

(2009) 07 AHC CK 0182

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 49639 of 2008

Akhilesh Kumar Dwivedi

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 24-07-2009

Acts Referred:

Citation : (2009) 07 AHC CK 0182

Hon'ble Judges : Ashok Bhushan, J and Arun Tandon, J

Final Decision : Disposed Of

Judgement

1. Heard Sri M.D. Singh Shekhar, learned Senior Advocate and Sri D.P. Singh for the petitioner. Sri V.C. Misra, learned Senior Advocate has. appeared for the respondent Nos. 3 and 6.

2. With the consent of learned counsel for the parties, this writ petition is being disposed of finally.

3. By this petition, the petitioner has prayed for quashing the resolution dated 12.9.2008 passed by the High Court Bar Association. A mandamus has also been sought for restraining the respondents from acting adversely to the petitioner in any manner in pursuance of the impugned resolution. Another mandamus has also been sought for restraining the respondents No. 3 to 5 from coopting or for holding the election for the post of Vice President held by the petitioner.

4. The brief facts giving rise to this writ petition are; the petitioner was elected as Vice President of the High Court Bar Association on 12.3.2008. A resolution is claimed to have been passed on 12.9.2008 by the High Court Bar Association removing the petitioner from the post of VicePresident and also from the primary membership which has been challenged by the petitioner.

5. Sri V.C. Misra, learned Senior Advocate, the President of High Court Bar Association has filed an application supported by his own affidavit in the Court which has been taken on record. Sri Misra in his affidavit has stated that the

Governing Council of the High Court Bar Association took charge on 19.3.2008 and the term for the Governing Council according to the Rules is one year. He further submits that model Byelaws framed by Bar Council of U.P. were approved in General House meeting held on 27.9.2007 which resolution was further approved by the General House in its meeting dated 19.3.2008. Sri Misra further submits that the model byelaws as approved by the General House of High Court Bar Association have also been registered by Assistant Registrar, Firms, Societies and Chits Allahabad and the said byelaws have been received after registration on 25.2.2009. Sri Misra further submits that immediately after expiry of the term on 19.3.2009, he tendered his resignation from the office of the President of Bar Association which however, was not approved by the General body on 19.3.2009. He submits that after the close of the parliamentary elections it was proposed by him that elections be held on 27.5.2009 but it was resolved that elections be held after 8th and 9th August, 2009. It has further been stated by Sri Misra that he has already issued direction for audit of the accounts and for preparation of the Secretaries report for holding of the fresh elections. Sri Misra has stated before the Court that the fresh elections of the High Court Bar Association be held on 18.9.2009. Lastly Sri Misra submitted that even before this Court, the petitioner is offering to resign from the office of the President of the Association.

6. Learned Counsel for the petitioner submitted that in view of the expiry of the tenure of the association on 19.3.2009, the issue regarding the correctness of validity of resolution passed by the High Court Bar Association on 12.9.2008 has become only academic and it is not necessary to decide the said issue in this writ petition. Learned Counsel for the petitioner submits that in view of the statements now given on behalf of the respondent High Court Bar Association that fresh elections shall be held on 18.9.2009, the writ petition be disposed of accordingly. Learned Counsel for the petitioner submits that the petitioner having been also removed from the primary membership of the association, the association may consider the restoration of the petitioner's primary membership of the association otherwise, the petitioner shall not be able to participate in the fresh elections scheduled to be held on 18.9.2008. Sri Misra submits that in the event the petitioner makes an application to the Secretary Bar Association seeking consideration of the restoration of his primary membership, the same may be considered in accordance with the byelaws. A copy of the byelaws has been filed as Annexure 5 to the affidavit filed today contains clause 55 which deals with the procedure of election, which is to the following effect:

"55. The Meetings of the Annual General Body of the Associate will be convened at least a month before the expiry of the term of the Office Bearers and shall fix a date for Election.

The Elders Committee will act as Panel of the Returning Officers to hold Election and be entitled to include any other Member of the Association; provided one is not contesting the Election and the result of the Election shall be declared in the Meeting of the General Body so convened by the Elders Committee.

In order to meet the heavy burden of expenditure of the Bar Association, the Elders Committee will also fix security money for various posts, which shall not be refundable after the nomination is filed and found valid. Only Ordinary Members, who have put in 3 years of continuous Membership will be entitled to vote and participate in the Election provided their subscription is paid till before the month in which annual General Body Meeting is fixed.

The person, who has held Office twice, will not be entitled to contest the Elections in sequence; however, he can recontest after a gap of one year."

7. In view of what has been stated above, we are of the view that it is not necessary to decide various issues raised in the writ petition including the issue of maintainability of the writ petition against the resolution dated 12.9.2008. The tenure of the office bearers of the High Court Bar Association having admittedly come to an end on 19.3.2009 and fresh elections as stated by Sri V.C. Misra, President is scheduled to take place on 18.9.2009, no useful purpose will be served in keeping the writ petition pending.

8. The writ petition is disposed of with the aforesaid observation.