

(1997) 12 SC CK 0079

In the Supreme Court Of India

Case No : Civil Appeal No's. 8464-65 of 1997 Arising out of SLP (C) No's.
20026-27 of 1997

Bar Council of India

APPELLANT

Vs

Om Prakash Faizi and Others

RESPONDENT

Date of Decision : 02-12-1997

Acts Referred:

Advocates Act, 1961 — Section 8, 8A

Citation : AIR 1998 SC 3054 : (1998) AIRSCW 2914 : (1998) 4 JT 243 : (1998)
7 SCALE 21 : (1997) 7 SCALE 21 : (1998) 2 SCC 434 : (1998) 3 UPLBEC 2046

Hon'ble Judges : S. Rajendra Babu, J;S. C. Agrawal, J;B. N. Kirpal, J

Bench : Full Bench

Final Decision : Disposed Of

Judgement

1. Special leave granted.

2. Special appeals have been filed against the interim orders dated 27-8-1997 and 23-9-1997 passed by the Delhi High Court in a pending writ petition filed by the respondents wherein they have challenged the validity of the provisions contained in Sections 8 and 8-A of the Advocates Act, 1961 as amended by Act 70 of 1993 as well as the resolution dated 9-8-1997 of the Bar Council of India.

3. We have heard Shri Harish N. Salve, the learned Senior Counsel appearing for the appellant on these appeals and Shri Soli J. Sorabjee, and Shri Arun Jaitley, the learned Senior Counsel appearing for the respondents. Having considered the submissions made by the learned counsel for the parties, we dispose of the appeals with the following directions:

1. The impugned orders are set aside.

2. The reconstitution of the Committee that has been constituted by the Bar Council of India under the Resolution dated 9-8-1997 shall be considered by the Bar Council of India at the meeting to be held on 13-12-1997 as per the agenda note dated 24-11-1997. In this regard Shri Salve has stated that the Bar Council

of India will favourably consider the person suggested by Shri Sorabjee and Shri Jaitley to be placed on the said Committee.

3. The preliminary roll for the election for the Bar Council of Delhi which was published on 20-10-1997 shall form the basis for preparing the final roll for the said election.

4. For the purpose of preparation of the final roll it will be necessary for the advocates borne on the roll of the Bar Council of Delhi to pay the subscription prescribed under Rule 40 of the Bar Council of India Rules. The notification of the Bar Council of Delhi dated 14-10-1997 stating that the payment of the said amount is not a condition for being entitled to vote in the elections will not be operative.

5. The Committee constituted by the Bar Council of India shall publish a notice asking the advocates to pay the subscription payable under Rule 40 on or before 3-1-1998. Service of personal notice is dispensed with. The notice shall be published in The Hindustan Times, Times of India and Nav Bharat Times, Delhi Edition. The various Bar Associations shall be requested to place the said notice on the notice board.

6. The Committee shall set up at least three collection centers for collecting the subscription amount from the advocates preferably at Tis Hazari Court, Karkarduma Court and Delhi High Court.

7. The final electoral roll will be published on or before 15-1-1998.

8. The election shall be held on 20-3-1998 notwithstanding any order of any court or any decision of the Bar Council of India.

4. In view of the aforementioned directions Shri Sorabjee, the learned Senior Counsel appearing for the respondents, states that the respondents will withdraw Writ Petition No. 3438 of 1997 pending in the Delhi High Court. The appeals are disposed of accordingly. No order as to costs.