News

Advocates cannot be placed on a caution list by banks, according to the Supreme Court.

According to the Court, only Bar Councils have the authority to investigate claims of professional misconduct; banks may remove attorneys from their own panels but cannot proclaim them to be professionally incompetent throughout the banking industry.

Supreme Court Attorneys

On Tuesday, the Supreme Court ruled in **Ajay Vijh v. Indian Banks Association & Ors. that banks cannot effectively blacklist advocates** in the banking industry by adding their

names to the **Indian Banks' Association's (IBA) caution list based just on claims of** carelessness or a mistaken legal judgment.

While banks are free to remove attorneys from their own panels if they are unhappy with their services, **a bench of Justices PS Narasimha and Alok Aradhe decided that banks cannot publicly label attorneys as careless or professionally unfit by disseminating their names to other banks.**
According to the Court, the Advocates Act gives the Bar Councils sole authority over matters pertaining to an advocate's professional behavior.

The Court stated, **"Banks have the option to disengage a legal professional and remove his/her name from the panel** if the services are not up to par, but an action in the nature of public declaration to all other banks about the conduct, competency, or incompetency of an advocate is clearly beyond their power and jurisdiction and clearly illegal."

Justices Alok Aradhe and PS Narasimha

The ruling was made in response to an appeal filed by attorney Ajay Vijh, who contested his placement on the IBA's caution list after Canara Bank accused him of being careless when providing a title opinion for a loan transaction.

The bank and the IBA were ordered by the court to take Vijh's name off the caution list right away.
Canara Bank said that Vijh's 2015 legal opinion overlooked the fact that a piece of land supplied as collateral for a ?2 crore loan had already been sold, which led to the dispute. The bank was put at financial risk as a result.

He was placed on the caution list under the category "Third Party Entities Involved in Fraud" after the bank withdrew him from its panel in 2019 and sent his name to the IBA, noting that he had acted carelessly and provided an incorrect legal opinion.

Vijh claims that this negatively impacted his professional reputation and led to the termination of his employment with other banks.

Because the IBA was not a "State" under Article 12 of the Constitution, the Allahabad High Court denied his writ suit (under Article 226 of the Constitution).

Today, the Supreme Court overturned this ruling. It concluded that the High Court's interpretation of its writ jurisdiction was excessively restrictive.
According to the Bench, the challenge was not just against a bank's contractual decision but also against an industry-wide system that could seriously affect an advocate's ability to **practice their profession in accordance with Article 19(1)(g) of the Constitution.** It reaffirmed that Article 226 can be used anywhere activities with a public law component

impact legal rights and goes beyond statutory authority.
On the merits, the Court reviewed the RBI circulars that governed the IBA's caution list and concluded that their sole purpose was to notify banks of third parties engaged in fraud or other dishonest behavior that had an impact on the banking system.

It concluded that situations involving alleged professional negligence or incorrect legal advice could not be covered by the framework.
By definition, fraud requires mens rea, as well as a purposeful intention and design to deceive. The Court noted that in the absence of any accusation of dishonest purpose or intentional facilitation of illegality, an incorrect legal opinion or an omission made during due diligence cannot be elevated to the level of fraud.

The Bench emphasized that banks are still able to stop working with advocates if they no longer have faith in them. They cannot, however, utilize the RBI's framework for preventing fraud to spread negative information about a lawyer's skill to other financial institutions.
The Court further concluded that accusations of professional misconduct or carelessness against advocates must only be addressed through the Advocates Act's disciplinary procedure.

It noted that the independence of the legal profession and its legislative system of self-regulation would be compromised if banks or banking associations were permitted to **assess an advocate's professional competence**.
"The appropriate remedy is to present the relevant material before the competent State Bar Council if the Bank believes that the appellant is guilty of professional negligence or

misconduct in discharge of legal duties as an advocate," the Bench stated.

The Supreme Court requests that BCI create a nationwide legal academy for attorneys.

The Court also made it clear that its ruling should not be seen as shielding advocates from responsibility.

It recognized that banks, especially in high-value financial transactions, have valid worries regarding the caliber and dependability of legal opinions. However, it stated that rather than establishing separate procedures that essentially blacklist attorneys, the answer rested in bolstering the Advocates Act's disciplinary system.

In order to evaluate the effectiveness, transparency, and credibility of the State Bar Councils' and the BCI's disciplinary procedures, the Court ordered the Bar Council of India to conduct a performance audit.

Additionally, it reaffirmed its previous directive to the BCI to consider creating a National Legal Academy modeled after the National Judicial Academy and to institutionalize continuing legal education for advocates.

The Court will review the BCI's progress on those directions at its next meeting on August 31.