

(1982) 04 RAJ CK 0001
In the Rajasthan High Court
Case No : Civil Writ Petition No. 415 of 1989

Ram Chandra Sharma Advocate

APPELLANT

Vs

Bar Council of India

RESPONDENT

Date of Decision : 17-04-1982

Acts Referred:

Advocates Act, 1961 — Section 15, 3, 49, 8
Constitution of India, 1950 — Article 226, 329

Citation : (1982) WLN 347

Hon'ble Judges : G.M. Lodha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

G.M. Lodha, J.—The elections of the Bar Council of Rajasthan are under fame and fire in this petition, where several allegations have been made arising from the plant of invalidity of Rule 4 and going to the extent of allegation of rigging of the entire elections. The writ petition had been admitted by this Court on 7th of April, 1982 while counting of the votes were in progress, having counted on the same day. An interim stay order was granted restraining the Respondents from declaring the results of the election but permitting them to go ahead with the counting the votes.

2. The Bar Council of Rajasthan along with the Chairman of the Bar Council and the Secretary have filed the return and prayed that the ad interim stay order granted by this Court should be counted as that the process of the election can be completed and the results can be declared.

3. Prolonged arguments were heard and in view of the agency and importance of the matter, the arguments have been completed today on a non-working day, at the request of the learned Counsel for the parties.

4. The elections are taking place under the Advocates Act 1962 hereinafter called as the Act and the Rules framed thereunder.

5. The petitioner is an Advocate of this Court and is one of the contestant in this election. The entire election process except the counting of the votes was over by 20th of March, 1982 and the petition was filed on 5th of April 1982 when the final phase leading to declaration of the election result was commenced from 7th of April 1982.

6. The facts are not in dispute. The principal controversy raised in this writ petition centers ground the process of preparation of electoral rolls of the Bar Council Rule 4 by which Advocates who want to enroll as voters in the voters list are required to submit to the Bar Council a declaration mentioning information required in terms of Rule 2 in the prescribed form or form exactly similar there to and unless that is done his name can not be included in the electoral roll and he shall not be entitled to take part in election in question. The relevant Rule 4 Sub-rule (1) of the Bar Council of India Rules Part 3 Chapter I reads as under:

4(1) In preparing the Electoral Roll, unless the State Bar Council concerned is already maintaining a list of Advocates who are entitled to be voters interm of Rule 2 of these Rules, at least 150 days before the date of election shall publish notice issued by the Secretary of the State Bar Council concerned in the prescribed Form in the Official Gazette and in two or more legal news papers, one English and the other of local language, as may be decided by the State Bar Council, asking each of the Advocate of the Roll of the concerned State Bar Council to intimate the State Bar Council within the time to be specified in the said notice or within such extended time as may be given , allowed by the State Bar Council for reasons to be recorded, as to whether he has incurred any disqualification mentioned in Rule 2 of these Rules (Rule 2 has to be quoted in the notice). By the said notice the Secretary shall also inform the Advocates concerned that unless information required by the said notice in question is received by the State Bar Council in the prescribed form or form exactly similar thereto, within the specified time or within the extended time as stated herein above his name shall not be included in the Electoral Roll and he shall not be entitled to take part in the election in question.

7. According to the " petitioner the disqualifications for an Advocate which can result in preventing his name from being included in the electoral roll are given in Rule 2 of these Rules and Rule 3 is a mandate that the name of every Advocate entered in the State roll shall be entered in the electoral roll of the State Council. Mr. Lodha submitted that in view of this the substantive right of an Advocate who is eligible and not disqualified according to Rule 2 cannot be taken away by this procedural rider which has been put in Sub-rule (4) which is beyond the authority and competence of the Bar Council of India. In this respect it was pointed out that the Bar Council of India under the Advocates Act cannot impose conditions like Rule 4 which in terms is not a condition but creates disqualification not contemplated by the Advocates Act or Rule 2. Various provisions of the Advocates Rules were referred to, in which it was argued that it was Council who maintains a list and according to Rule 4(3) every year an

Advocate is required to submit a declaration or give information and that a list being there it fulfils the conditions of the proceeding clause of Rule 4 which says that declaration is necessary only if the Bar Council concerned is not maintaining a list of Advocates who are entitled to be voters in view of Rule 2 of the Rules.

8. In substance the submissions of the learned Counsel for the petitioner are two fold: firstly, Rule 4 is ultra vires being repugnant to various provisions of the Advocates Act and secondly, even if it is held to be intra-vires a list as contemplated by Sub-rule (4) being already in existence there was no requirement of calling for fresh declaration.

9. These submissions and contentions were controverted by Mr. Mehta who pointed out that it was the Bar Council of India has get statutory authority and not only it is empowered but it is the duty of the Bar Council to frame Rules u/s 49 Sub-clause (I) read with Section 3(4) of the Advocates Act. Reliance was placed by both the learned Counsel on the important decision of the Supreme Court Bar Council of Bar Council of Delhi and Others Vs. Surjeet Singh and Others, whereas Mr. Mehta relied upon on the following observations:

The State Bar Council can frame rules for the preparation and revision of electoral rolls u/s 15(2)(a). That would be in conformity with the latter part of Sub-section (4) of Section 3 also. But in the garb of making a rule for the preparation and revision of the electoral rolls it cannot prescribe disqualifications, qualifications, or conditions subject to which an Advocate whose name occurs in the State roll can find place in the electoral roll resulting in his deprivation of his right to vote at the election. In the instant case under the impugned proviso failure on the part of an Advocate to submit the required declaration within the specified time entitles the State Bar Council to exclude his name from the electoral roll. Such a thing was squarely covered by the exclusive power conferred on the Bar Council of India under Rs. 3(4) and 49(1)(a) of the Advocates Act

10. Contrary to it Mr. Lodha appearing for the petitioner relies upon the observations contained in para 11 which reads as under:

The contesting respondents could not be defeated in their writ petitions on the ground of estoppel or the principle that one cannot approbate and reprobate or that they were guilty of laches. In the first instance some of the contesting respondents were merely voter Even Shri Surjeet Singh in his writ petition claimed to be both a candidate and a voter. As a voter he could challenge the election even assuming that as a candidate after being unsuccessful he was estopped from doing so. But to be precise, we are of the opinion that merely because he took part in the election by standing as a candidate or by exercise of his right or franchise he cannot be estopped from challenging the whole election when the election was glaringly illegal and void on the basis of the obnoxious proviso. There is no question of approbation and reprobation at the same time in such a case. A voter could come to the High Court even earlier before the

election was held. But merely because he came to challenge the election after it was held it cannot be said that he was guilty of any laches and must be consulted only on that account.

11. It is common ground that Rule 4 which is under challenge in this case is, *para materia* the same which was in challenge before the Hon'ble Supreme Court in the form of the proviso.

12. Various submissions were made regarding the merit of the case but I am dealing with the stay matter at this stage. It would be inexpedient to enter into wide horizons of the controversy raised at this stage.

13. The factual aspect as per the statements submitted by the Secre-tan Bar Council in respect of the number of Advocates who could have participated but for the requirement of declaration is as under:

11-8-81 No. of Advocates on the rolls 10,137. Less No. of Advocates reported to have suspended practice voluntarily. 840 No. of Advocates reported dead 308 _____ 1148 _____ 8989 _____ No. of Advocates whose declaration were called 8989 Less No. of declaration received 5672 _____ 3317 _____

The above would show that 3317 Advocates did not submit the declaration under Rule 4 and consequently although they were on the Rolls of the Bar Council, they were not included in the rolls of the electoral rolls prepared for holding the elections now.

14. It would also reveal that 5672 Advocates complied with the requirement of Rule 4 and out of them 4443 Advocates exercised their right of vote.

15. On the above date which is not in dispute it is obvious that but for the requirement of Rule 4 at least 3317 Advocates were deprived of their right to participate in the election process of the Bar Council and to give two preferences each for electing 20 members of the Rajasthan Bar Council. The above number undoubtedly is not insignificant and if the validity of the Rule which has been challenged in this Court is examined ultimately and it is found that the rule is invalid, it would *prima facie* have serious and disastrous consequences so far as the results of the elections are concerned.

16. On a careful and thoughtful consideration of the respective contentions which I have examined only to the limited extent to find out whether there is a *prima facie* case in favour of the petitioner, I find that serious questions have been raised and *prima facie* they would require still more serious consideration. Whether Rule 4 can be created as a substantive provisions by which about 3317 Advocates out of 8890 Advocates can be deprived of their right to participate in the election both by contesting and by giving votes, is a matter of serious magnitude and cannot be brushed aside by treating the objection as frivolous, vexatious, technical or untenable at this stage.

17. It is true that in Delhi case at one stage of the case their Lordship have made

observations pointed out by Mr. Mehta which may lead to a conclusion that in their view it was not in the competence of the State Bar Council but it was in the competence of the Bar Council of India to frame such a Rule. It is equally true that their Lordships of the Apex Court have been conscious enough not to prejudice the submissions which may be made against the validity of this Rule and for this they have expressly observed at page 1616 as under:

In this appeal we are not concerned with in the propriety or legality of asking such a declaration from a person belonging to the noble profession.

We shall proceed on the assumption that such an information could be....

The above would show that their Lordships have taken enough and cogent precautions to not to adjudicate this matter and keep the question of validity open.

18. At other stage of the case and that other part of the judgment their Lordships have turned the proviso requiring the declaration as "obnoxious" though this was used while discussing the question of estoppel and in the context of competence of the State Bar Council to frame such Rules. The term obnoxious according to Webster dictionary Vol. II means exposed to harm subject to liable to injury," liable to punishment, or censure reprehensible, hurtful injuries, an object of aversion or dislike, giving offence, acting objectionable.

19. Undoubtedly the use of the word of "obnoxious" for the above Rule prima facie lends to a tentative conclusion and dictation that it is objectionable injuries offensive and reprehensible. True is that their Lordships of the Supreme Court have themselves said that in the earlier part of the judgment that they are not concerned with the validity of the rules requiring declaration except the limited extent of competence of the State Bar Council to frame such a rule. It is equally true as pointed out by Mr. Mehta that while using the word "obnoxious" their Lordships were trying to emphasize that the petitioner who has come after the elections cannot be estopped from challenging it. But all said and done this obnoxious term having serious significance had having a well known well established well defined connotation in law having been used by the Apex Court for this proviso certainly prima facie throws serious doubts about its validity which would require a detailed thoughtful consideration by this Court at the time of hearing of the case.

20. The fact that this Rule which was in the form of the proviso in the case before the Hon'ble Supreme Court has been termed as obnoxious and the fact that 3317 Advocates on the rolls of the Bar Council on 11-8-81 have been deprived of the right to vote on account of nonsubmission of the declaration without there being any finding on the question of disqualification. Certainly it creates a situation where the petitioner who has challenged this Rule on many fold grounds cannot be said to have come out with a frivolous case. I have therefore got no hesitation in holding that the petitioner has got a strong prima facie case which would require serious consideration by this Court at the time of

hearing of the writ petition.

21. However, as has been laid down by this Court in a number of decisions in order to succeed in obtaining the stay, the petitioner is further required to fulfil two more conditions of balance of convenience being in his favour and showing that he would suffer irreparable injury if the stay order is not granted.

22. Since these two conditions are overlapping to extent I would deal them jointly instead of dealing with them independently. In order to appreciate the dimension of this controversy it must be noticed at the very outset that the petitioner is one of the contesting candidates. According to the information given awaited by the Secretary Bar Council through the counsel for the petitioner he secured approximately 52 votes out of 4443 votes cast. In order to succeed a candidate was required to have 249.01 votes. The process of election was continuing and for some time as according to Mr. Lodha himself the Bar Council asked the Advocate to send declaration in terms of Rule 4 repeatedly, and in all, three times. The nominations were called by a notification which was issued on 5th of January 1982 and they were to be filed by 5th February, 1982. The voting process started and was completed by 20th of March, 1982. It would thus be seen that leaving aside the earlier period at least for three months January, February and March the entire process was going on.

23. It is true that as held by their Lordships in the above mentioned case of Delhi Bar Council elections the petitioner is set estopped from challenging the election on account of this conduct but the question which calls for serious consideration is that whether there are equities in their favour for granting stay order.

24. Coupled with above yet another important factor of the case is that the term of the members of the Bar Council who were elected earlier had expired on 15th of April 1982 and according to Section 8 of the Advocates Act they will continue till their successor took over after a valid declaration of the result and publication of the case.

25. Mr. Lodha tried to point out that the Bar Council of India and the High Court would be functioning as the Bar Council to the stay order if confirmed and there would be no vacuum. He also pointed out that Section 8 is not applicable.

26. However, prima facie on a close reading of the relevant section I am of the opinion that Section 8 is the only relevant section for the purpose of considering the controversy at this stage. That being so the legal and logical consequence is that whereas those members whose term has expired on 15th of April 1982 could continue to function till the new members are elected and as per the petitioner's case because in his opinion the elections are invalid and the newly elected members should be deprived from functioning as members of the Bar Council. This particular aspect of the case is equally important while considering the question of balance of convenience and irreparable loss to the petitioner. Added to the above yet another important factor of the case is that when results have been formerly withheld and almost all the members of the Bar knowing the

results as the counting is done openly, those of the members of the Bar Council who have been now elected would not be allowed to function inspite of the mandate in their favour by 4443 Advocates

27. In this context it would not be improper to consider that by and large the consensus of opinion of the various High Courts have been that the election process should normally be allowed to be completed once it is started. In this connection reliance can be placed to a decision of this Court in *Ramratan v. State of Rajasthan* 1971 RLW 523 wherein it was observed as under:

The voters ought to have filed objections, if any, in regard to the inclusion or exclusion of the names of the voters within the prescribed time. But they did not do so They cannot now at this stage challenge the voters' list, when the elections are in progress. Any matter which has the effect of vitiating election can be brought up at appropriate stage in an appropriate manner and not at an intermediate stage.

In this case the famous classifical case of *N.P. Ponnuswami v. Returning Officer, Nemakkal* 1 B.L P.S.C. 133 was relied upon and considered and so also *Atra Singh's* case of Full Bench of this Court reported in 1967 RLW 275).

28. I had occasion to consider this aspect of the case whether election process should be stayed in *Sualal v. Mrs. Indra Gandhi* where an injunction was sought in the case to stay the Chikmanglur election. In *Dhabai Sua Lal Yadav Vs. Smt. Indira Nehru Gandhi and Others*, relying upon *Pomnuswami's* case (supra) this Court refused to grant stay for staying the election of Chikmanglur. It is true that those elections of the Parliament were under the Representation of Peoples Act and under Article 329 of the Constitution was invoked by this Court for rejecting the prayer of stay. However in an oasis of Democracy fact which has been noticed by Hon''ble the Supreme Court in the recent West Bengal Poll case, it is to be noted that the democratic process of the election whether at the apex level of the Parliament or at the gross root level of the Panchayat and covering entire field of democracy may be Municipalities or the District Boards Cooperative Society or the Bar council the election process should not be with held in between and should be allowed to be completed once it has commenced. In the West Bengal Electoral case the Hon''ble Supreme Court in its judgment on March 30, 1982 not reported in the Journal so far but text of which has been reported in the Times of India dated 31st of March 1982 dismissed the writ petition and while doing so it deplicated any attempt or practice to interfere during process of election generally, although it observed that the jurisdiction of Article 226 is not restricted.

29. The apex court while dealing with the West Bengal electoral case laid down the following propositions in its first short judgment delivered on March 30. The stay order passed by the West Bengal High Court restraining the Election Commission from proceeding with the election of the legislative Assembly was vacated by unanimous verdict and the writ petition challenging the same was

ordered to be dismissed again by unanimous judgment by Hon"ble Chief Justice Y.V. Chandrachud, Justice D.A. Desai Justice A.P. Sen and Justice E.V. Venkataramiah & Islam. The majority judgment strongly depreciated the effort to shake the public confidence in the constitutional institutions like Election Commission and its functioning and held that public authorities concerned with the preparation of electoral rolls have functioned very well for 35 years and it is not possible to hold that in West Bengal they are totally colour blind. Hon"ble Justice Baharul Islam disassociated with some of the observations particularly in Para No. 2 of the order but in his dissenting note observed that though integrity and impartiality of the Election Commission was beyond doubt, the same cannot be said for all the staff working under it and supported to carry out its direction in the manner of preparation of electoral rolls.

30. The majority judgment was of the view that though the High Court did not lack the jurisdiction to entertain the writ petition and to issue appropriate directions therein, no High Court in the exercise of its powers under Article 226 of the Constitution should pass any orders, interim or otherwise, which has the tendency or effect of postponing an election, which is reasonably imminent and in relation to which its writ jurisdiction is invoked.

31. In this classical judgment which would be a land mark in relation to electoral matters and powers of the High Court to restrain the electoral process, their Lordships made the following observations:

India is an oasis of democracy, a fact of contemporary history which demands of the courts the use of wise statesmanship in the exercise of their extraordinary powers under the Constitution. The High Courts must observe a self-imposed limitation on their power to act under Article 226, by refusing to pass orders or give directions which will inevitably result in an indefinite postponement of elections to legislative bodies, which are the very essence of the democratic foundation and functioning of our Constitution.

That limitation ought to be observed irrespective of the fact whether the preparation and publication of electoral rolls are a part of the process of "election" within the meaning of Articles 329(3) of the Constitution. We will pronounce upon that question later in our judgment.

32. The Apex Court then gave a warning to all against such premature interference in the electoral process and observed as under;:

It takes years to build up public confidence in the functioning of constitutional institutions, and a single court hearing, perhaps, to sully their image by casting aspersions upon them.

It is the duty of the courts to protect and preserve the integrity of all constitutional institutions which are devised to foster democracy. And when the method of their functioning is questioned, which is open to the citizen to do, courts must examine the allegations with more than ordinary care.

The presumption, be it remembered, is always of the existence of "bonafides" in the discharge of constitutional and statutory functions. Until that presumption is displaced, it is not just or proper to act on preconceived notions and to prevent public authorities from discharging functions which are clothed upon them.

We hope and trust that the charges levelled by the petitioners against the Election Commission, the Chief Electoral Officer & the Electoral Registration Officers will not generate a feeling in the minds of the public that the elections held hitherto in our country over the past 30 years under the superintendence, direction and control of successive Election Commission have been a pretence and a facade.

The public ought not to carry any such impression and the voters must and go to the ballot box undeterred by the sense of frustration which the petitioners' charges are likely to create in their minds.

We see no substance in the accusation that the voters list have been rigged by the election authorities with the help of enumerators belonging to any particular political party.

Enumerators are mostly drawn from amongst teachers and government servants and it is difficult to imagine 36 years after independence, they are totally colour-blind. They are the same in every constituency. The safeguard lies in the efficiency and impartiality of the higher officers who have to decide objections filed in relation to the voters' lists. That safeguard is not shown to have failed in the instant case.

The above principle laid down by the Apex Court of this country in the election dispute provides valuable guidelines though Mr. Lodha corrected when he pointed out that the election of the Parliament and Assemblies governed by Article 329 and other provisions of the Constitution stands on a different high pedestal.

33. I am of the opinion that these principles have given valuable guidelines for the use of this country so far as interim orders in the form of stay or injunction are concerned in the midst of election process.

34. On the basis of the above principles which have not been laid down for the first time but have been reiterated undoubtedly a stay or injunction during the process of election is an extra-ordinary phenomenon normally not to be resorted to by this Court unless there are very strong compelling reasons for doing so.

35. The public convenience which was harped upon by both the learned Counsel representing divergent parties is to be one of the important consideration. Can it be said that it would be in the public interest to give a new lease of life to those members of the Bar Council whose term has expired and not to permit the newly born representatives of the Bar 10 breath in fresh air and fulfil the promises which they might have given to about 5-thousana voters for the development, growth and for the all round expansions of the various fields of academic or the other activities of the Bar Council in the interest of this noble legal profession

which is required to act as the watch dog of life and the liberty of the citizens, the rule of law and the Constitution. Would it be fair and. the balance of convenience lies in putting these newly born leaders of the Bar, in "Coma"" in spite of a verdict of the members of the Bar in their favour with the result that those who are dead would take the rebirth from the grave and those who have been born by an electoral process would be compelled to face and sustain "COMA", unconsciousness, twisting the result of those elections. It would be killing not a still born child but a born child without determining legitimacy or illegitimacy. I am therefore of the opinion that it would neither be in the interest of justice nor in consonance with the principles which are well established and well known in such matters and a few of which have been enumerated above highlighted by court in the West Bengal Electoral judgment, to restrain them from functioning as members of the Bar Council.

36. It is beyond imagination to appreciate what irreparable loss would be caused to the petitioner in such a case. For one undoubtedly he had lost the electoral battle having failed to secure and obtain a verdict and confidence from a minimum of 249 Advocates out of about 4000 and odd Advocates who cast their votes. It is difficult to accept and visualise that either all those who have not given the declaration were determined to give declaration in his favour at the time of voting or that sizable number in any case was with him. An Advocate who fails to give a declaration as contemplated by rule 4 is either too negligent or lethargic or indifferent to the process of election. Although these observations of mine should not be taken to mean that in case he has got a substantive right as argued by Mr. Lodha he can be deprived of it by Rule 4. Never-the-less in order to get relief of stay, what would be required in vigilance and lack of vigilance by the petitioner to get declaration made by those Advocates who were thinking of supporting him or he could have supported him itself to a factor which weighs against him for the purpose of stay matter.

37. Mr. Lodha pointed out that vast public interest is involved and therefore this Court should not insist on requirement of irreparable loss to an individual in the facts and circumstances of this case. That may be true in a given case, that, in view of the order horizons and new dimensions opened by the Hon"ble Supreme Court about the "Locus standi" in the public interest litigation as per the decision of S. P. Gupta's case, strict insistence of personal injury or personal loss need not be insisted upon for invoking Article 226.

38. But at the case time I am not concerned with maintainability of the writ petition, because I have already entertained it and all that is required to be considered is whether democratic process which has come to the stage of counting & the results which have been informally known should be prevented from being formally known, and the members of the Bar Council who have received the requisite number of votes in the process of counting should be kept either as still born child till the matter is decided or known by suspending their right to function as members at the Bar Council and hold various offices like the

Chairman or representative to the All India Bar Council or Chairman or Members of the Disciplinary Committees etc.

39. The petitioner cannot get any benefit by insisting on depriving them from this right till the validity of the rule is decided. Because that insistence in the instant case would be with all respect and with all restraint, an insistence of "pound of flesh" if I am permitted to use Shakespeare's language in "Merchant of Venice". I have already held in some of cases that reacting of "Merchant of Venice" and insistence of "pound of flesh" and not a drop of blood Portia's Advocacy have become out dated and obsolete and not in consonance with the well carved out principle of "Space Age justice" which is real justice, substantial justice and "social justice" is the present social context.

40. I am therefore convinced that neither the balance of convenience is in favour of the petitioner nor he would suffer any irreparable loss if the prayer for stay is refused. I am further convinced that even on the assumption that irreparable loss to individual need not be insisted upon and in view of the new dimensions the public interest litigation may be looked into; then the public interest which in the instant case were concerned with interest of the members of the Bar and all institutions connecting with it also is in permitting the democratising principles to have its legal and logical expansion by functioning as members of the Bar Council during the pendency of the writ petition

41. Since I am convinced that even though the petitioner has established a good prima facie case which would require serious consideration by the Court but because he has failed to show that the balance of convenience is in favour of restraining the new members of the Bar Council from functioning or formal getting a formal declaration of the result and because further I have held that the interest of public which means in the instant case interest of the Bar as a whole would be served only by declaring results not contrary to it would be jeopardized and infringed by writ holding the results and giving a new artificial life to those members whose term has expired. I have got no hesitation to hold that this stay petition deserves to be dismissed and is consequently dismissed.

42. During the course of the arguments, the petitioners expressed apprehension that because the results are declared there would be loss to the petitioner because there may be insistence for the newly elected members to join as a party. Their service would be both expensive and time consuming, may be avoided. Though this consideration is not sufficient to grant stay but it is made clear that the result of the election would be declared by an express averment in the result-sheet that it would be subject to the decision of this writ petition. It is further made clear that the petitioner in view of the conditional declaration of the result would not be required to join the newly elected members as party and the writ petition would not be liable to be dismissed on account of their nonjoinder. However, it would be open to the newly elected members to voluntarily come and appear and join this legal battle and if applications are made by them they would be added as parties in the case.

43. In view of the fact that I have held that the petitioner has got a good prime facie case I am further of the opinion that a date must be fixed for hearing the case at earlier date so that the suspense about the validity of the Rule is set at rest. The learned Counsel of the parties agree that in view of the urgency and importance of the matter the case should be heard on 10th of May, 1982 and all the respondents would file the returns before a week of the date of hearing. It is further ordered that in case the case is not heard and decided on 10th of May, 1982 then in view of what I have stated above the case should be kept in the daily cause list and it should be heard and decided during vacation.

44. The result of the above discussion is that the stay application is dismissed and the ad interim stay order passed on 7-4-82 is vacated, but on the condition that the result of election would be declared subject to the result of this writ petition and this condition would be incorporated in writing in the formal declaration of result of the Bar Council elections.