
(2020) 01 DEL CK 0230

In the Delhi High Court

Case No : Civil Writ Petition No. 12429 Of 2019

Anju Singh

APPELLANT

Vs

Saket Bar Association And Anr

RESPONDENT

Date of Decision : 15-01-2020

Acts Referred:

Citation : (2020) 01 DEL CK 0230

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Vikrant N. Goyal, Rajan Sabharwal, Karnail Singh, Mahavir Singh, Dharmendra Singh

Final Decision : Allowed

Judgement

Sanjeev Sachdeva, J

1. Petitioner seeks a mandamus to the respondent to include her name in the list of eligible voters entitled to vote and contest the forthcoming election of respondent no.1/Saket Bar Association.
2. The case of the petitioner is that she became a member of the Saket Bar Association (Bar Association in short) on 06.10.2018. It is contended that as per the Constitution of the Bar Association, no member shall have voting right in the election of the Bar Association unless he/she has completed minimum of one year on the roll of the Bar Association.
3. Learned counsel for the petitioner submits that impugned notice dated 19.10.2019 and circulars dated 21.10.2019 and 31.10.2019 declaring that only members of the association who have become members of the Bar Association upto 31.08.2018 can file declaration form and would be eligible to cast the vote is contrary to the Constitution of the Saket Bar Association.
4. The declaration to be filed by the members is in terms of the judgment of the Division Bench of this Court in P. K. Dash & Ors. V. Bar Council of Delhi & Ors.,

(2016) 230 DLT 325 (DB) read with the further clarification issued by the Division Bench in the said case reported as (2016) 234 DLT 571 (DB).

5. Learned counsel for the petitioner submits that in terms of Clause 10 of the Constitution of Bar Association, cut-off date is date on which the schedule of election is notified and since the schedule of election has not yet been notified, petitioner and other similarly situated persons who would complete the minimum period of one year on the roll of the association, on the date of the notification of the schedule cannot be deprived of their right to vote.

6. Mr. Karnail Singh, learned President of the Saket Bar Association who appears for the respondents submits that the cut-off date of 31.08.2018 was fixed keeping in view the direction of the Court in P. K. Dash (supra) and also because the process of obtaining declarations, collection of subscription and scrutinizing the declaration would take some time. He submits that in case the petitioner or similarly situated persons are permitted to cast their vote, the election is likely to get delayed.

7. Clause 10 of the Constitution of the Bar Association stipulates as under:

"VOTING RIGHT:

No member shall have voting right in the election of the SAKET BAR ASSOCIATION if he/she has not completed minimum one year on the roll of the Association before the date of declaration of the schedule of the general election. The members shall follow the rule of one bar one vote excluding High Court and Supreme Court."

8. In terms of the Clause 10 of the Constitution of the Saket Bar Association, no member who has not completed minimum one year on the rolls of the association, before the date of declaration of schedule of the general election shall have voting right.

9. Clause 10 of the Constitution of the Bar Association implies that all members who, on the date of declaration of the schedule of the general election, have completed the period of one year on the roll of the Bar Association would be eligible to cast their vote and also contest in the said election. This would be subject to them complying with the other conditions inter alia filing of declarations in terms of the Judgment in P.K. Dash (supra) and payment of subscription.

10. The Division Bench in P. K. Dash (supra) has laid down the principle of one bar one vote. The Division Bench in the said case has not laid down any cut-off date for exercising the right to vote. The Division Bench in P. K. Dash (supra) while stipulating the one bar one vote principle, by its clarification given on 18.10.2016 particularly in paragraph 13 (a) (ii) directed that "Such Election Committee would be responsible for the task of verifying the declarations and preparing the list of members eligible to vote having regard to the directions in para 52(a) above. Such list shall be prepared and displayed for objections after

which the final list of voters shall be prepared at least four weeks before the date of voting."

11. Admittedly the schedule of the general election for the Saket Bar Association has not yet been declared.

12. The term of executive committee of the bar association is one year. No valid reason has been provided by the Respondents as to fixing of the cut off date of eligibility as 31.08.2018. Fixing of cut off date of as 31.08.2018 would imply that all members who are enrolled after 31.08.2017 would be excluded from the election process, even though they may complete the minimum period of one year on the rolls of the Saket Bar Association as on the date of the declaration of the schedule of the general elections. There is no justifiable ground to exclude such members from the election process.

13. There mere fact that the scrutiny of the declaration forms is a time consuming process and members have to pay their subscription is no ground to deny the members, who became members after 31.08.2017 and would complete the period of one year on the rolls of the Saket Bar Association before the declaration of the Schedule of the general elections.

14. In view of above, the writ petition is allowed and is disposed of with a direction that the respondents shall include in the voters list the name of the petitioner and also of such other members who complete the minimum period of one year on the rolls of the Saket Bar Association as on the date of declaration of the schedule of the general election subject to them complying with the other conditions and also filing a declaration as mandated by the Division Bench in P. K. Dash (supra) and paying the subscription of the Bar Association.

15. Petition is accordingly allowed in the above terms.

16. Order dasti under signatures of the Court Master.