

A AJAYINDER SANGWAN AND ORS.

v.

BAR COUNCIL OF DELHI & ORS.

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

B FEBRUARY 05, 2018

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

Advocates – State Bar Councils – Elections:

C *Bar Council of Tamil Nadu and Puducherry – Applications filed by the applicants contending that Advocate General for the State of Tamil Nadu, has expressed apprehension on his ability to conduct free and fair elections to the State Bar Council of Tamil Nadu and Puducherry – However, Bar Council of India (BCI) stated that the Tribunal/Committees have been constituted to oversee the elections to be held by the respective State Bar Councils – Held: D Committee consisting of retired Chief Justice/Judges of various High Courts has been constituted by BCI and entrusted to look into the affairs of the elections to the said State Bar Councils – No ground to constitute any another Committee in the place of Committee so constituted.*

E *Bar Council of Kerala – Applications by advocates practicing in Kerala seeking impleadment as also modification of the election schedule finalized by BCI on the ground that the day of election though being Sunday, is a festival day celebrated in the State and thus, it would not be possible for the majority of the voters to cast their vote – Held: On special facts and circumstances of the case, F the date of election for Bar Council of Kerala is pre-poned – However, rest of the election schedule, as finalized by BCI, will remain the same.*

G *Bar Council of Maharashtra & Goa – Applications seeking direction to BCI and the Bar Council of Maharashtra & Goa to permit the advocates of these States, who are on the electoral rolls, to cast their vote at New Delhi as they have settled in Delhi for the purpose of legal practice – Held: Election schedule having already been finalized, there is no ground to permit the applicants or the advocates practicing at New Delhi to cast their votes at New Delhi H instead of their respective States.*

Bar Council of Rajasthan – Application filed by Bar Council of Rajasthan seeking rescheduling of the date of election from 28.03.2018 to 05.04.2018 on the ground that the Rajasthan High Court has holidays from 24.03.2018 to 01.04.2018 and all the members practicing in the High Court would not be able to exercise their franchise owing to such holidays – Held: No ground found to defer the date of election on the pretext of holidays as it would not be proper to reschedule the election already fixed.

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Bar Council of Delhi – Applicant's name not included in the electoral roll – Application seeking direction to Bar Council of Delhi to include his name in the electoral list – Held: Applicant did not provide the copies of the original documents as a result of which his name was not included in the electoral roll – No ground made out for directing the Bar Council of Delhi to include the name of the applicant in the electoral roll.

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Bar Council of Andhra Pradesh – Application seeking direction to the Andhra Pradesh Bar Council and Telangana State Bar Council to conduct election as per the schedule declared by Supreme Court – Held: BCI has fixed elections schedule for the State of Andhra Pradesh – However, there is no mention of the election schedule for the State of Telangana – The Bar Council of Telangana has not yet come into existence and therefore, the election in the State Bar Council of Telangana has not been fixed – No reason found to direct the BCI to hold election for the State Bar Council of Telangana.

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

Under Article 32 of the Constitution of India.

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Vikramjeet Banerjee, Rajiv Dutta, Manan Kumar Misra, Mahabir Singh, V. S. Giri, Sr. Advs, Ramesh Babu M. R., Anantha Narayana M.G., Gaurav Agarwal, S. Moh. Haneef, Piyush Choudhary, Satya Mitra, J. S. Rawat, Ghanshyam Joshi, Ms. Pratibha Jain, Tanuj Agarwal (For M/S. Parekh & Co.), Ajainder Sangwan, Vivek Narayan Sharma, Siddharth Mahajan, Raj Kumar Sharma, S. N. Sharma, S. K. Sharma, Deepak Sehrawat, Tarunesh Kumar, Arun Rathi, C. P. Singh, Sanjay Singh, Shubham Awasthi, Ms. Sweety Chattopadhyay, Rohan Sharma, Ms. Rishina Parashar, Irfan Firdous, Kunal Chopra, Anirudh Kumar, V. P. Singh, Narendra Singh, Dhan Singh, Pradeep Kumar Sharma, Sriram

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A P., Ms. Khushbu Jain, Vishnu Shankar M.S., Ms. Athira GNair, Ankur S. Kulkarni, Ardhendumauli Kumar Prasad, Ms. Taruna Ardhendumauli Prasad, Nirmal Kumar Ambastha, Namit Saxena, Ms. Anjul Dwivedi, Ms. Gunwant Dara, Rajesh Ranjan, M. K. Maroria, Mrs. Sarla Chandra, Sachin Patil, Praveen Agrawal, Gagan Gupta, H. Chandra Sekhar, Ashwani Kumar Dubey, Sanjeev Kr. Baliyan, Purvish Jitendra Malkan,

B Ms. Dharita Malkan, Ms. Deepa Gorasia, Bhaskar Singh, Ms. Madhusmita Bora, Venkateswara Rao Anumolu, Mrs. Nandini Gore, Parmanand Pandey, Sudarshan Singh Rawat, Ms. Poli Kataki, R. Balasubramanian, Gaurav Sharma, Ms. Amandeep Kaur, Dhawal Mohan, Prateek Bhatia, Rameshwar Prasad Goyal, Ms. K. V. Bharathi

C Upadhyaya, M. Shoeb Alam, Ms. Fauzia Shakil, Ujjwal Singh, Mojahid Karim Khan, Mohinder Jit Singh, Prang Newmai, Ms. Slomita Rai, E. C. Agrawala, Himinder Lal, Shibashish Misra, Mritunjay Kumar Sinha, Subhasish Mohanty, Mohammed Sadique T.A., Amol B. Karande, Vijay Kumar, Gopal Prasad, Anupam Lal Das, M/S. Venkat Palwai Law Associates, Ms. Sneha Kalita, Vikas Upadhyay, Vidit Monga, Ms. Aparna

D Jha, Dr. Kailash Chand, Jogy Scaria, Ms. Beena Victor, Rakesh K. Sharma, S. S. Shamsbery, Amit Sharma, Ankit Raj, Ms. Indira Bhakar, Ms. Ruchi Kohli, Vipin Kumar, Baldev Atreya, Deepak Goel, Kamal Kumar Pandey, Aditya Singh, Pijush K. Roy, Ms. Kakali Roy, Rajan K. Chourasia, Ms. Lalita Kohli, Abhishek Swarup (For M/S. Manoj Swarup and Co.), Dr. Manish Singhvi, Shailja Nanda Mishra, Satyendra Kumar (For Irshad Ahmad), Sudhanshu S. Choudhari, Ms. Radhika Chaturvedi, Hitesh Kumar Sharma, S. K. Rajora (For Ms. Manju Jetley), Mrs. Santosh Singh, Ms. Malini Poduval, Anurag Dubey, Ajit Kumar Pathak, Sanchit Maheshwari, S. R. Setia, Ms. Kamakshi S. Mehlwal, Y. Raja Gopala

E Rao, Kunal Chatterji, Ms. Maitrayee Banerjee, Rajeev Singh, Anjani Kumar Mishra, Ms. Christi Jain, Harvinder Chowdhury, M/S. Lemax Lawyers & Co., Vishal Khattar, Ms. C. Rubavathi, M. A. Chinnasamy, K. Ethiraj, P. V. Dinesh, A. V. Rangam, Buddy A. Ranganadhan, Sunil Fernandes, Ms. Nupur Kumar, Harsh V. Surana, Gaurav Agarwal, Kunal Singh, Pukhrambam Ramesh Kumar, Ms. Rahat Sharma, Shishir Pinaki,

F Rajiv Kumar Sinha, Sumi P. S., Vibhakar Mishra, K. K. Gautam, Umesh P. Wadhvani, Deependra Kumar Pathak, Nischal Kumar Neeraj, Suvendu Suvasis Dash, K. V. Mohan, Atul Jha, Sandeep Jha, Dharmendra Kumar Sinha, Advs. for the appearing parties.

The Order of the Court was delivered by

H **R. K. AGRAWAL, J.** 1. A bunch of Interlocutory Applications

for clarification/impleadment/direction/intervention/ appropriate orders/
modification, in the lead matter, has been filed after the order passed by
this Court on 14.12.2017, is being disposed of by this common order.

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2. Heard learned counsel for the respective parties.

IA Nos. 14049, 14055, 14059 and 14062 of 2018

3. The contention of learned counsel for the applicants is that
learned Advocate General for the State of Tamil Nadu, who is *ex-officio*
member of the State Bar Council, has written a letter dated 15.01.2018
expressing apprehension on his ability to conduct free and fair elections
to the State Bar Council of Tamil Nadu and Puducherry. It was also
brought to the attention of this Court the order dated 23.01.2018 passed
by a Division Bench of the Madras High Court wherein the court had
come to the conclusion for appointment of a neutral committee of retired
Judges either of the Supreme Court of India or of the Madras High
Court to oversee the election. However, the court did not pass any order
as the matter was pending before this Court.

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4. In the application for directions filed on behalf of the BCI dated
23.01.2018, it has been stated that the Tribunal/Committees have been
constituted to oversee the elections to be held by the respective State
Bar Councils. So far as the elections to be held for the Bar Council to
the State of Tamil Nadu and Puducherry is concerned, the Committee
constituted by the BCI consists of the following persons, namely, Hon'ble
Mr. Justice V.K. Gupta, former Chief Justice of the Jharkhand High
Court, Hon'ble Mr. Justice T. Sudanthiram, former Judge, Madras High
Court and Hon'ble Mr. Justice V.D. Gyani, former Judge, Madhya
Pradesh High Court. The aforementioned Committee has been entrusted
to look into the affairs of the elections to the State Bar Council of Tamil
Nadu and Puducherry. The Committee consists of retired Chief Justice/
Judges of various High Courts and we do not find any good ground to
constitute any another Committee in its place.

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5. For the reasons mentioned above, the interlocutory applications
are accordingly dismissed.

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IA Nos. 9727 and 7520 of 2018

6. By these two applications, the applicants, who are practicing
advocates in the State of Kerala seek impleadment as also modification
of the election schedule finalized by the BCI.

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A 7. In view of the application for directions filed on behalf of the
BCI on 23.01.2018, the election schedule for the State of Kerala has
been fixed and the date of election is notified as 25.03.2018. Learned
counsel appearing for the applicants contended that the day of election
though being Sunday, is a festival day celebrated in the State and
therefore, it would not be possible for the majority of the voters to cast
B their vote. A request was made to pre-pone the date of election from
25.03.2018 to 18.03.2018.

8. Considering the special facts and circumstances of the case,
we pre-pone the date of election for Bar Council of Kerala from
25.03.2018 to 18.03.2018, however, rest of the election schedule, as
C finalized by the BCI, will remain the same. The applications are disposed
of accordingly.

IA Nos. 11955 and 11959 of 2018

9. By the above two applications, the applicants seek a direction
D to the BCI and the Bar Council of Maharashtra & Goa to permit the
advocates of these States, who are on the electoral rolls, to cast their
vote at New Delhi. Further, all the applicants hail from Maharashtra
and Goa and have settled in Delhi for the purpose of legal practice. A
reference has been invited to the Resolution passed by the BCI wherein
the BCI has requested learned Secretary General of this Court to consider
E providing sufficient space to enable the advocates who are registered
with different State Bar Councils and are on the electoral lists of the
respective State Bar Councils to cast their votes at New Delhi itself.
However, no response has been received by the BCI so far.

10. Owing to the election schedule having already been finalized,
F we do not find any ground to permit the applicants or the advocates who
are practicing at New Delhi to cast their votes at New Delhi instead of
their respective States.

IA No. 12811 of 2018

11. The present application has been filed by the Bar Council of
G Rajasthan seeking rescheduling of the date of election from 28.03.2018
to 05.04.2018 on the ground that the Rajasthan High Court has holidays
from 24.03.2018 to 01.04.2018 and all the members who are practicing
in the High Court would not be able to exercise their franchise owing to
holidays in the Court. We do not find any good ground to defer the date
H of election on the pretext of holidays as it would not be proper for us to

reschedule the election which has already been fixed for 28.03.2018. The application is, therefore, rejected. A

IA No. 14854 of 2018

12. By means of present application, the applicant, who is enrolled as an advocate with the Bar Council of Delhi, seeks a direction to the effect that his name be included in the electoral list for the reason that he had submitted all the requisite documents within time. However, we find that the applicant had not provided the copies of the original documents as a result of which his name was not included in the electoral roll. B

13. We have given our thoughtful consideration to the plea raised by the applicant. In our view, no ground has been made out for directing the Bar Council of Delhi to include the name of the applicant in the electoral roll. The application is rejected accordingly. C

IA No. 13749 of 2018

14. By means of this application, the applicant, who is practicing as an advocate and is enrolled with the Bar Council of Andhra Pradesh seeks a direction to conduct elections and direct the Andhra Pradesh Bar Council and Telangana State Bar Council to conduct election as per the scheduled declared by this Court. D

15. In the application for directions filed on behalf of the Bar Council of India dated 23.01.2018, we find that the election schedule for the State of Andhra Pradesh has been fixed by the BCI, however, there is no mention of the election schedule for the State of Telangana. It appears that the Bar Council of Telangana has not yet come into existence and therefore, the election in the State Bar Council of Telangana has not been fixed. E F

16. In view of the above, in the present facts and circumstances, we do not find any reason to direct the BCI to hold election for the State Bar Council of Telangana. The application is rejected. G