

Marie Rita Leslie

...Petitioner

AND

Law Society of Brunei Darussalam

...Respondent

(High Court of Brunei Darussalam)
(Petition of Admission No. 8 of 2024)

Before: Haji Abdullah Soefri, Acting C.J.
9th January 2025

Headnote: Legal Profession Act – Legal Profession (Practicing Certificate) Rules – Petition for admission as an Advocate and Solicitor of Brunei Darussalam – Whether the petitioner is a qualified person – Whether the petitioner had been in active practice for seven years – Whether the petitioner is of good character – Whether the petitioner’s referees for good character are suitable – Petition for admission allowed

Ms. Lenny Rahman (M/S Messrs. HLR Law) for the Petitioner.

Ms. Siti Dayana Ameerah binti Mohamad Sunadi of Attorney Generals Chambers.

Ms. Wong Mew Sum and Mr. Cornelius Yong of Abrahams Davidson & Co for the Law Society.

Case cited:

The Law Society of Brunei Darussalam and Azril Anwar bin Haji Ahmad (Civil Appeal No. 1 of 2015).

RULING

Hj Abdullah Soefri, Acting C.J.:

The Petitioner, Miss. Marie Rita Leslie seeks admission to the Bar of Brunei Darussalam.

This application was opposed by the Attorney General’s Chambers and the Law Society. The grounds of opposition are as follows;

First ground, the Petitioner has failed to fulfill the requirements that at least one of the certificates shall be given by a person who is ordinarily resident in Brunei Darussalam as required under Sections 5(3)(c) and 5(4) of the Legal Profession Act and Rule 2 of the Legal Profession (Practicing Certificate) Rules.

The second ground, the Petitioner is not a qualified person under Section 3 Legal Profession Act as she had not been in active practice for 7 years preceding the filing of the Petition (Law Society). The third ground, the Petitioner is not of ‘good character’ under Section 4 Legal Profession Act (Law Society).

I will deal with the Law Society’s objections first.

The Petitioner is not a qualified person under Section 3 Legal Profession Act as she had not been in active practice for 7 years preceding the filing of the Petition.

Section 3(3) of the Legal Profession Act (LPA) provides:

“3(1) a person shall be a qualified person for the purposes of this Act if, subject to the provisions of subsection 3, he

(a) Is a barrister-at-law of England or Northern Ireland or a member of the Faculty of Advocates of Scotland;

(b)

(c)

(3) a person who is not, on the date of Petition for Admission, either a citizen of Brunei Darussalam or a permanent resident, shall only apply for admission if in addition to satisfy the requirements of subsection (1), he has been in active practice in any part of the United Kingdom for at least 7 years immediately preceding such application.”

In this matter, the question is whether the Petitioner was in active practices in United Kingdom for at least 7 years immediately preceding such application?

The main issue is whether the Petitioner is in active practice when she was on ‘Sabbatical Leave’ and that the work she undertook during the sabbatical is intermittently performed and thus, the Petitioner has not satisfied the meaning of ‘active’ practice as enunciated in *The law Society of Brunei Darussalam and Azril Anwar bin Haji Ahmad* (Civil Appeal No. 1 of 2015).

The definition of ‘active practice’ is to be given the plain and ordinary meaning and the application of which is a question of degree.

In the present case, it is explained by the Colleton Chambers in MRL-10b;

“Being a member of the Bar of England and Wales gives practicing Barrister several options as to how they practice. One is being a member of Chambers. This means that the barrister is self-employed and provides a percentage of their earnings into chambers to cover administration fess; this is how myself and members of chambers, including Marie practice.

Several of our members take sabbatical but remain as active practicing members of chambers... As a chamber we would not go to the expense of paying for Marie's insurance if she was not in active practice (as evidenced by her Practising Certificate).

Marie is available to take work at any time or if asked by us. Clearly the distance means that such work would be written advices, conferences, remote court hearing and lecturers.

We do not wish for Marie to leave Chambers and so the compromise was that she would work when we needed her to cover or as when she stated she would like to work. Marie came back and worked at the end of 2023 the end of January 2024. Our websites states that Marie is on sabbatical. This is for ease of our clerks as otherwise Solicitors would be phoning to instruct Marie, which would cause unnecessary work for the clerking team."

In the Petitioner's Affidavit in Reply, In Paragraph 6, she affirmed;

"When I returned to England at the end of last year until the end of January, Gareth had my diary pretty full within the day when I had informed him that I was able to take work-this shows that not having the wording on my website would cause him difficulty. You can see from the website that I am able to undertake remote work. Putting the wording 'remote hearings under some circumstances' is due to the time difference between Brunei and the UK. It would be impractical for me to attend a four-week trial in a different time zone. I can of course at any time undertake written work and have conferences. I have undertaken such conferences post June 2023 to November 2023 whilst being in Brunei. Such work has been limited but that was my choice."

Having had said all the above and taking into account all the evidences and the surrounding facts, I am satisfied that the Petitioner was in active practice for at least 7 years immediately preceding to such application and her work is not intermittently performed and the objection by the Law Society under this head is dismissed.

The next objection is that the Petitioner is not of 'good character' under Section 4 Legal Profession Act. The Law Society submitted in great length with regards to this issue.

The question before me is that whether the Petitioner or HLR did and did not do tantamount that the Petitioner is not of 'good character'. The Immigration Department who is the enforcement agency has not taken any steps on this matter. The Law Society is acting as an investigator and prosecutor in this matter and would like this court to decide whether she has committed any breach of the Immigration Act or Regulations. This role should be taken by the Immigration Department and then will extend to the Public Prosecutor for any further action before it goes to the Court to be determined whether the Petitioner has or other parties related to her application and her alleged employment without visa.

I am satisfied that the grounds of objection is pre-mature and has not been proven and hereby dismissed the objection.

Now I will turn to the last objection on the grounds that the Petitioner has failed to fulfill the requirement that at least one of the certificates shall be given by a person who is ordinarily resident in Brunei Darussalam as required under Section 53(c) and Section 54(c) Legal Profession Act and Rule 2 of the Legal Profession (Practicing Certificate) Rules.

Section 5(3)(c) provides:

“A petitioner shall, not less than one month before his petition is to be heard. File an affidavit exhibiting:

(c) Two recent certificates as to his good character;

First Schedule Form 1 under Section 5 of the Act which has the heading ‘Petition for Admission’ in Paragraph 3 provides:-

I attach here two recent certificates of character. At least one of the certificates shall be given by a person who is ordinarily resident in Brunei Darussalam.

The Petitioner file 4 certificates of good character. The issue is whether she has fulfilled the condition in Paragraph 3 above where one of the certificates shall be given by a person who is ordinarily resident in Brunei Darussalam.

There are two certificates given by ‘a person who is ordinarily resident in Brunei Darussalam.’

One is by Blyth Svante John Louis who gave the same address as the Petitioner in her application and has known her personally for approximately 24 years.

Secondly is Alison Marie Williams Young who had a different address and known her for approximately 1 year.

I will deal with Alison Marie Williams Young certificate of good character.

No doubt that she is a person ordinarily resident in Brunei Darussalam. She had known the Petitioner for approximately 1 year.

The legislation is silent on the number of years or time that the person need to know the Petitioner. The Law Society had given the guideline of at least 2 years. In the absence of the legislation to specify the number of years, this Court will adopt the approach of reasonable years. I am satisfied that for a person has a good character or otherwise, it is reasonable to take 2 years as the minimum.

Having had said the above, I am satisfied that the certificate of good character of Alison Marie Williams Young do not fulfill the requirement of Paragraph 3.

Going back to the certificate of good character of Mr. John Louis. The issue raised by the Respondent is that with regards to Mr. John Louis who is the husband or domestic partner of the Petitioner cannot be used for the purpose of the Petitioner's Petition for admission and ought to be disregarded and referred to Paragraph 7 of the Law Society of Singapore Checklist and the Australian's Guidance for Character Referees.

Our legislation is silent on this and the Brunei Law Society has also not given any guideline on this matter even though they have the opportunity to do so when they made the guideline of 2 years in 2022.

If the legislation is silent on this matter and in the absence of any reasonable guideline from Brunei Law Society, I am satisfied that the certificate of good character by Blythe Svante John Louis fulfilled the requirement of Paragraph 3 of the First Schedule Form 1 under Section 5 of the Act and the Petitioner has fulfilled the requirements under Section 5(3)(c) and Section 5(4) LPA and Rule 2 of the Legal Profession Practicing Certificate Rules.

Taking into account that the other certificates has been filed and not subject to any objection. The Petitioner has fulfilled the requirement of Section 5(3) of the Legal Profession Act.

Having had said all the above, I am satisfied that the Petitioner is a qualified person and has fulfilled all the requirements to be admitted as an Advocate and Solicitor of the Brunei Bar and hereby I exercise my discretion to allow the Petitioner's Petition for the admission as an Advocate and Solicitor of the Brunei Bar pursuant to Section 4 of the Legal Profession Act.

HAJI ABDULLAH SOEFRI BIN POKSM DSP HAJI ABIDIN
Acting Chief Justice