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AJAYINDER SANGWAN AND ORS.

v.

BAR COUNCIL OF DELHI & ORS.

(Transferred Case (Civil) No. 126 of 2015)

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AUGUST 23, 2017

[R.K. AGRAWAL AND ABHAY MANOHAR SAPRE, JJ.]

Advocates Act, 1961 – Fake lawyers and Bar Council elections – Bar Council took steps to cause an enquiry to find out fake lawyers and to hold the State Bar Councils elections only thereafter – Petitioners requesting for immediate elections of the State Bar Council as the term had expired long back whereas the Bar Council of India (BCI) pressing for need of verification of the candidates to eliminate fake lawyers in order to bring improvement in the Bar and to get deserving practicing advocates for the respective Bar Councils – Since the process of verification is not completed yet, last opportunity is given for the same – Fifteen days’ time be given to cure the defective applications by the concerned Advocates and to all such advocates to submit their complete application forms for necessary verification of their degrees if they have not submitted the same earlier, from the date of publication of advertisement which shall be published within 7 days from the passing of this order – One month time granted for verification of applications, without any charge, by the State Bar Councils, after the expiry of the above 15 days – The University Authorities shall ensure the verification of degrees awarded by them, without any charge, within one month on its presentation – The respective State Bar Councils shall publish a Final Electoral Roll by including the names and particulars of such advocates whose degrees attached with the application forms have been verified by the concerned University authorities – The names of all such advocates who have not removed the defects in the application forms and also such persons whose degrees on verification have been found false or fake by the University authorities shall not be included in the Electoral Rolls – BCI to declare the schedule of elections thereafter – All the State Bar Councils are directed to take necessary steps and to conclude all

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proceedings by 31.12.2017 and send a reply to the BCI – Thereafter, the BCI, after receiving all the replies from the State Bar Councils, would file a status report – The BCI is directed to request a retired Judge of the Supreme Court in order to control and supervise the verification process and preparation of Electoral Rolls – The BCI is directed to take all steps in this regard immediately in order to do the needful – Matter to be listed in the second week of January, 2018 on a Non-Miscellaneous Day – Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015.

CIVIL ORIGINAL JURISDICTION: Transfer Case (Civil)
No. 126 of 2015.

Under Article 32 of the Constitution of India.

WITH

T. C. (C) No. 110 of 2015,

W. P. (C) Nos. 97, 799, 644, 709, 776, 808 and 1005 of 2016.

K.K. Venugopal, AG., Ms. Pinky Anand, ASG, Rajiv Dutta, Y. P. Adhyaru, H.N. Nagamohan Das, Colin Gonsalves, Sushil Kumar Jain, Sr. Advs., Ardhendumauli Kumar Prasad, Nirmal Kumar Ambastha, Ms. Taruna Arahendumauli Prasad, Ms. Shraddha Deshmukh; Nitesh Ranjan, Amritesh Raj, Rajesh Ranjan, Santosh Kumar, M.K. Maroria, Saudahini Sharma, Amit Sharma, Gunwant Dara, Ms. Somya Rathore, G.S. Makker, Ms. Anantha Narayana, Naveen Nagarjuna, Tarun Gulia, Gunjan Singh, Satya Mitra, Shreeji Bhavsar, Puneet Jain, Ms. Payal Jain, Ms. Christi Jain, R. Balasubramian, Gaurav Sharma, Dhawal Mohan, Amandeep Kaur, Prateek Bhatia, Ms. Maitrayee Banerjee, Kunal Chatterji, P. Soma Sundaram, Mayilsamy K., K.P. Narayanan, Muthu Ganesa Pandian, K. Kumaran, Mata Prasad Singh, Utkarsh Pandey, Ranjana Rastogi Singh, Parmanand Pandey, Mohinder J. S. Rupal, S. Udaya Kumar Sagar, Ms. Bina Madhavan, Ms. Akanksha Mehra, Prateek Dhir, Ms. Ramandeep Kaur, Mrs. Elizabeth Antony (for M/s. Lawyer's Knit & Co.), M. A. Chinnasamy, Vishal Khattar, Ms. C. Rubavathi, S. Peer Mohammad, Sunil Kumar, V. Senthil Kumar, Y. Raja Gopala Rao, Venkateshwar Rao Anumolu, Prabhakar Parnam, Baldev Atreya, Deepak Goel, Pawan Kumar Shukla, Pankaj Kumar Singh, Kamal Kumar Pandey, Raj Singh Rana, Aditya Sharma, Akash Jindal,

- A (for M/s. Parekh & Co.), Vikas Upadhyay, Sandeep Singh, B. Prabakaran, Ram Sankar, Y. Lokesh, G. Ananda Selvam, Rajaram Narayan, P. Jegan, R.V. Kameshwaran, Birjesh Chaudhary, Hitesh Kumar Sharma, Turisha Varma, S.R. Setia, Aditya Singh, Rituraj Choudhary, Atul Jha, Sandeep Jha, Dharmendra Kumar Sinha, Ms. Lalita Kohli (for M/s. Manoj Swarup & Co.), Anurag Dubey, Ms. Anu Sawhney, Ms. Meenakshi Parihar,
- B Anil Kumar Gupta, M.P. Singh, Rajeev Singh, P. Venkat Reddy, Prashant Kr. Tyagi, M/s. Venkat Palwai Law Associates, Suhas Kadam, M/s. Lemax Lawyers & Co., Dr. Harsh Sarana, Ms. Sugandha Jain, Jogy Scaria, Ms. Beena Victor, Gagan Gupta, Saurabh Gupta, Ajayinder Sangwan, Vivek Narayan Sharma, Raj Kumar Sharma, S.K. Sharma,
- C S.N. Sharma, Arun Rathi, Gaurav Chandhok, Tarunesh Kumar, Dushyant Yadav, Deepak Sehrawat, Ms. Rishina Parashar, Narendra Singh, Rohan Sharma, Irfan Firdous, V.P. Singh, Kunal Chopra, Pradeep Kr. Sharma, Dhan Singh, Lalit Kumar, Karuna Nidhar Rawal, B.N. Sharma, Anirudha Kumar, C.P. Singh, Sanjay Singh, Manoj Panchal, Shibashish Misra, Ms.
- D Sylona Mohapatra, Mrs. Santosh Singh, Gopal Prasad, M. Shoeb Alam, Ms. Fauzia Shakil, Ujjwal Singh, Mojahid Karim Khan, Sunil Fernandes, Ms. Astha Sharma, Ms. Nupur Kumar, Ms. Sarla Chandra, Ankur S. Kulkarni, Anil Kumar Gupta-II, R. V. Kameshwaran, Ramesh Babu M. R., Ghanshyam Joshi, Ms. Pratibha Jain, Praveen Agrawal, H. Chandra Sekhar, Ashwani Kumar Dubey, Ms. Nandini Gore, Sudarshan Singh
- E Rawat, Poli Kataki, Rameshwar Prasad Goyal, K. V. Bharathi Upadhyaya, E.C. Agrawala, Himinder Lal, Mritunjay Kumar Sinha, Subhasish Mohanty, Mohammed Sadique T.A., Amol B. Karande, Anupam Lal Das, Ms. Sneha Kalita, Ms. Aparna Jha, Kailash Chand, Rakesh K. Sharma, Ms. Ruchi Kohli, Rajan K. Chourasia, Sudhanshu
- F S. Choudhari, Ms. Manju Jetley, Ms. Malini Poduval, Ms. Kamakshi S. Mehlwal, Ms. Anjani Kumar Mishra, Harvinder Chowdhury, P. V. Dinesh, A. V. Rangam, Harsh V. Surana, Ms. Sweety Chattopadhyaya, Shekhar Kumar, Ms. Daisy Hannah, Ms. Kasturika Kaumudi, Ms. Ekta Pradhan, Advs. for the appearing parties.

G K.R. Chitra, Petitioner-in-person.

The Order of the Court was delivered by

ORDER

H **R.K. AGRAWAL, J. 1.** The present transferred case has originated owing to the steps taken by the Bar Council of India to cause

an enquiry and to find out fake lawyers out of its members and/or not even a member of the Bar Councils and/or member of any Bar Association of the country. While countering, Bar Council of India has submitted that steps have been taken in the matter in accordance with the Advocates Act, 1961 and the Rules framed thereunder to come to a conclusion and to find out such number of fake lawyers in the country and only thereafter the elections to the State Bar Councils can be held.

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2. This Court, vide order dated 05.10.2015, directed that all the matters which are pending in different High Courts in connection with the matter in question be transferred to this court for hearing while refusing to grant stay in respect of giving effect to the Notification in connection with the Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015.

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3. Further, in pursuance thereto, this court, vide order dated 02.11.2015, directed that the persons who are not members of the Bar Association of any State or District or otherwise to carry on their profession, the certificate which has been asked for by the Bar Council of India to be attached with the application form that should be taken into account by the respective Bar Councils allowing them to apply and thereby on such application concerned, Bar Council will take necessary steps to find out the correct position in respect of those persons. It was further made clear that the persons who were practicing as a conveyancing lawyer or otherwise or in terms of the Rules of Advocates Act in any manner whatsoever, they should not be interfered with carrying on their practice in such manner whatsoever by the Bar Council of India, if they are legally enrolled through the Bar Councils.

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4. Heard learned counsel for both the sides on the question of holding elections to the State Bar Councils at the earliest and perused the records.

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5. Learned senior counsel for the Bar Council of India admitted that the work relating to verification is very slow as the States where Advocate Generals are functioning as the Chairman of the State Bar Councils and elections are due, they are unable to spare time for the affairs of the State Bar Councils due to heavy workload. Further, no verification of certificates/degrees have been undertaken for LLB Graduates seeking enrolment after July 2010 and the All India Bar Examination (AIBE) cannot be said to be proof of having a valid degree

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A of any candidate. In order to expedite the process of verification of degrees, the Bar Council of India proposes to constitute a Central Verification Committee of the Bar Council of India headed by a former Judge of this Court for the purpose of transparent and fair verification.

B 6. To put it in a nutshell, the petitioners are requesting for immediate elections of the State Bar Council as the term has expired long back whereas the Bar Council of India is pressing for the need of verification of the candidates to eliminate fake lawyers in order to bring improvement in the Bar and to get deserving practicing advocates for the respective Bar Councils.

C 7. We have been informed by learned senior counsel for the Bar Council of India as well as the respective State Bar Councils that the process of verification is not completed yet. In view of that, to do complete justice to the parties, it would be proper for us to provide a last opportunity for the same as mentioned below:-

D (1) 15 (fifteen) days' time be given to cure the defective applications by the concerned Advocates and to all such advocates to submit their complete application forms for necessary verification of their degrees if they have not submitted the same earlier, from the date of publication of advertisement in two leading newspapers, one in English language and the other in regional language having wide circulation in the respective State/Union Territories, for which advertisement shall be published within 7 days from the passing of this order.

E (2) 1 (one) month time for verification of applications, without any charge, by the State Bar Councils, after the expiry of the above 15 (fifteen) days.

F (3) The University Authorities shall ensure the verification of degrees awarded by them, without any charge, within 1 (month) on its presentation.

G (4) The respective State Bar Councils shall publish a Final Electoral Roll by including the names and particulars of such advocates whose degrees attached with the application forms have been verified by the concerned University authorities. The names of all such advocates who have not removed the defects in the application forms already submitted within the specified time and

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also such persons whose degrees on verification have been found false or fake by the University authorities shall not be included in the Electoral Rolls. A

(5) Bar Council of India to declare the schedule of elections in respective State Bar Councils to be held after the expiry of 75 (seventy five) days, as mentioned above, within one week mentioning therein:- B

(i) 15 days for nomination.

(ii) 1 week for withdrawal of nomination.

(iii) to upload final candidates' list in 1 (one) week.

(iv) to decide the date of election. C

8. We further make it clear that all the steps be taken by all the parties concerned in the matter for the purpose of elections in respect of all the Bar Councils where the term of the existing members have already expired or to be expired. We further make it clear that although this order has been passed in favour of the verification only for the purpose of the election but it would also include for the purpose of the verification of all other learned lawyers who have already applied within the time stipulated by this Court. D

9. We direct all the State Bar Councils to take necessary steps and to conclude all proceedings by 31.12.2017 and send a reply to the Bar Council of India. Thereafter, the Bar Council of India, after receiving all the replies from the State Bar Councils, would file a status report. E

10. We, hereby, authorize the Bar Council of India to notify all the State Bar Councils, by way of publication in two leading newspapers, that they must take all steps to complete the process before 31.12.2017. F

11. The Bar Council of India is directed to request a retired Judge of the Supreme Court in order to control and supervise the verification process and preparation of Electoral Rolls. We direct the Bar Council of India to take all steps in this regard immediately in order to do the needful. All concerned are directed to render full assistance and cooperation to the Verification Committee. List the matter in the second week of January, 2018 on a Non-Miscellaneous Day. G