

W.P. No. 574 of 2016
W.P. No. 2827 of 2016

29.2.2016

W.P. No.574/2016:

Shri Ravindra Kumar Gupta, Advocate for the petitioner.

Shri Ravish Agrawal, Advocate General with Shri Samdarshi Tiwari, Dy.A.G. for the State.

Shri Naman Nagrath, Senior counsel with Shri Rakesh Kumar Sahu and Shri Brahmhatt Singh, Advocates for the State Bar Council.

Shri Shashank Shekhar, Advocate for respondent No.5.

Shri Vasant Daniel, Advocate for the intervenor.

W.P. No.2827/2016 :

Shri Manish Kumar Verma, Advocate for the petitioner.

Shri Siddharth Gulati, Advocate for respondent No.2.

Shri A.M. Trivedi, Senior Counsel with Shri Sanjay Verma and Shri Pankaj Tiwari, Advocates for the respondent No.3.

Shri Rajendra Tiwari, Senior counsel with Shri T.K. Khadka, Advocate for the Bar Council of India.

Heard counsel for the parties.

Hearing of these matters commenced on 22.2.2016, 23.2.2016 and 24.2.2016. After hearing in part on different dates and, in particular, after considering the submissions made by learned Advocate General, suggestion was given to the counsel appearing for the State Bar Council as well as High Court Bar Association, Jabalpur and District Bar Association, Jabalpur to decide on modalities on the basis of which the ensuing election can be conducted in the respective Bar Associations.

02. Today, we were informed that the Office Bearers of the respective Bar Associations as well as the members of the Adhoc Committee appointed by the State Bar Council interacted with the Advocate General and, in turn, the State Bar Council has articulated its action plan to ensure that free and fair elections in the respective Bar Associations are held – in conformity with the extant By-Laws of the said Bar Associations and norms and regulations specified by the State Bar Council in that behalf. All parties have agreed that the action plan suggested by the State Bar Council be taken on record (**marked as 'X'**), as acceptable to them; and hearing of the matters be deferred with clear understanding that unless the State Bar Council undertakes

the exercise of weeding out the ineligible members/Advocates enrolled by the State Bar Council, the election of Bar Associations should not be hastened. In other words, the elections to proceed only after the eligibility of concerned members is decided by the State Bar Council, which as assured, will be done within four weeks from today.

03. The State Bar Council has taken assistance of M.P. Online. M.P. Online, in turn, has assured that software for online registration of the members of the State Bar Council and for furnishing requisite information for deciding their eligibility will be prepared within 10 days from today and will be made operational by M.P. Online before 15.3.2016. The entire process for deciding eligibility of members of the State Bar Council will be completed online before 31.3.2016; and the list of members so prepared, will be generated and made over to the respective Bar Associations where the concerned member has enrolled himself as member.

04. We may take notice of the fact that as the term of Office of the outgoing Executive Committee of the High Court Bar Association, Jabalpur has already expired, State Bar Council has nominated Adhoc Committee consisting

of seven members. That Committee has already taken over the charge of management of the High Court Bar Association, Jabalpur. During the hearing, however, we found that the By-Laws requires such Committee to consist of three senior designated Advocates and two other Advocates. That norm has not been fulfilled by the State Bar Council, while issuing notification dated 16.2.2016. In this backdrop, it was suggested that the said Adhoc Committee nominated by the State Bar Council deserves to be replaced by the Adhoc Committee to be appointed by the Court in terms of this order. The counsel appearing for the respective Bar Associations as well as the State Bar Council, on instructions, have accepted this suggestion.

05. As a result, we deem it appropriate to reconstitute the Adhoc Committee, who will take over charge of Office of the Executive Committee of the High Court Bar Association, Jabalpur with immediate effect. The Committee shall consist of :

- (i) Shri Satish Chandra Datt, Senior Advocate as Chairman;
- (ii) Shri P.R. Bhave, Senior Advocate as Member;
- (iii) Smt. Shobha Menon, Senior Advocate as Member;

- (iv) Smt. Chanchal Sharma, Advocate as Member;
and
- (v) Shri Sanjay Verma, Advocate as Secretary of
the Committee.

06. This Committee will take all measures as are necessary hereafter for the management of the concerned Bar Association and including to conduct free and fair elections by nominating Shri P.N. Dubey, Advocate as Chief Election Officer. The Committee must prepare time frame for verification and finalization of the voters list and the date of nomination. Notification in this behalf must be issued under the authority of the Adhoc Committee appointed by the Court within one week from today. The Committee must keep in mind that the initial preparatory steps to be taken by the State Bar Council will have to be set apart upto 31.3.2016. The relevant dates for verification of the claims, objections and finalization of voters list and also for date of filing nomination must be after 31.3.2016, but, to ensure that the election results are declared not later than first week of May, 2016. In case of any operational or logistical issues, the Committee can move a formal application before this Court for appropriate direction, being a Court appointed Committee.

07. Just before these petitions were filed, the election programme for High Court Bar Association, Jabalpur, was declared, pursuant to which nominations have been filed. The concerned candidates have deposited security amount with the Chief Election Commissioner. That amount will have to be reimbursed to the concerned candidate within one week from today. The expenses incurred by the Chief Election Commissioner till date with regard to election, which was notified by the outgoing Executive Committee, will be paid by the High Court Bar Association, Jabalpur.

08. The outgoing Executive Committee as also the Adhoc Committee appointed by the State Bar Council must give due authorization and handover the charge to the Court appointed Committee by tomorrow.

09. On the same lines, the outgoing Executive Committee of the District Bar Association has agreed to handover the charge to the Court appointed Committee after expiry of its term on 31.3.2016 in terms of this order.

That Committee shall consist of:

- (1) Shri Rajendra Tiwari, Senior Counsel as Chairman;
- (2) Shri R.S. Tiwari, Advocate as Secretary;
- (3) Shri Jagmal Choudhary, Advocate as Member;

- (4) Shri Abhay Jain, Advocate as Member, and
- (5) Shri Girish Shrivastava, Advocate as Member.

10. Counsel appearing for the respective parties as well as the Advocates, who are present in Court in large number have agreed for this arrangement and have expressed satisfaction also about the names of members of both the Committees finalized in terms of this order.

11. As regards the District Court Bar Association, since the term is expiring on 31.3.2016 (as is stated across the Bar by the counsel for the said Bar Association), assurance is given that the charge of the Executive Committee will be handed over to the above mentioned Court appointed Committee (in paragraph 9) on 1.4.2016, to enable the said Committee to take steps to ensure conduct of free and fair elections of that Bar Association and notify the election programme within one week from taking over the charge while also ensuring that the elections are completed within forty-five days therefrom.

12. It is once again placed on record that this arrangement has been agreed by all the stakeholders and duty-holders including the State Bar Council, as one time arrangement, to resolve all the contentious issues and to avoid any further controversy or dispute during the conduct

of election of the respective Bar Associations.

13. It is agreed between the parties that this arrangement will not be cited as precedent or to be followed for the future election to be conducted by the respective Bar Associations in conformity with the By-Laws of the concerned Association and the extant Rules and Regulations.

14. We profusely appreciate the positive and forward looking approach of the respective Bar Associations and its members and their anxiety to ensure that the elections are held in friendly environment and to be free and fair in all respects. We also appreciate the untiring efforts and leadership of the learned Advocate General for bringing about amicable resolution between different groups of Advocates in respect of all the contentious issues.

15. In view of this arrangement, needless to observe that the notification for conduct of election issued by the outgoing Executive Committee of the High Court Bar Association, Jabalpur; and all steps taken on that basis, will be treated as *non-est* and to be disregarded by all the concerned. Instead, the election will now be conducted strictly as per the arrangement evolved in terms of this order and agreed between the parties.

16. Court appointed High Court Bar Association's Adhoc Committee to submit the schedule and time frame to be followed by the said Committee from the stage of commencement of election till the conclusion thereof. For that purpose, we place this matter on **09.03.2016**.

17. It is also agreed by all concerned that the members of the Court appointed Committee shall not participate in the proposed election of the concerned Bar Associations to be conducted under the supervision of that Committee either directly or indirectly including not to propose or second any candidature. However, if any member of the said Committee has already proposed or seconded any candidate for the election, which was to be held in terms of Notification issued by the outgoing Executive Committee/Chief Election Commissioner (now declared as *non-est*), that will not come in his way in terms of this order. It is also clarified that being member of the Court appointed Adhoc Committee, will be no disqualification to cast vote during the ensuing election. This position is accepted by all concerned.

(A. M. Khanwilkar)
Chief Justice

(Sanjay Yadav)
Judge

IN THE HIGH COURT OF MADHYA PRADESH

PRINCIPAL SEAT AT JABALPUR

Writ petition No.574/2016 (P.I.L.)

PETITIONER : Democratic Lawyers' Forum (Group of Advocates)

Versus

RESPONDENTS : The State Bar Council of Madhya Pradesh & 7 others

**PROPOSAL OF MP STATE BAR COUNCIL IN DEFERENCE TO OBSERVATIONS
OF THIS HON'BLE COURT ON 24-02-2016**

Respondent No.1/State Bar Council of MP, named above, humbly submits as under:

1. THAT, during the course of hearing on the last date, this Hon'ble Court desired Respondent No.1/State Bar Council of MP to submit its proposal/plan in respect of preparation of the Voter List for the elections of the office bearers of the Jabalpur District Bar Association and MP High Court Bar Association in accordance with the Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015 as well as the eligibility criterion prescribed for the Bar Associations.
2. Therefore, in deference to the observations made by this Hon`ble Court, State Bar Council of MP submits its proposal/plan as under :-
 - (i) That, the election process of the Bar Associations of Jabalpur is to be supervised/controlled by a committee duly approved by this Hon'ble Court.
At present the State Bar Council has already appointed an *ad -hoc* committee of Senior and distinguished members from the Bar, which may be approved / suitable amended by this Hon'ble Court.
This committee would also supervise the finalization of the Voter List / electoral roll of concerned Bar Associations.
 - (ii) That, the principle of 'One Bar - One Vote' is to be implemented in the forthcoming elections.
 - (iii) THAT, in order to facilitate the preparation of the final "Roll of advocates", State Bar Council of MP has resolved to hand over the task of online filling and submission of Form 'A' and 'F' as prescribed

by the BCI Verification Rules - 2015 through "MP Online" (a State Govt. undertaking) which has more that 11,000 kiosks throughout the State, including in rural areas.

Apart from taking services of the MP Online, the concerned advocates may also directly access the link from the official website of "MP Online" and submit the required form.

A copy of the detailed proposal of the "MP Online" in this regard is being attached herewith as **Annex. A-1**.

- (iv) That, for undertaking this exercise, a period of 10 working days is required by "MP Online" for developing the software and making the application web-site operational.

This application link shall be open for elections of Jabalpur Bar Associations up till ____ days as agreed by the Bar Associations, during which period concerned advocates may submit the requisite information / declaration. Names of only those members shall be included who have submitted the application / declaration on-line till the prescribed date.

However, this link shall remain active for further implementation of the BCI Verification Rules.

- (v) That, State Bar Council shall handover its master list of "Roll of advocates", specifying their option regarding place of voting / specific Bar Association in the forthcoming elections, to the concerned Bar Association.

- (vi) THAT, based on the aforesaid "roll of advocates" provided by State Bar Council, the Election Officer and / or the Committee so appointed shall thereafter prepare a final "electoral roll" for the concerned Bar Association.

- (vii) Further election process shall be supervised and controlled by the Committee so appointed / approved by this Hon`ble Court.

Place: Jabalpur
Date: 29-02-2016

**Advocate for Respondent No.1/
State Bar Council of M.P.**

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AFFIDAVIT

I, Mukesh Mishra, S/o Shri H.H. Mishra, Aged about 52 years, working as Officiating Secretary, State Bar Council of Madhya Pradesh, do hereby state on oath:-

1. That, I am working as officiating secretary of the Respondent No.1, therefore competent to swear this affidavit on behalf of respondent No.1.
2. That, the contents of Paragraph 1 to 7 of the accompanying proposal filed by Respondent No.1 has been drafted on my instructions and the contents of the same are true to information which I have received and gathered from official record.
3. That, respondent No.1 has not concealed any fact.

DEPONENT

VERIFICATION

I, Mukesh Mishra, do hereby verify that contents of Paragraph 1 to 3 are true to information received from official record.

Signed and verified on 29th day of February 2016 at Jabalpur (M.P.).

DEPONENT