

(2018) 08 RAJ CK 0001

In the Rajasthan High Court

Case No : Civil Writ Petition No.11300 of 2018

Jagmal Singh Choudhary @APPELLANT@Hash Bar Council of India

Date of Decision : 02-08-2018

Acts Referred:

Advocates Act, 1961 — Section 8A(2)
Code of Civil Procedure, 1908 — Order 1 Rule 10
Constitution of India, 1950 — Article 226

Citation : (2018) 08 RAJ CK 0001

Hon'ble Judges : Dr.Pushpendra Singh Bhati, J

Bench : Single Bench

Advocate : M.S.Singhvi, Hemant Dutt, Rajat Dave, M.R.Singhvi, Bhavit Sharma, S.S.Ladreacha, Vikas Choudhary, Ranjeet Joshi, R.P.Malik, Mahesh Sharma

Final Decision : Allowed

Judgement

2nd August 2018,"Nomination for the post of office bearers of Rajasthan State Bar

Council from 10.00 am to 4.00 pm on 2nd

, "August, 2018.

, "Scrutiny of nomination at 4.15 PM on 2nd August, 2018. Publication

of List at 4.45 PM on 2nd August, 2018.

3rd August, 2018", "Withdrawal of nominations till 4.00 PM on 3rd August, 2018.

, "Final List of candidates to be put on the Notice Board of the Council

at 5.00 PM on 3rd August, 2018.

5th August, 2018", "Election of office bearers of Rajasthan State Bar Council at 11.15 am

on 5th August, 2018.

, "Declaration of result at 12.30 pm on 5th August, 2018.

Sir,"

Enclosed please find a copy of letter No.BCI:D:2997/2018 (CL) dated 01.08.2018 received from the Bar Council of India, New Delhi regarding withholding/cancellation/deferring of the elections including the schedule of elections of the office",

bearers including Chairman, Vice-Chairman and seven Co-Chairman of this State Bar Council and Member Representative to Bar Council of India from this State Bar Council for 5th August, 2018 and 12th August, 2018.",

This is for your kind information and necessary compliance.,

Â,

Yours faithfully,"

Sd/(R.P. Malik),

Secretary,

Encl: As above.â??,

23. After hearing all the parties at length, this Court finds that the Honâ??ble Apex Court in the aforequoted order dated 23.03.2018, while agreeing to the resolutions passed by the Bar Council of India, gave three directions in IA",

No.39883/2018 in Transferred Case (Civil) No(s).126/2015, which have already been reproduced hereinabove, and which throw sufficient light on the manner, in which the elections for electing the Members as well as the elections for electing", the Office Bearers have to be conducted and completed.,

24. The Honâ??ble Apex Court in direction (a) contained in the aforementioned order dated 23.03.2018 has given directions to regulate the initial elections, which have already taken place and are not in dispute. Direction (b) given by the",

Honâ??ble Apex Court in the said order requires that after getting the approval from the Tribunals supervising the elections and the approval from the Bar Council of India, the results of the elections were to be sent for publication in the",

Official Gazette, which has already been sent and published in the Official Gazette vide notification dated 17.07.2018.",

25. The Honâ??ble Apex Court, in the aforementioned order dated 23.03.2018, has further observed that the same principle shall apply for the elections of Chairman, Vice Chairman, representative-Member and other posts of State Bar",

Councils/Bar Council of India. The Bar Council of India shall fix the schedule for the elections for the above-mentioned posts, after getting final approval from the

concerned Tribunals and after getting satisfied with the fairness of the",
elections. This stage has already been crossed, as the notification dated 27.07.2018 has been approved in the aforesaid manner and sent by the Bar Council of India, and the election schedule has also been announced.",

26. Now comes the stage of that part of the direction (b) contained in the aforesaid order dated 23.03.2018 passed by the Honâ??ble Apex Court, in which it has been clearly stipulated that all the disputes and complaints relating to the",
elections of Chairman, Vice Chairman, representative-Member and other posts of State Bar Councils/Bar Council of India, shall be disposed of before publication of the result in the Official Gazette.",

27. Thus, at this stage, this Court, while adjudicating the current dispute of schedule for elections deferred by the Bar Council of India vide its letter dated 01.08.2018 and executed by the Bar Council of Rajasthan vide its letter dated",

02.08.2018, are required to be gone into, in light of the directions given by the Honâ??ble Apex Court on 23.03.2018.",

28. The matter has been heard at length in the latter half of the day i.e. on 02.08.2018, and by the time the hearing is concluded, the aforementioned schedule notified on 27.07.2018 almost stands frustrated, on account of the fact that the",

nominations could have been filed only today i.e. 02.08.2018 uptill 04:00 p.m., and the time therefor is thus almost over.",

29. This Court finds that the related schedule already declared stands frustrated, as the date of nomination is no more available.",

30. This Court however, feels that by no stretch of imagination, at this stage, the elections can be deferred, as if there are any complaints by the elected Members or any genuine complaint from any other Member, then the same can be looked",

into, as per the mechanism settled by the Honâ??ble Apex Court, before the results are finally announced; but the same does not justify the deferring of the elections, which has been done vide the aforesaid letter dated 01.08.2018.",

31. In the larger interest of democracy in the Statutory Institution of the Lawyers, it is essential to maintain the mandate of the Lawyers of the State of Rajasthan. The elected Members of the Bar Council of Rajasthan are already non-",

functional since June, 2015, and a long time has lapsed since the elected Members would start functioning and crucial operations providing reliefs, like medical relief, death relief and other reliefs are undertaken. It is also in the interest of a",

common citizen, the litigant, who only has a limited remedy against professional

misconduct before the Statutory Body in question.",

32. This Court has also seen Section 8A(2) of the Advocates Act, 1961, which requires the constitution of the Special Committee in the absence of elections, and this Court finds that the function of such Special Committee has come to an end,"

as only the elections for electing the Office Bearers remain.,

33. On being asked, the learned Additional Advocate General, Shri Shyam Ladrecha and Secretary, Bar Council of Rajasthan, Shri R.P.Malik replied that if directed, the new schedule of election could be completed on any Sunday after",

12.08.2018.,

34. This Court also finds that the Election Rules of the Bar Council of Rajasthan, Jodhpur also requires that the names of the elected Office Bearers have to be notified by the Bar Council of Rajasthan and a copy whereof shall be sent for",

publication in the Rajasthan Rajpatra.,

35. In light of the above and while completely following the directions given by the Honâ??ble Apex Court on 23.03.2018 on this issue, this Court passes the following directions in this case:",

(a) Issue notice to the respondents. Mr.R.P.Malik,Secretary, Bar Council of Rajasthan is present in person and accepts notice.Â Hence, notice need not be issued to respondent No.2. However, notice be issued to respondent No.1 only and",

the same be given dasti to the learned counsel for the petitioners. Rule is made returnable on 20.08.2018.,

(b) In the application received by this Court under Order 1 Rule 10 CPC moved by some of the Members, namely, Shri Ranjeet Joshi, Dr.Mahesh Sharma, Shri Yogendra Singh Shaktawat and Shri Kapil Mathur, we do not find any reason why",

the elected Members of the Bar Council of Rajasthan should not be heard for the purpose of the present adjudication, and thus, the application under Order 1 Rule 10 CPC is allowed and the applicants, as mentioned in the said application, are",

impleaded as party in this case. Let the amended cause title be filed accordingly.,

(c) The effect and operation of the order dated 01.08.2018 issued by the Bar Council of India and the order dated 02.08.2018 issued by the Bar Council of Rajasthan shall remain stayed.,

(d) The Bar Council of India and Bar Council of Rajasthan are directed to issue fresh schedule for the elections within a period of three days from today, as the date for filing the nominations as per the earlier schedule has already gone.",

(e) The sufficient communication shall be sent by the Bar Council of Rajasthan to each elected Member to apprise him of such schedule to be issued in pursuance of this order.,

(f) The elections to be scheduled and conducted by the Bar Council of Rajasthan, as directed in direction (d) of this order, shall be completed on or before 19.08.2018, but the result of such elections shall be kept in a sealed cover with the",

Secretary, Bar Council of Rajasthan, till further orders.",

(g) The learned Advocate General of the State of Rajasthan is directed to submit an independent report on the whole issue on the next date in a sealed cover.,

Let the matter be again listed on 20.08.2018.,