

R. Muthukrishnan vs. The Registrar General of the
High Court of Judicature at Madras
AIR 2019 SC 849

Arun Mishra and Vineet Saran, JJ.

Facts

- The Petitioner (an Advocate) has filed the petition Under **Article 32** of the Constitution of India, questioning the vires of amended Rules 14-A, 14-B, 14-C and 14-D of the Rules of High Court of Madras, 1970 made by the High Court of Madras Under Section 34(1) of the Advocates' Act, 1961

The High Court has inserted **Rule 14A** in the Rules of High Court of Madras, 1970 empowering the High Court to debar an Advocate from practicing.

The High Court has been empowered to take action Under **Rule 14B** where any misconduct referred to Under Rule 14-A is committed by an Advocate before the High Court then the High Court can debar him from appearing before the High Court and all subordinate courts.

Under **Rule 14-B(v)** the Principal District Judge has been empowered to initiate action against the Advocate concerned and debar him from appearing before any court within such District.

Contd..

In case misconduct is committed before any subordinate court, the concerned court shall submit a report to the Principal District Judge and in that case, the Principal District Judge shall have the power to take appropriate action. The procedure to be followed has been provided in the newly inserted **Rule 14-C** and pending inquiry, there is power conferred by way of **Rule 14-D** to pass an interim order prohibiting the Advocate concerned from appearing before the High Court or the subordinate courts.

- The amended Rule 14-A to 14-D came into force with effect from the date of its publication in the Gazette on 25.5.2016

Issue

- Petitioner has questioned the vires of amended Rules 14A to D on the ground of being violative of Articles 14 and 19(1)(g) of the Constitution of India, as also Sections 30, 34(1), 35 and 49(1)(c) of the Advocates Act, as the power to debar for such misconduct has been conferred upon the Bar Council of Tamil Nadu and Puducherry and the High Court could not have framed such Rules within ken of Section 34(1) of the Advocates Act.

Rule 14A

- Rule 14-A provides that an Advocate who is found to have accepted money in the name of a Judge or on the pretext of influencing him; or who has tampered with the court record or court order; or browbeats and/or abuses a Judge or judicial officer; or is responsible for sending or spreading unfounded and unsubstantiated allegations/petitions against a judicial officer or a Judge to the superior court; or actively participates in a procession inside the court campus and/or involves in gherao inside the court hall, or holds placard inside the court hall or appears in the court under the influence of liquor, the courts have been empowered to pass an interim order of suspension pending enquiry, and ultimately to debar him from appearing in the High Court and all other subordinate courts, as the case may be.

Key aspects

- Whether the ambit of Section 34(1) is in tune with the directions issued by this Court in R.K. Anand v. Registrar, Delhi High Court (R.K Anand decision is departure from the precedent established)
- Whether debarment by way of disciplinary measure is outside the purview of Section 34(1) of the Advocates Act and the Rules are ultra vires and impermissible to be framed within scope of Section 34(1) of the Advocates Act, as they take away the independence of the Bar and run contrary to the Constitution Bench decision of this Court in Supreme Court Bar Association v. Union of India

Whether disciplinary power vested in the bar council can be taken away by the court

- After review international scenario in this regard-the ethical standard of the legal profession and legal education has been assigned to the Bar Council. It has to maintain the dignity of the legal profession and independence of the bar. The bar association must be self governing is globally recognized
- The Provision and scheme of the Advocates Act has never intended to confer the disciplinary powers upon the High Court or upon Supreme Court except to the extent dealing with an appeal under Section 38

Whether debarment by way of disciplinary measure is outside the purview of Section 34(1) of the Advocates Act

- Section 34 of the Act does not confer such a power to frame Rules to debar lawyer for professional misconduct. The amendment made by providing Rule 14(A)(vii) to (xii) is not authorized under the Advocate Act. The High Court has no power to exercise the disciplinary control. It would amount to usurpation of the power of Bar Council conferred under Advocates Act
- However, the High Court may punish advocate for contempt and then debar him from practicing for such specified period as may be permissible in accordance with law, but without exercising contempt jurisdiction by way of disciplinary control no punishment can be imposed. As such impugned Rules could not have been framed within the purview of Section 34.
- R.K . Anand decision is not a departure from other decision but rather affirms them (Ref: Ex-Capt. Harish Uppal, Supreme Court Bar Assn, Pravin C. Shah v. K.A Mohammed Ali)
- Ref: “Standards of Professional Conduct and Etiquette: BCI

Held

- “the High Court has overstretched and exceeded its power even in the situation which was so grim which appears to have compelled it to take such a measure.It can take action, punish for Contempt of Courts Act in case it involves misconduct done in Court/proceedings. Circumstances may be grim, but the autonomy of the Bar in the disciplinary matters cannot be taken over by the Court”“The misconduct as specified in Rule 14-A may also in appropriate cases tantamount to contempt of court and can be taken care of by the High Court in its contempt jurisdiction.”
- Resultantly, we have no hesitation to strike down impugned Rules 14-A to 14-D as framed in May, 2016 by the High Court of Madras as they are ultra vires to Section 34 of the Advocates Act and are hereby quashed. The writ petition is allowed. No costs”
- “Raising the Bar for the Legal Profession- DR. N. R Madhava Menon-
<https://www.thehindu.com/opinion/lead/raising-the-bar-for-the-legal-profession/article3897883.ece>