and perused papers.
9. The points that would arise for consideration are;
  - 1. Whether on a surrender of Sanad by an advocate, he can seek the withdrawal of the said surrender and re-registration or restoration of the registration under the Rules of the Karnataka State Bar Council?**
  - 2. Whether the Karnataka State Bar Council can refuse the withdrawal on the grounds that there is no particular provision available**



***under the Karnataka Advocates Welfare Fund Act, 1983?***

***3. What order?***

10. I answer the above points as follows;
11. ***Answer to point No.1: Whether on a surrender of Sanad by an advocate, he can seek the withdrawal of the said surrender and re-registration or restoration of the registration under the Rules of the Karnataka State Bar Council?***

11.1. The right to practise any profession is a fundamental right guaranteed under Article 19(1)(g) of the Constitution of India. The Courts have consistently held that this right includes not merely the right to enter a profession, but also the right to continue in such profession, subject only to reasonable restrictions imposed by law under Article 19(6). Insofar as the legal profession is concerned, enrolment with the jurisdictional State Bar Council under the Advocates Act, 1961 is a



statutory precondition for the exercise of such right.

11.2. In the State of Karnataka, enrolment is required to be made with the Karnataka State Bar Council. The Karnataka Advocates Welfare Fund Act, 1983 mandates enrolled advocates to purchase and affix Advocates' Welfare Stamps on vakalathnamas and prescribed applications, which constitutes a statutory contribution to the Advocates Welfare Fund. The said Act is a beneficial and social security legislation intended to provide financial assistance to advocates and is therefore required to be administered in a purposive manner consistent with constitutional values.

11.3. By surrendering his *sanad*, the petitioner voluntarily relinquished his right to practise law and indicated his intention to retire from the profession. Upon acceptance of such surrender,



the petitioner was paid a sum of ₹1,42,000/- in accordance with his entitlement under the Karnataka Advocates Welfare Fund Act, 1983.

11.4. Subsequently, owing to a change in circumstances, particularly in the aftermath of the COVID-19 pandemic, the petitioner sought withdrawal of the surrender and restoration of his enrolment so as to resume practice and exercise his fundamental right under Article 19(1)(g).

11.5. The respondent rejected the request solely on the ground that the Karnataka Advocates Welfare Fund Act, 1983 does not expressly contemplate withdrawal of surrender once made. Such rejection proceeds on the erroneous assumption that statutory silence amounts to statutory prohibition.

11.6. It is a settled principle that restrictions on fundamental rights must have clear statutory



authority and must satisfy the test of reasonableness under Article 19(6). Statutory silence cannot be construed as a disabling prohibition, particularly when such construction results in permanent deprivation of a fundamental right. An administrative authority cannot, by interpretation or omission, impose civil consequences that the legislature itself has not provided.

11.7. The Karnataka Advocates Welfare Fund Act, 1983 neither expressly nor by necessary implication declares surrender of *sanad* to be irrevocable. It does not prescribe permanent civil death from the profession upon receipt of welfare benefits. To read such a consequence into the statute would amount to judicially adding a restriction which the legislature has consciously not enacted.



11.8. The contention that acceptance of welfare benefits creates estoppel or waiver is equally untenable. There can be no estoppel against the Constitution. A fundamental right cannot be permanently waived, particularly where the petitioner seeks restoration of status upon full restitution. The petitioner has unequivocally expressed readiness to refund the entire amount received along with applicable interest, thereby eliminating any element of unjust enrichment.

11.9. The refusal to permit re-enrolment results in a complete and irreversible deprivation of the petitioner's right to practise law. The Supreme Court has consistently held that a restriction which amounts to total prohibition, rather than regulation, cannot be sustained unless it meets the highest threshold of reasonableness and compelling necessity.



11.10. The doctrine of proportionality, now firmly embedded in constitutional jurisprudence, requires that any restriction on a fundamental right must pursue a legitimate aim, be suitable, necessary, and constitute the least restrictive means available.

11.11. In the present case, the legitimate objective of safeguarding the Advocates' Welfare Fund and preventing misuse can be fully achieved by directing restitution of the amount received along with interest. A blanket and permanent refusal of re-registration/restoration of registration is manifestly disproportionate and fails the least-restrictive-means test. Administrative convenience or apprehension of "floodgates" cannot override constitutional guarantees.

11.12. The State Bar Council, while vested with regulatory and disciplinary authority, is not



empowered to extinguish fundamental rights by administrative rigidity. Its statutory discretion must operate within constitutional limits and must advance, rather than negate, the right to practise law. Regulation cannot be permitted to transmute into prohibition.

11.13. This case does not arise out of disciplinary proceedings or professional misconduct. No finding of unfitness, disqualification, or moral turpitude attaches to the petitioner. In such circumstances, permanent exclusion from the profession would be wholly arbitrary and constitutionally impermissible.

11.14. Any interpretation of the Karnataka Advocates Welfare Fund Act, 1983 that results in irreversible deprivation of the right to practise law, in the absence of express legislative mandate, would render such interpretation vulnerable to constitutional invalidation. A



construction that preserves both the statutory object and the fundamental right must therefore be preferred.

11.15. In that view of the matter, I answer Point No.1 by holding that where an advocate has surrendered his *sanad*/registration and received benefits under the Karnataka Advocates Welfare Fund Act, 1983, and thereafter seeks withdrawal of such surrender and re-registration/Restoration of registration upon refund of the benefits received along with applicable interest, the Karnataka State Bar Council is constitutionally obliged to permit such re-registration/Restoration of registration. Any refusal to do so would amount to an unreasonable, disproportionate, and unconstitutional restriction on the fundamental right guaranteed under Article 19(1)(g) of the Constitution of India.



12. **Answer to point No.2: Whether the Karnataka State Bar Council can refuse the withdrawal on the grounds that there is no particular provision which is available under the Karnataka Advocates Welfare Fund Act, 1983?**

12.1. In view of the findings and conclusions recorded while answering Point No.1, it stands conclusively established that the refusal of the Karnataka State Bar Council to permit withdrawal of surrender and re-registration/Restoration of registration of the petitioner is unsustainable in law.

12.2. The sole ground urged by the respondent, namely, that the Karnataka Advocates Welfare Fund Act, 1983 does not contain a specific provision permitting withdrawal of surrender once made, proceeds on an erroneous understanding of statutory interpretation. The absence of an express enabling provision cannot be equated with a statutory prohibition, particularly when such interpretation results in



irreversible civil consequences affecting a fundamental right.

12.3. It is a settled principle that restrictions on the exercise of fundamental rights must be expressly authorised by law and must satisfy the test of reasonableness under Article 19(6) of the Constitution of India. A regulatory authority cannot, by relying on statutory silence, create a permanent disability or impose a condition which the legislature has consciously not provided for.

12.4. The Karnataka Advocates Welfare Fund Act, 1983 is a beneficial piece of legislation intended to provide social security to advocates. The object of the Act is not to permanently exclude an advocate from the profession, but to extend financial assistance at a particular stage or contingency. Any interpretation which converts a welfare measure into a tool for irreversible



deprivation of the right to practise would be contrary to both legislative intent and constitutional principles.

12.5. In the present case, the petitioner has expressed his unequivocal willingness to refund the entire amount received under the Welfare Fund along with such interest as may be determined for the intervening period. Upon such restitution, the very basis for denial of re-registration/Restoration of registration ceases to exist. The continued refusal to permit withdrawal of surrender, even after restitution, would therefore be arbitrary and disproportionate.

12.6. The power of the Karnataka State Bar Council to regulate enrolment and practice is undoubtedly recognised under the Advocates Act. However, such regulatory power cannot be exercised in a manner that results in



extinguishment of a fundamental right in the absence of express statutory sanction. Regulation must facilitate orderly practice of the profession and cannot transmute into prohibition.

12.7.To accept the contention of the respondent would amount to permitting an administrative body to enlarge the scope of a statute by implication and to impose a restriction having the effect of civil death from the profession, a consequence which neither the Advocates Act nor the Karnataka Advocates Welfare Fund Act, 1983 contemplates.

12.8.Accordingly, I answer Point No.2 by holding that the Karnataka State Bar Council **cannot refuse** withdrawal of surrender and re-registration/Restoration of registration of an advocate solely on the ground that there is no express enabling provision under the Karnataka



Advocates Welfare Fund Act, 1983. Such refusal is without authority of law and constitutionally impermissible.

13. **Answer to point No.3: What order?**

13.1. In view of my answers to point No.1 and 2, I pass the following;

**ORDER**

- i. The writ petition is ***allowed***.
- ii. A mandamus is issued, respondent Karnataka State Bar Council is directed to consider the representation of the petitioner dated 19.09.2023 subject to the petitioner making payment of the amount received along with due interest at the rate of 7.5% per annum from the time of receipt till time of payment to the Karnataka State Bar Council and restore the registration or reregister the petitioner on the rolls of the Karnataka State Bar



Council within a period of 15 days from  
such payment made by the petitioner.

**SD/-**  
**(SURAJ GOVINDARAJ)**  
**JUDGE**

SR  
List No.: 2 SI No.: 6