

(2019) 04 SHI CK 0033

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 2496 Of 2018

Ramakant Sharma & Ors

APPELLANT

Vs

Bar Council Of India & Ors

RESPONDENT

Date of Decision : 26-04-2019

Acts Referred:

Advocates Act, 1961 — Section 8(A)

Bar Council Of Himachal Pradesh (Constitution And Conduct Of Business) Rules, 1999 — Rule 4, 10

Bar Council Of India Certificate And Place Of Practice (Verification) Rules, 2015 — Rule 5(a)

Karnataka State Bar Council Election Rules, 1971 — Rule 32

Bar Council Of Uttarakhand Nainital Election Rules, 2014 — Rule 32

Bar Council Of India Rules, 1975 — Rule 10

Citation : (2019) 04 SHI CK 0033

Hon'ble Judges : Tarlok Singh Chauhan, J;Chander Bhusan Barowalia, J

Bench : Division Bench

Advocate : B.C. Negi, Basant Thakur, N.K. Sood, Aman Sood, K. S. Banyal, Inder Rana, Shrawan Dogra, Megha, Kapur Gautam

Final Decision : Allowed

Judgement

Tarlok Singh Chauhan, J

1. This writ petition is directed against the resolution passed by the Bar Council of India in its meeting held on 15.09.2018, whereby it has ordered the maintenance of status quo as existed prior to 07.08.2018, while entertaining a petition filed by seven Members of the Bar Council of Himachal Pradesh and has been filed for the following substantive relief(s):-

"(I) Issue a writ in the nature of certiorari to quash and set aside annexure P-45 dated 15.09.2018 consequently upholding elections of the petitioners No. 1 to 3 as Chairman, Vice Chairman and Member- Representative to Bar Council of India and that of petitioners No. 4 to 8 as members of various committees.

(II) Issue a writ in the nature of mandamus directing respondents not to give effect to the annexure P-45, dated 15.09.2018."

It is the pleaded case of the petitioners that previously elections to the Bar Council of Himachal Pradesh were held in the year, 2011 and the same were published in the Gazette on 27.06.2011. The term of the State Bar Council expired on 26.06.2016 and was extended till 26th December, 2016 and thereafter a Special Committee was constituted by Bar Council of India as per its resolution dated 27.12.2016. This Committee was constituted under Section 8(A) of Advocates Act, 1961 and comprised of the then Advocate General, as its Chairman and Shri Amit Vaid and Shri Sandeepan Sharma, Advocates, as its Members.

Since, the six months period of Special Committee was to expire, therefore, the Secretary of Bar Council of Himachal Pradesh i.e. respondent No. 2, wrote to the respondent No.1 for extension of the period of Special Committee vide communication dated 23.06.2017. The terms of the Special Committee was extended vide communication dated 24.06.2017. Respondent No. 1 vide communication dated 05.02.2018, intimated respondent No. 2 with respect to the constitution of three (3) Election Tribunals/Committees for looking into and deciding election disputes arising before or after elections of various State Bar Councils. In so far as the Bar Council of Himachal Pradesh is concerned, the Election Tribunal/Committee No. 2 headed by Hon'ble Mr. Justice L. Narasimha Reddy, former Chief Justice, Patna High Court as Chairman, Hon'ble Mr. Justice Akhilesh Chandra, former Judge, Patna High Court and Hon'ble Mr. Justice P. R. Shivakumar, former Judge, Patna High Court and Madras High Court as Members. The resolution of the Bar Council of India, in turn, was approved by Hon'ble Supreme Court vide its order dated 23.03.2018.

The elections of the State Bar Council were held on 28.03.2018 and the counting was done on 08.04.2018 and 15 Members were declared elected. In terms of the order passed by the Hon'ble Supreme Court on 23.03.2018, the complaints were required to be considered by Election Tribunal, which were duly considered and vide communication dated 26.09.2018, respondents No. 2 and 3 were duly communicated, after disposal of the complaints, that 15 members were elected to the State Bar Council of Himachal Pradesh.

That the elections of the 15 Members who were duly elected to the State Bar Council of Himachal Pradesh had been approved and authorities were accordingly directed by the Tribunal to publish their names in the official gazette vide Notification dated 9th July, 2018. Thereafter, respondent No. 1 vide communication dated 30.07.2018 directed respondent No. 2 to hold elections to the various posts of Chairman, Vice- Chairman, Executive Chairman, four Co-Chairmen and Member- Representative to Bar Council of India and other office bearers of Bar Council including members of various Committees, if any, on 07.08.2018 and the State Bar Council was directed to issue Schedule of election.

Since Rule 4 of the Bar Council of Himachal Pradesh (Constitution and Conduct of Business) Rules, 1999, only provided for election of three posts i.e. Chairman, Vice-Chairman and Member Representative, Bar Council of India, therefore, respondent No. 2 sought clarification from respondent No. 1. Thereafter, respondent No. 1 vide communication dated 01.08.2018 directed respondent No. 2 to hold election for aforesaid three posts only.

It is a further case of the petitioners that respondent No.2 directed the Members of Special Committee on the directions of its Chairman to hold a meeting on 01.08.2018 at 3:00 pm in the office of Bar Council of Himachal Pradesh, which was accordingly held and the Schedule of election therein was fixed as 07.08.2018, at 2:00 pm and the venue for the nomination and election was fixed in the office of Bar Council of Himachal Pradesh. Accordingly, intimation was sent by respondent No.2 to all the 15 newly elected members of the Bar Council of Himachal Pradesh, Returning Officer as well as the learned Advocate General vide communicated dated 02.08.2018.

As regards the election for the posts of Chairman and Vice-Chairman, Bar Council of Himachal Pradesh, that was required to be conducted by the Returning Officer and for the purpose of election of Member Representative, Bar Council of India, Secretary, Bar Council, Himachal Pradesh was Returning Officer. According to the petitioners, the election to the aforesaid three posts was unanimous.

Petitioners No. 1 to 3 were unanimously elected as Chairman, Vice-Chairman and Member-Representative of the Bar Council of Himachal Pradesh on 07.08.2018 at 2:00 p.m. and proceedings to this effect were drawn vide Annexure P-26. The copies of signatures of all the members present including the Secretary as well as Returning Officer have been appended as Annexure P-27. Intimation with regard to the unanimous election was duly sent to respondent No. 1 vide communication dated 07.08.2018 through e-mail at 4:30 pm alongwith all the relevant documents.

All the Members of the Bar Council including the Chairman and Vice-Chairman were intimated vide communication dated 08.08.2018, regarding the next meeting of Bar Council to be held on 19.08.2018 at 11:00 am in the office of the Bar Council. The Agenda of the meeting was also sent by e-mail on 16.08.2018.

Accordingly, on 19.08.2018, out of 15 Members of the Bar Council, 14 Members were present and have appended their signatures on the attendance register (Annexure P-34) and the Minutes of the Meeting have been annexed as Annexure P-33. As many as 41 items were discussed and deliberated upon and even decision was taken on those items.

On 28.08.2018, respondent No. 1 addressed a communication to the Secretaries of Bar Councils for sending two representatives, preferably the Chairman and Vice-Chairman for the purpose of attending a meeting on 01.09.2018 at 11:00 am in the auditorium of Bar Council of India, which was attended by petitioners No. 1 and 2 being the Chairman and Vice-Chairman of the Bar Council of

Himachal Pradesh. Thereafter, petitioners No. 1 to 3 in the capacity of the Chairman, Vice-Chairman and Member of the Bar Council of Himachal Pradesh attended the joint meeting of the Bar Council held on 01.09.2018, wherein all the arrangements of boarding, lodging etc. were made by the Bar Council of India.

Not only this, in the joint meeting held on 01.09.2018, the Chairman, Bar Council of India, honoured the Chairman, Vice-Chairman as well as Member Representative, Bar Council by presenting a bouquet and petitioner No. 1 in the capacity of Chairman of Bar Council of Himachal Pradesh called upon to address the august house.

Thereafter vide communication dated 05.09.2018, respondent No. 1 made reference of the joint meeting and directed the State Bar Councils to hold a press conference and every Bar Associations of the Country was directed to hold a meeting on 17.09.2018 at the respective headquarters and to have an awareness drive amongst the legal fraternity and thereafter pass resolutions which were required to be handed over to the authorities specified therein.

After receipt of the aforesaid communication, respondent No. 2 wrote to all the Presidents of all the Bar Associations vide communication dated 06.09.2018. Accordingly, the petitioners held a press conference on 11.09.2018, at 1:30 pm in the Hotel Holiday Home (Dragon Hall), which was chaired by petitioner No. 1 and was attended by Shri Amit Vaid and Shri Lovneesh Kanwar, Members.

The Bar Council of Himachal Pradesh vide communication dated 27.09.2018 sent the specimen signatures of petitioner No. 1 as Chairman, Bar Council of Himachal Pradesh to respondent No. 1.

The petitioners thereafter received a notice from the Secretary of respondent No. 2 dated 12.10.2018, which was accompanied vide communication dated 11.10.2018 from respondent No. 1 wherein the extract of minutes of meeting of respondent No. 1 dated 15.09.2018 was enclosed whereby respondent No. 1 has ordered the status quo as it exists prior to 07.08.2018 and the same has been assailed on various grounds like estoppel, impugned order being issued without any authority, violation of statutory provisions and principles of natural justice, equity and fair play and malafides etc. etc.

3. This Court vide order dated 23.10.2018 stayed the operation of the impugned Annexure P-45 to the extent it directed the parties to maintain status quo as existed prior to 07.08.2018.

4. It is only respondents No.1 and 8, who have contested this petition.

In reply filed by respondent No. 8 (Shri Amit Vaid, Member), preliminary submissions have been raised, questioning the very maintainability of this petition and the jurisdiction of this Court to entertain the same. It is averred that the Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015 were challenged before various High Courts in the country and in some of the cases even stay has been granted, therefore, Hon'ble Supreme Court of India

has called all the matters from various High Court to adjudicate all these matters. During the pendency of the transferred matter, the issue with regard to conducting all elections to various Bar Councils in the country also came up before the Hon'ble Supreme Court and various orders from time to time have been passed. Reference in particular is made to the order dated 13.03.2018 whereby the Hon'ble Supreme court while quashing the order passed by the High Court of Madras observed as under:

"We are of the considered opinion that since the elections to the State Bar Council are being conducted under the directions of this Court, the High Court of Madras is not justified in giving directions to the Bar Council of India, Returning Officer and the Director General of Police as mentioned in paragraphs 31(A) (B) and (C) of the impugned order."

In this order, the Hon'ble Supreme Court also directed the respective Committees appointed by the Bar Council of India to follow the directions given by the Bar Council of India while conducting the elections and ensure its strict compliance. It is further averred that since the Hon'ble Supreme court is supervising the elections being held to the various State Bar Councils, therefore, the impugned order having been passed by the Bar Council of India cannot be challenged before this Court as in the facts and circumstances it would not be proper to this Court to entertain the present writ petition virtually challenging the election process.

Another preliminary submission has been raised to the effect that the petitioners have not approached the Court with clean hands and have concealed material facts while filing the present writ petition as such the petition deserves to be dismissed. It is averred that petitioners No. 1 to 3 have not been elected to the post of Chairman, Vice-Chairman and Member Bar Council, respectively as the so-called election to these three posts have not been approved by the Bar Council of India as required vide order dated 23.03.2018, relevant portion whereof reads as under:-

"That though the counting process will go on after elections and the result of the members will also be declared; But the result will not be sent for publication in the official Gazette and will not attain finality, unless the concerned tribunal finally approves the said result after holding enquiry, if any, into the complaints made. The result will be sent for publication in the official Gazette only after getting approval from the Tribunal's and the Bar Council of India. The office is directed to place the resolution before the Hon'ble Tribunal's for the needful. The same principle will apply for the election of Chairman, Vice-Chairman, representative-Member and other posts of State Bar Councils/bar Council of India."

According to this respondent, there is no such approval granted by the Bar Council of India to the so-called elections of petitioners No. 1 to 3 and, therefore, the functions being discharged by these three petitioners on the above-

mentioned posts are not only illegal but are without any authority. It is also averred that the seven elected members of the Bar Council of Himachal Pradesh had submitted a representation to the Chairman, Bar Council of India requesting him to conduct the elections for the post of Chairman, Vice- Chairman and Member-Representative Bar Council of India. In this representation, it was submitted that as directed by the Bar Council of India vide letter dated 30.07.2018, a detailed schedule for holding election to above-mentioned three posts was required to be published by the Special Committee and nominations in this regard were to be submitted before the Secretary, Bar Council of Himachal Pradesh, but, no schedule was published whereby the nominations could be filed by the interested candidates, nominations were not filed by any candidate but the petitioners constituted a body without adhering to the various resolutions passed by the Bar Council of India and directions issued by the Hon'ble Supreme Court. It was also pointed out in the representation that a meeting was called on 19.08.2018 in which it was discussed that since no election in the eyes of law has taken place, therefore, the Bar Council of India be requested to hold the elections as per the mandate of the Hon'ble Supreme Court.

The Bar Council of India after taking into consideration the aforesaid representation passed a resolution dated 15.09.2018 whereby a Committee comprising of Justice M. Y. Eqbal, former Judge Supreme Court of India, Justice Ahsanuddin Amanullah, Judge Patna High Court, Justice Shashi Kant Gupta, Judge Allahabad High Court, Shri Satish Deshmukh, Vice-Chairman, Shri Vijay Bhatt and Shri Prashant Singh was constituted to look into the allegations made in the representation. While passing the resolution dated 15.09.2018, the status quo as existed prior to 07.08.2018 was ordered to be maintained.

In the third preliminary objections raised, respondent No. 8 has pointed out that petitioner No. 7 who is stated to have seconded the candidature of petitioner No. 1 as per record annexed with the writ petition, while appearing before the Special Committee had submitted a reply affidavit endorsing the contents of the representation made by seven members of the Bar Council of Himachal Pradesh. Similarly, petitioner No. 8, who is stated to have proposed the name of petitioner No. 2 for the post of Vice-Chairman, while filing reply before the Special Committee has endorsed the contents of the representation filed by the seven members. As regards the replying respondent, it has been averred that he has never seconded the name of petitioner No. 3 for the post of Member-Representative of the Bar Council of India. It is also averred that respondents No. 5 and 6 i.e. S/Shri Sandeepan Sharma and Rajiv Rai, Advocates and Members Bar Council of Himachal Pradesh have filed common reply before the Special Committee submitting therein that no schedule was finalised by the Special Committee with regard to holding of elections to the above-mentioned three posts.

The fourth and last preliminary submission is to the effect that the Bar Council of India has constituted a Special Committee to look into the representation made

by the seven members, as was required in terms of the directions passed by the Hon'ble Supreme Court in its order dated 23.03.2018. Since, the Bar Council of India has passed a resolution dated 15.09.2018, which virtually tries to bring back the position as it existed before the so-called elections and to bring all actions strictly in conformity with the orders passed by Apex Court from time to time in the matter. Therefore, the writ petition in the facts and circumstances of the case ought to be dismissed.

On merits, the preliminary objections as raised above, have been reiterated and even while replying to para- wise grounds has relied upon the preliminary objections.

Respondent No. 1 i.e. Bar Council of India, has not chosen to file separate reply, however, it has filed an affidavit for submitting original record of six men Committee appointed by the Bar Council of India on the issue of the elections to the post of Chairman, Vice-Chairman and Member-Representative to the Bar Council of India from the State Bar Council of Himachal Pradesh. In the affidavit, reference is made to the resolution passed by Bar Council of India dated 15.09.2018, wherein six men Committee (supra) was constituted and reference has further been made to the order of the status quo. It is averred that six men Committee appointed by the Bar Council of India prepared its report dated 05.01.2019 and the same is enclosed in a sealed cover as Annexure-A. This report was placed before the General Council at its meeting held on 12.01.2019 and the same was duly accepted and it was resolved as follows:-

"The report is accepted. The Bar Council of Himachal Pradesh has to conduct a fresh election of the Office Bearers and the Member-Representative to the Bar Council of India. However, the date is to be fixed by the Hon'ble Chairman in consultation with the Ex-Officio Members of the State Bar Council after the final disposal of CWP No. 2496 of 2018 (Ramakant Sharma & Ors. vs. Bar Council of India & Ors.), pending before the Hon'ble High Court. The office is to bring this report and this resolution on record before the Hon'ble High Court of Himachal Pradesh. The resolution of this Council is subject to final order of Hon'ble High Court."

The resolution of the Council has been attached with the affidavit in a sealed cover as Annexure-B. The justification for such course is sought to be justified in para 6 of the affidavit, wherein it is averred that the Hon'ble Supreme Court vide its order dated 23.03.2018 passed in IA No. 39883 of 2018 in Transferred Case (Civil) No(s). 126 of 2015 in the matter of Ajayinder Sangwan versus Bar Council of Delhi and Ors. had directed that the resolution of both the General State Bar Council Elections and the Elections of the office bearers of the State Bar Council should be sent for publication only after approval from the Election Tribunal and the Bar Council of India after having satisfied themselves with the fairness of such elections. This six men Committee was constituted by the Bar Council of India in pursuance to the aforesaid order to submit its report to the General council of the Bar Council of India and further as per Rule-10, Part-II, Chapter-I

of the Bar Council of India Rule. Thereafter the Rule 10, Part-II, Chapter-I of the Rules have been quoted.

At this stage, it may be noted that petitioners No. 7 and 8 filed applications for withdrawal of the writ petition on their behalf on the ground that they do not want to pursue the aforesaid writ petition and the same was duly allowed by this Court vide its order dated 09.01.2019. However, it appears that there is typographical error in the said order and instead of the writ petition on behalf of petitioners No. 7 and 8 being dismissed as withdrawn, it has erroneously been reflected that writ petition qua respondents No. 7 and 8 has been ordered to be withdrawn. This position is not disputed by any of the parties to the lis.

Reference now is required to be made to the reply filed by respondents No.2 and 3, who in their preliminary submissions have averred that respondent No. 2 had received a communication dated 30.07.2018 from the Bar Council of India with regard to the schedule of election for the post of Chairman, Vice-Chairman and Member-Representative. A detailed reference to the communication dated 30.07.2018 from the Bar Council of Himachal Pradesh with regard to the schedule of elections of various posts have been referred to and then the clarification sought by respondent No. 2 from respondent No. 1 in terms of Rule 4 of Bar Council of Himachal Pradesh (Constitution and Conduct of Business), Rules 1999, wherein the only election to three posts provided i.e. Chairman, Vice-Chairman and Member- Representative. Preliminary submission has been raised explaining why and how permission for conducting elections for the post of Chairman, Vice-Chairman and Member- Representative, Bar Council of India, in terms of Rule of of the Bar Council was necessitated. It is further averred that a communication was addressed to the Members of the Special Committee i.e. S/ Shri Sandeepan Sharma and Rajiv Rai, for the meeting to be held on 01.08.2018 at 3:00 pm in the office of Bar Council Himachal Pradesh to discuss the detailed schedule of election for the aforesaid three posts. However, the replying respondents got e-mail on 01.08.2018 whereby the Bar Council of India gave permission for holding election to three posts only. On the basis of such communication, the following resolution came to be passed:-

"That keeping in view the response received from Bar Council of India on 01.08.2018 w.r.t. the clarification to be sought by the State Council for the number of posts for which elections are to be conducted on 7th of August, 2018 the office is directed to inform all the 15 members of Bar Council of Himachal Pradesh that there will be election for three posts only i.e. for the post of Chairman, Vice-Chairman & Member-Representative of Bar Council of India, for which the election will be held on 7th of August, 2018 as per Bar Council of Himachal Pradesh (Constitution and Conduct of Business) Rules, 1999, as per the schedule as under:-

Date and Time for Election i.e. 07.08.2018 at 2:00 pm. The venue for the nomination and election will be in the office of Bar Council of Himachal Pradesh, Ravens Wood, High Court Complex, Shimla, 171001. The relevant portion of

minutes of the meeting dated 01.08.2018 is being placed on record as marked as Annexure R-2/E."

It is further averred that as per the unanimous decision of the Special Committee meeting held on 01.08.2018, all the 15 newly elected members of the State Bar Council were informed vide communication dated 02.08.2018 regarding the date, time and venue for holding elections for three posts and the copies of the same were also endorsed to the Advocate General and Shri Ravinder Bhandhari, Returning Officer for information. It is further averred that on the same date i.e. 02.08.2018, a separate communication was also addressed to Shri Ravinder Bhandhari, Returning Officer, for holding elections for the posts of Chairman, Vice-Chairman on 07.08.2018 at 2:00 pm in the office of Bar Council Himachal Pradesh. It is further averred that copy of communication dated 02.08.2018 alongwith information of the election schedule was also given to all the newly elected members of the Bar Council by two modes, first by Speed Post and second by e-mail. That apart, letters were also served upon local members based in Shimla through Bar Council Peon. As per the schedule, all the 15 members of the Bar Council remained present for the election in the office of Bar Council of Himachal Pradesh as per the time given in the communication addressed to them and they also marked their presence in the attendance register, extract whereof has been placed as Annexure R-2/H.

It is averred that as per the directions issued by the Bar Council through Shri Ravinder Bhandhari, Returning Officer, conducted the proceedings of the election for the post of Chairman and Vice-Chairman in presence of the learned Advocate General Shri Ashok Sharma, who was performing twin responsibility (i) as Chairman of Special Committee under whose supervision the election was conducted (ii) as ex-officio member of the Bar Council of Himachal Pradesh. Shri Ajay Kumar Sharma, Member, Bar Council Himachal Pradesh proposed the name of Sh. Ramakant Sharma for the post of Chairman and the proposal was seconded by Shri Rohit Sharma, Member of Bar Council of Himachal Pradesh. Since no other name was proposed for the post of Chairman for 10 minutes in spite of Returning Officer making inquiry w.r.t. the candidature of any other candidate for the said post and ultimately the Returning Officer declared Shri Ramakant Sharma elected as Chairman. The election was unanimous. Thereafter, the Returning Officer asked the members to put forth their proposal for election to the post of Vice- Chairman of Bar Council of Himachal Pradesh, Shri Rakesh Kumar Acharya, Member, Bar Council of Himachal Pradesh proposed the name of Shri Narender Singh for the post of Vice-Chairman, the proposal was seconded by Shri Arvind Dhiman, Member, Bar Council of Himachal Pradesh since there was no other name proposed for the said post and Shri Narender Singh was declared elected by the Returning Officer as Vice-Chairman. Thereafter, the member Bar Council of Himachal Pradesh dispersed with the understanding to re-assemble after thirty minutes. After thirty minutes all the members of the Bar Council including ex-officio member re-assembled and the Secretary/Returning Officer for conducting the proceedings for electing member representative Bar

Council of India started.

Thereafter, the election for the post of Member representative Bar Council of India was conducted wherein Shri I. N. Mehta, Member, Bar Council of Himachal Pradesh proposed the name of Shri Desh Raj Sharma which was seconded by Shri Amit Vaid, Member, Bar Council of Himachal Pradesh. Since no other candidate was in the fray, Shri Desh Raj Sharma was declared unanimously elected. Copy of election proceedings conducted by Bar Council of Himachal Pradesh by two Returning Officer has been annexed as Annexure R-2/I. It is further averred that the conduct and declaration of result was immediately communicated to the Bar Council of India vide e-mail on 07.08.2018 at 4:30 pm with five attachments, the screen shot whereof is being annexed as Annexure R-2/J. It is also averred that the hard copy of the same was sent by registered post to the Chairman, Bar Council of India and this practice is continuing since long.

Thereafter, on 19.08.2018, the General House meeting of the Bar Council of Himachal Pradesh was convened in which all the elected members except Shri Naresh Thakur were present and the learned Advocate General was also present. The extract of the attendance register has been placed as Annexure R-2/K. The agenda of the said meeting contained 41 items, which was also sent by e-mail to all the Members including the ex- Officio Member, Bar Council of Himachal Pradesh and in the meeting so held on 19.08.2018 in the office of Bar Council of Himachal Pradesh at 11:00 am was attended by 14 elected members and the learned Advocate General wherein all the 41 items in the agenda were discussed by office bearers and the Members of the Bar Council of Himachal Pradesh. During this meeting, agenda item No. 17 was also discussed and it was unanimously resolved to constitute 25 Committees which were accordingly constituted. Copy of them have been annexed as Annexure R-2/L.

It is also averred that vide communication dated 28.08.2018 had sent an invitation for a joint meeting with Bar Councils of States of the country and two representatives/office bearers of the Bar Council of the State were requested to attend the joint meeting to be held on 01.09.2018 at 11:00 am in the auditorium of Bar Council of India, which was duly attended by petitioner No. 1 as Chairman and petitioner No. 2 as Vice- Chairman of the Bar Council of Himachal Pradesh.

While filing reply on the merits, respondents No. 2 and 3 have not denied any of the submissions as made in the writ petition.

We have heard learned counsel for the parties and have gone through the records of the case.

8. The Court, at this stage, is required to consider the jurisdiction of this Court to entertain this petition on the objections raised by respondent No. 8 to the effect that the Hon'ble Supreme Court is in seisin of the matter and, therefore, it is only the Hon'ble Supreme Court which has jurisdiction to give directions. What appears from the orders passed by the Hon'ble Supreme Court from time to time

in Ajayinder Sangwan's case (supra) is that initially the issue before it was only pertaining to identification of fake lawyers and the steps taken by respondent No. 1 Bar Council of India to cause an enquiry and to find out fake lawyers. So as to identify such action of the Bar Council of India would affect the lawyers who are not members of the Bar Association. Another grievance, which was placed before the Hon'ble Supreme Court in the hearing held on 02.11.2015 was with regard to persons who were carrying out as elected members of the State Bar Council or their tenure had expired. It was then the Hon'ble Supreme Court requested respondent No. 1 to take necessary steps in accordance with the provisions of the Advocates Act, 1961 to remove such discrepancies in the matter.

9. On 10.05.2016, it was pointed out to the Court that Bar Council of India had taken steps to cause enquiry to find out fake lawyers and had sought reply from the concerned State Bar Council. Therefore, all the Bar Councils were directed to take necessary steps to conclude the proceedings by 30.06.2016. Vide order dated 10.06.2016, the Hon'ble Supreme Court directed that Rule 5(a) of Certificate and Place of Practice (Verification) Rules, 2015 would not be given effect to till the next date of hearing. On 30.06.2016, all the State Bar Councils were impleaded as party-respondents.

10. In the interregnum, vide order dated 30.06.2016, time to complete the verification was extended by three months i.e. up to 30.09.2016. When the matter subsequently came up before the Hon'ble Supreme Court on 29.07.2016, the Court reiterated that the date i.e. 30.09.2016 should be taken as final date for taking steps by the Bar Councils of all States to complete process and it was further made clear that if this is not done by that time, the pendency of this matter before the Hon'ble Supreme Court would not stand in the way to hold elections, where it is due or where the office bearers, though, their term is over, are continuing in office. Rather, it was specifically stated that in such cases the Bar Council will proceed to hold elections.

11. On 27.09.2016, respondent No. 1 was directed to take all steps and prepare a chart giving its suggestions to facilitate early election. When the matter subsequently came up before the Hon'ble Supreme Court on 04.10.2016, respondent No. 1 informed the Hon'ble Supreme Court that the process of verification of fake lawyers was not complete and a request was made to extend time to complete its exercise upto 30.11.2016 and on such representation time to complete the verification was extended upto 30.11.2016. Lastly, it was directed that respondent No. 1 - Bar Council of India and State Bar Councils shall complete the process and submit its status report in the first week of February, 2017, thereafter the Hon'ble Supreme Court would consider the fixation of dates for elections to be conducted. On 02.05.2017, the Hon'ble Supreme Court directed all the Bar Councils to furnish necessary data within four weeks' with regard to the verification.

12. On 23.08.2017, the Hon'ble Supreme Court passed a detailed order. Even on the said date, the Hon'ble Supreme Court was informed that the Bar Council of

India as well as the respective Bar Councils had not completed the verification which necessitated the Court to pass the following orders:-

"7. We have been informed by learned senior counsel for the Bar Council of India as well as the respective State Bar Councils that the process of verification is not completed yet. In view of that, to do complete justice to the parties, it would be proper for us to provide a last opportunity for the same as mentioned below:-

(1) 15 (fifteen) days' time be given to cure the defective applications by the concerned Advocates and to all such advocates to submit their complete application forms for necessary verification of their degrees if they have not submitted the same earlier, from the date of publication of advertisement in two leading newspapers, one in English language and the other in regional language having wide circulation in the respective State/Union Territories, for which advertisement shall be published within 7 days from the passing of this order.

(2) 1 (one) month time for verification of applications, without any charge, by the State Bar Councils, after the expiry of the above 15 (fifteen) days.

(3) The University Authorities shall ensure the verification of degrees awarded by them, without any charge, within 1 (one) month on its presentation.

(4) The respective State Bar Councils shall publish a Final Electoral Roll by including the names and particulars of such advocates, whose degrees attached with the application forms have been verified by the concerned University authorities. The name of all such advocates who have not removed the defects in the application forms already submitted within the specified time and also such persons whose degrees on verification have been found false or fake by the Universities authorities shall not be included in the Electoral Rolls.

(5) Bar Council of India to declare the schedule of elections in respective State Bar Councils to be held after the expiry of 75 (seventy five) days, as mentioned above, within one week mentioning therein:-

(i) 15 days for nomination.

(ii) 1 week for withdrawal of nomination.

(iii) to upload final candidates' list in 1 (one) week.

(iv) to decide the date of election.

8. We further make it clear that all the steps be taken by all the parties concerned in the matter for the purpose of elections in respect of all the Bar Councils where the term of the existing members have already expired or to be expired. We further make it clear that although this order has been passed in favour of the verification only for the purpose of the election but it would also include for the purpose of the verification of all other learned lawyers who have already applied within the time stipulated by this Court.

9. We direct all the State Bar Councils to take necessary steps and to conclude all

proceedings by 31.12.2017 and send a reply to the Bar Council of India. Thereafter, the Bar Council of India, after receiving all the replies from the State Bar Councils, would file a status report.

10. We, hereby, authorize the Bar Council of India to notify all the State Bar Councils, by way of publication in two leading newspapers, that they must take all steps to complete the process before 31.12.2017.

11. The Bar Council of India is directed to request a retired Judge of the Supreme Court in order to control and supervise the verification process and preparation of electoral Rolls. We direct the Bar Council of India to take all steps in this regard immediately in order to do the needful. All concerned are directed to render full assistance and cooperation to the Verification Committee. List the matter in the second week of January, 2018 on a Non-Miscellaneous Day."

13. On 11.09.2017, the Hon'ble Supreme Court clarified its earlier order dated 23.08.2017 to the effect that the petitioners therein would be at liberty to approach the Committee for pre-poning and change of the date of election. The matter thereafter came up before the Hon'ble Supreme Court on 24.11.2017 and again a detailed order was passed and the advocates, who had submitted their forms with Law Degrees but their cases were still pending for verification, were provisionally permitted to participate in the election by including their names in the electoral roll. However, it was made clear that if such advocates are found false or fake as per the report of the concerned University/authority, then appropriate orders in relation to their enrollment and also in relation to the elections in which they were allowed to participate would accordingly be passed by the Court on receipt of the report of the Committee. In para-9 of the order, it was made clear that the result of the election would be subject to the final result of this petition (Ajayinder Sangwan versus Bar Council of Delhi and Ors.).

14. On 14.12.2017, a request was made by the parties to extend time for publishing electoral list as also deciding the objections regarding the name of electoral roll but the request was declined. However, the date from 24.11.2017 was extended upto 15.01.2018 to publish Electoral List and it was directed that election would start from 15.02.2018 and should be completed within a period of six weeks.

15. On 05.02.2018, the Hon'ble Supreme Court dismissed the contempt petition that had been filed against the Bar Council of India for not finalising the schedule for election as the Hon'ble Supreme Court was satisfied that the Bar Council of India had finalised the said schedule in respect of the State Bar Councils, which was termed by the Hon'ble Supreme Court to be just and proper.

16. On 13.03.2018, the issue before the Hon'ble Supreme Court pertained to the order passed by the Madras High Court on 16.02.2018 and while staying the said order, the Hon'ble Supreme Court observed as under:-

"We are of the considered opinion that since the elections to the State Bar

Council are being conducted under the directions of this Court, the High Court of Madras is not justified in giving directions to the Bar Council of India, Returning Officer and the Director General of Police as mentioned in paragraphs 32(A) (B) and (C) of the impugned order.

Therefore, the directions given in the said order as contained in paragraphs 32(A) (B) and (C) are hereby stayed, till the elections are held and result are announced.

We, however, direct that the respective Committees appointed by the Bar Council of India to follow the directions given by the Bar Council of India while conducting the elections and ensure its strict compliance."

In view of the above, the application stands disposed of."

17. On 23.03.2018, the Hon'ble Supreme Court directed that the following resolutions passed by the Bar Council of India be given effect to:-

"a) The State Bar Councils/Returning Officers are further requested to provide CCTV cameras or video- coverage for the process of polling at sensitive polling booths. It is further resolved that any candidate, if found using any sort of unfair means, corrupt practice, bribing the voters, throwing lunch, dinner parties, breakfast etc. in and around the polling booths (for getting votes) should be debarred from contesting elections and their candidatures will be cancelled by the Tribunal.

b) That though the counting process will go on after elections and the result of the members will also be declared; But the result will not be sent for publication in the official gazette and will not attain finality, unless the concerned Tribunal finally approves the said result after holding enquiry, if any, into the complaints made. The result will be sent for publication in the official gazette only after getting approval from the Tribunals and the Bar Council of India. The office is directed to place the resolution before the Hon'ble Tribunals for the needful.

The same principle will 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 of the aforementioned posts after getting the final approval from the concerned Tribunals and after getting satisfied with the fairness of the elections. All the disputes and complaints are to be disposed of before the publication of the result in the official gazette.

c) That to request the Hon'ble member in-charge of the Tribunal for the State Bar Council of Bihar to appoint 5 Co-observers in order to aid and assist the Hon'ble Observer for the State Bar Council of Bihar. This proposal is being made in view of serious complaints made by some Bar Associations and the Advocate Mr. Avinash Motihari. The five Co-observers will be authorized to look after the entire affairs of the elections of the State of Bihar and to report to the Hon'ble Observer and the Hon'ble Member in-charge for the State of Bihar of the Tribunal.

I.A. is disposed of accordingly."

18. The case came up before the Hon'ble Supreme Court on 16.07.2018 and it was observed as under:-

"I. A. D. No. 85817 of 2018 Taken on Board.

By our orders dated 14.05.2018 insofar as it pertains to Delhi and 06.06.2018 so far as it pertains to Kerala, we have passed orders in which we have made it clear that objections to the results of all elections held to the various Bar Councils in the States may be held as expeditiously as possible after which the result may be declared. We do the same in the present I.A. also.

I.A. No. 83546 of 2018 and I.A. No. D 85817 of 2018 are disposed of accordingly."

19. The aforesaid order was followed by another order passed by Hon'ble Supreme Court on 07.12.2018, which reads thus:-

"IA No. 170780/2018

By an order dated 21.01.2018, the Bar Council of India had set up 3 Committees/ Tribunals for looking into and ensuring free and fair elections and to ensure full compliance of our orders. These three Tribunals were to be headed by three former Chief Justices of the High Courts, who will not only supervise and have a full control on process of election of the State Bar Councils, but were also empowered to decide any election dispute arising before or after the election in the State Bar Councils expeditiously.

On 05.02.2018, this Court, referred in paragraph 4 of this Order to the order of the Bar Council of India in the context of elections to the State Bar Councils of Tamil Nadu and Puducherry.

Insofar as the State of Karnataka is concerned, we had, by our order dated 24.10.2018, stated as under:-

"We are informed that the elections have since been held on 18.03.2018. The results, however, have not been declared despite a direct order of this Court stating that it should be declared immediately.

Mr. S. N. Bhat inform us that the Tribunal has decided to sit on the 28th of this month in order to resolve all objections. The tribunal will complete hearing of the objections on that date itself and deliver its order within a week therefrom. The elections results be declared thereafter in accordance with law."

On being informed that our order had not been complied with in that the Tribunal had not completed hearing of objections and delivered its order within a week, this Court then passed the following order:-

"We had issued several orders in this matter in the fond hope that the Tribunal would decide the objections within time. This hope has been belied. We

understand from learned counsel appearing before us that the Bar Council election results have since been declared, subject to the Tribunal deciding objections.

We are of the view that the available remedy in law is contained in Rule 32 of the Karnataka State Bar Council Election Rules, 1971. The results that have now been declared will stand declared finally i.e. they will no longer be subject to the Tribunal deciding objections.

We may only indicate that all objections that have been filed before the Tribunal and any other further objections that may occur post declaration of results should follow the drill of Rule 32 as aforesaid.

IA stands disposed of accordingly."

We have since been informed that Rule 32 of the Karnataka State Bar Council Rules, in particular, sub-Clause 5 thereof, specifically states that an election Tribunal shall be appointed by the bar Council on or before the Committee of which the time of the election is fixed under Rule 4.

We have since been informed that this has been done. In this view of the matter, we dismiss this application.

IA No. 171568/2018

As has been stated by us in IA No. 170780/2018, Rule 32(5) of the Uttarakhand State Bar Council Rules, which is substantially the same as that of the Karnataka State Bar Council Rules, provides that the Election Tribunal shall be constituted before the election actually takes place. This, not having been done, we recall our order dated 20.11.2018. The Tribunal/Committee, set up by the Bar Council of India, will hear all objections within a period of four weeks from today and decide the said objections within the aforesaid period. Thereafter, Bar Council election results may finally be published.

IA No. 160653 and connected IAs.

In these cases, by our order dated 16.07.2018, we had ordered that objections to the result of all elections, that were held by the Bar Councils of the States, may be decided as expeditiously as possible, by the Tribunal/Committee, set up by the Bar Council of India, after which, the results may be declared. On 27.10.2018, the observer Committee, after setting out this order, stated that any further process of declaration of votes will be in contempt of this Court's order and further proceedings are stayed until after the Tribunal decides objections. Unfortunately, this has not been done. We, therefore, direct the aforesaid Committee to decide all objections raised within a period of four weeks from today after which the results may finally be declared.

It is made clear that any contempt petition filed shall not stand in the way of this order.

20. When the matter came up for consideration on 24.10.2018, the Hon'ble Supreme Court passed the following order:-

IA Nos. 150956/2018, 150958/2018 & 150959/2018

Application for impleadment is allowed. Heard the learned counsel for the parties.

The Bar Council of India in a letter dated 08.10.2018 has resolved:

"The Council has considered the letter dated 29.09.2018 received from Mr. Amrendra Nath Tripathi.

The enrolment of applicant Mr. Amrendra Nath Tripathi has already been transferred from Bar Council of Delhi had verified the genuineness of his certificates. The letter to this effect has also been issued to the Bar Council of U.P., even then the grievance is that the Certificate of Practice is not being issued by the Bar Council of U.P.; His name is not included in the list of voters of the concerned Bar Association. The election of concerned association is to be held in this month. Keeping in view the urgency of the matter, the council resolves to direct the Special Committee of Bar Council of U.P. to issue COP to the applicant Mr. Amrendra Nath Tripathi forthwith and allow the applicant to participate in the process of election, include his name in the list of voters of the Association where the applicant intends to be a member. The applicant shall be allowed to participate in the process of elections of Bar Association. Office to communicate this order to Special Committee of Bar Council of U.P. without any delay.

Resolved accordingly."

Given this letter, we take it that the Bar Council of will do the needful to include the name of the applicant in accordance with this letter as soon as possible, and positively before 29.10.2018.

I. As stands disposed of accordingly.

IA Nos. 153271/2018 & 153277/2018

Application for impleadment is allowed. Heard the learned Counsel for the parties.

We are informed that the elections have since been held on 18.03.2018. The results, however, have not been declared despite a direct order of this Court stating that it should be declared immediately.

Mr. S. N. Bhat informs us that the Tribunal has decided to sit on the 26th of this month in order to resolve all objections. The Tribunal will complete hearing of the objections on that date itself and deliver its order within a week therefrom. The election results be declared thereafter in accordance with law.

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I. As stand disposed of accordingly."

21. This was followed by another order dated 13.11.2018, which reads as under:-

IA No. 158863/2018

We had issued several orders in this matter in the fond hope that the Tribunal would decide the objections within time. This hope has been belied. We understand from learned counsel appearing before us that the Bar Council election results have since been declared, subject to the Tribunal deciding objections.

We are of the view that the available remedy in law is contained in Rule 32 of the Karnataka State Bar Council Election Rules, 1971. The results that have now been declared will stand declared finally i.e. they will no longer be subject to the Tribunal deciding on objections.

We may only indicate that all objections that have been filed before the Tribunal and any other further objections that may occur post declaration of results should follow the drill of Rule 32 as aforesaid.

I.A. stands disposed of accordingly."

22. This order was followed by yet another order dated 20.11.2018, which reads thus:-

"IA Nos. 158696/2018 & IA No. 154205/2018

Application for Intervention / Impleadment is allowed.

We are informed that the Members of the Bar Council have since been elected.

This being the case, the available remedy in law is contained in Rule 32 of the Bar Council of Uttarakhand, Nainital Election Rules, 2014. The results that have now been declared will stand declared finally and objections that have been filed before the tribunal and any other further objections that may occur post declaration of results should follow the drill of Rule 32 as aforesaid.

I.A. stands disposed of accordingly.

IA No. 158015/2018 & IA No. 158028/2018

Application for Intervention/Impleadment is allowed.

I.A. stands disposed of in terms of the order passed by this court on 13.11.2018 in I.A. No. 158863/2018."

23. Lastly, the case was listed before the Hon'ble Supreme Court on 07.12.2018, when the following orders came to be passed:-

"IA No. 170780/2018

By an order dated 21.01.2018, the Bar Council of India had set up 3 Committees/Tribunals for looking into and ensuring free and fair elections, and to ensure full compliance of our orders. These three Tribunals were to be headed by three former Chief Justices of the High Courts, who will not only supervise and have a

full control on process of election of the State Bar Councils, but were also empowered to decide any election dispute arising before or after the election in the State Bar Councils expeditiously.

Insofar as the State of Karnataka is concerned, we had, by our order dated 24.10.2018, stated as under:-

"We are informed that the elections have since been held on 18.03.2018. The results, however, have not been declared despite a direct order of this Court stating that it should be declared immediately.

Mr. S. N. Bhat inform us that the Tribunal has decided to sit on the 28th of this month in order to resolve all objections. The tribunal will complete hearing of the objections on that date itself and deliver its order within a week therefrom. The elections results be declared thereafter in accordance with law."

On being informed that our order had not been complied with in that the Tribunal had not completed hearing of objections and delivered its order within a week, this Court then passed the following order:-

"We had issued several orders in this matter in the fond hope that the Tribunal would decide the objections within time. This hope has been belied. We understand from learned counsel appearing before us that the Bar Council election results have since been declared, subject to the Tribunal deciding objections.

We are of the view that the available remedy in law is contained in Rule 32 of the Karnataka State Bar Council Election Rules, 1971. The results that have now been declared will stand declared finally i.e. they will no longer be subject to the Tribunal deciding objections.

We may only indicate that all objections that have been filed before the Tribunal and any other further objections that may occur post declaration of results should follow the drill of Rule 32 as aforesaid.

IA stands disposed of accordingly."

We have since been informed that Rule 32 of the Karnataka State Bar Council Rules, in particular, sub-Clause 5 thereof, specifically states that an election Tribunal shall be appointed by the Bar Council on or before the Committee of which the time of the election is fixed under Rule 4.

We have since been informed that this has been done. In this view of the matter, we dismiss this application.

IA No. 171568/2018

As has been stated by us in IA No. 170780/2018, Rule 32(5) of the Uttarakhand State Bar Council Rules, which is substantially the same as that of the Karnataka State Bar Council Rules, provides that the Election Tribunal shall be constituted before the election actually takes place. This, not having been done, we recall

our order dated 20.11.2018. The Tribunal/Committee, set up by the Bar Council of India, will hear all objections within a period of four weeks from today and decide the said objections within the aforesaid period. Thereafter, Bar Council election results may finally be published.

IA No. 160653 and connected IAs.

In these cases, by our order dated 16.07.2018, we had ordered that objections to the result of all elections, that were held by the Bar Councils of the States, may be decided as expeditiously as possible, by the Tribunal/Committee, set up by the Bar Council of India, after which, the results may be declared. On 27.10.2018, the Observer Committee, after setting out this order, stated that any further process of declaration of votes will be in contempt of this Court's order and further proceedings are stayed until after the Tribunal decides objections. Unfortunately, this has not been done. We, therefore, direct the aforesaid Committee to decide all objections raised within a period of four weeks from today after which the results may finally be declared.

It is made clear that any contempt petition filed shall not stand in the way of this order."

24. A perusal of the orders passed by the Hon'ble Supreme Court from time to time, some of which have been extracted hereinabove, leaves no manner of doubt that the elections to the different Bar Councils of the Country are not to be determined or adjudicated by the Hon'ble Supreme Court. All that has been observed in these orders is that the Tribunals, Committees set up by the Bar Council of India vide order dated 21.01.2018 (whereby it set up three Committees/Tribunals for looking into and ensuring free and fair elections) will hear objections and decide the same and thereafter Bar Council would publish the result. Therefore, the objections raised by the respondents regarding maintainability or the jurisdiction of this Court to entertain the petition is over-ruled.

25. Adverting to the merits of the case, it would be noticed that it was by an order dated 21.01.2018, the Bar Council of India had set up three Committees/Tribunals for looking into and ensuring free and fair elections and these three Committees/ Tribunals were to be headed by three former Chief Justices of the High Courts, who were not only to supervise but also had full control on the process of the elections of the State Bar Councils and were also empowered to decide any election dispute arising before or after the election in the State Bar Councils expeditiously. This is clearly evident from the orders passed in *Ajayinder Sangwan's case* (supra) on 21.01.2018, the mention whereof is also made in the subsequent order dated 07.12.2018.

26. What, therefore, led to constitution of another six men committee by respondent No.1, is not at all forthcoming. Admittedly, respondent No.1 did not obtain permission of the Hon'ble Supreme Court before constituting such committee. As per respondent No.1, it had received some kind of undated

complaint on 10.09.2018 i.e. more than 30 days after the declaration of the result. How and under what provisions of law the complaint was entertained by the Bar Council is also not at all forthcoming. Even though, in its reply, respondent No.1 has stated that such complaint was entertained in terms of Rule 10 of the Bar Council of India Rules, 1975. But, Shri Naresh Kumar Sood, learned Senior Advocate, appearing on behalf of respondent No.1 has fairly conceded and stated that the said rule is not at all attracted or applicable in the present case.

27. Thus, we have no hesitation to conclude that respondent No.1 had no authority or jurisdiction to entertain the objections preferred by respondent No.8 as these objections could only have been entertained by the Committee constituted by the Bar Council of India vide order dated 21.01.2018 and as had been approved by the Hon'ble Supreme Court that too in case the same were preferred within the prescribed period of limitation.

28. That apart, we are also of the considered view that the action of respondent No.1 in passing resolution dated 15.09.2018 whereby it constituted six members committee to look into the dispute relating to the elections of the members and officer bearers of the State Bar Council of Himachal Pradesh was illegal and without jurisdiction and, therefore, the said Committee had no jurisdiction whatsoever to even deal with the objections raised by respondent No.8 much less decide the same.

29. In addition to the above, we find it rather strange that after having unanimously elected Chairman, Vice Chairman and members representing Bar Council of India on 07.08.2018 and thereafter having participated in the meeting held on 19.08.2018 where 14 out of 15 elected members were present and had transacted business, how can respondent No.8 or for that matter any of the members of the Bar Council of India subsequently that too after more than a month could have filed the objection petition before respondent No.1 claiming that the elections have not been conducted in accordance with law.

30. Notably, respondent No.8 along with all other elected members, who submitted undated representation to respondent No.1, have not only actively participated in the elections held on 07.08.2018, but in fact, respondent No.8 himself had seconded the name of Shri Desh Raj Sharma for being elected as Member Representative of Bar Council of India.

31. It is not the case of respondent No.8 or of any other member, who petitioned respondent No.1, by filing representation that a hoax was played and fraud perpetrated on the elected members of the general body, who were caught unaware on account of lack of information of the election schedule. All the elected members were not only informed about the elections, but they had actively participated in the said process leading to the nominations and election of petitioners No.1 to 3 to the different posts. In case, the elections were not unanimous and the petitioners had not been nominated and elected unopposed, there was no reason why respondent No.8 along with other persons, who

petitioned respondent No.1, would have kept mum and still participated in the General House meeting of the Bar Council of Himachal Pradesh convened on 19.08.2018 wherein as many as 41 items were deliberated and discussed. It was unanimously resolved to constitute 25 Committees which were accordingly constituted.

32. Further, in case respondent No.1 had not atoned and acknowledged and accepted the elections of petitioners No.1 and 2 as Chairman and Vice Chairman, respectively, then there was no occasion for it to have sent a communication dated 28.08.2018 for a joint meeting with the Bar Councils of the States of the Country and to further facilitate and honour both petitioners No.1 and 2 in the capacity as Chairman and Vice Chairman of the Bar Council of Himachal Pradesh.

33. That apart, in case petitioners No.1 and 2 were not elected as Chairman and Vice Chairman of the Bar Council of Himachal Pradesh, then there was no occasion for respondent No.1 to have addressed a communication dated 05.09.2018 to hold a press conference and further to hold a meeting on 17.09.2018 at their respective headquarters to have an awareness drive amongst the legal fraternity and thereafter pass resolutions which were to be handed over to the authorities specified therein.

34. Further, in case petitioners No.1 and 2 were not the Chairman and Vice Chairman of the Bar Council of Himachal Pradesh, where was the question of respondent No.8 along with some other elected member(s) attending the press conference held on 11.09.2018 at 1.30 pm in the Hotel Holiday Home (Dragon Hall), which was chaired by petitioner No.1 in the capacity of a Chairman.

35. What is further intriguing is that in case the petitioners had not been elected to the representative posts, then where was the occasion for sending the specimen signatures of petitioner No.1 as a Chairman, Bar Council of Himachal Pradesh to respondent No.1.

36. This Court cannot remain oblivious to the fact that it is dealing with a case wherein the facts clearly reveal that petitioners had been unanimously elected unopposed as Chairman, Vice Chairman and Member Representative of the Bar Council and since there was no contest whatsoever, therefore, the entire procedure of elections was not required to be gone through by return of candidates. It is only where the election is contested that the whole procedure which consists of several stages and includes all steps whereby an elected member is returned that these steps have to be followed in letter and spirit. The process of nomination, scrutiny and withdrawal would only apply in case where there are more than one candidates in the fray wherein the whole process of elections will be required to be gone through. However, where there is single nomination and there is no contestant in the field, the said candidate would be treated elected as unopposed automatically and the requirement of any such rule regarding nomination, scrutiny and withdrawal etc. shall be deemed to have been waived by the members electing such candidates.

37. In taking this view, we are fortified by a judgment of the learned Division Bench of this Court in Chhabil Dass versus Inder Singh and others, AIR 1976 HP 6, wherein while dealing with a case relating to the election of the Bar Council like in the instant case, it was observed as under:-

"30. Notice of the first meeting was received on June 28, 1973 by at least one member, and the meeting was held on July 7, 1973. Now it appears that all the members of the Bar Council were present and they participated in the meeting, and no objection was raised as to the sufficiency of the period of notice. In such a case, the requirements as to notice may be considered as waived. In Re. Express Engineering Works (1920) 1 Ch

466. Younger, L.J. said:

"If you have all the shareholders present, then all the requirements in connection with a meeting are observed."

Reference may also be made to Re. Oxted Motor Co. (1921) 3 KB 32. In the circumstances, I am unable to hold that the meeting was invalid on the ground that all the members did not receive notice of 10 clear days...."

38. This prolonged silence on behalf of respondent No.8 and other members for over 30 days assumes importance, after- all, the elections were being held to the most elite and apex body of the Advocates that too at the behest and on behalf of the elected Advocates themselves. Therefore, we have no hesitation to conclude that the undated representation made at the behest and on behalf of respondent No.8 along with certain other elected members to respondent No.1 was clearly an after- thought and above-all the same was not even maintainable.

39. It is significant to note that even the orders passed by the Hon'ble Supreme Court are being thoroughly misconstrued by the respondents and, therefore, we have no hesitation to conclude that since the elections were to be notified after seeking approval and the results were to be published by the Bar Council of India (respondent No.1), it deliberately and willfully chose not to publish the same despite the fact that there was no objection(s) from any person(s) or authority to the elections from 07.08.2018 up to 10.09.2018.

40. It may not be too far-fetched to observe that during this period, respondent No.8 with the active assistance and connivance of other private respondents No.4 to 8 and the original petitioners No.7 and 8 managed to muster and gather some other members and filed undated petition that too to the Bar Council of India and not before the Committee/Tribunal specially constituted for this purpose.

41. This inference can clearly be gathered from the fact that one Rohit Sharma and Rakesh Kumar Acharya, who had been shown in this petition as petitioners No.7 and 8 and had filed their respective affidavits in support of the same, later withdrew and sought deletion of their names by moving applications to this effect. In the applications so filed, they have gone to the extent of stating that they are not aggrieved by the communication issued by respondent No.1 to

respondent No.2 and have further averred that these applicants/petitioners have neither authorized the petitioners to file this petition on their behalf nor had the petitioners ever discussed with them regarding the filing of this petition. Not only this, these applicants/petitioners have further averred that even the affidavit dated 20.10.2018 attached with the writ petition was not executed by them. Surprisingly, none of these erstwhile petitioners No.7 and 8 appeared before this Court in support of the affidavit which only speaks volume against their conduct.

42. In such facts and circumstances, the objection petition on behalf of respondent No.8 and other members mentioned therein was not at all maintainable as these members were clearly estopped by their acts and conducts in doing so. Even, respondent No.1 after having accepted petitioners No.1 and 2 to have been duly elected as Chairman and Vice Chairman of the Bar Council of Himachal Pradesh was clearly estopped from accepting and thereafter dealing with the undated representation submitted by respondent No.8 by appointing a six members committee, the constitution of which was illegal itself.

43. In drawing such conclusion, we are fortified by the observations made by the Hon'ble Supreme Court of India in *Bejgam Veeranna Venkata Narasimloo and others versus State of A.P. and others*, (1998) 1 SCC 563, more particularly, in paragraphs 14 and 15 which read as under:-

"14.We are of the view that the contentions made on behalf of the Andhra Pradesh Government are untenable in law. It has not been explained how and in what circumstances the order/memorandum dated 2.11.76 extending the life of the 1975-76 procurement order came to be issued. the issuance of the memorandum is not denied. It is also not denied that rice was procured in terms of this order. Rice millers had to deliver the rice according to the quantum or slab fixed by the 1975-76 order on the strength of the Memorandum dated 2.11.76. FCI also acted upon this Memorandum and paid the millers at the rates laid down in the order dated 24.9.75. It is not open to the Andhra Pradesh Government now to say that this Memorandum is of no legal effect because it was not notified in the Official Gazette and was not addressed to any of the rice millers but was merely an inter- departmental communication. the Memorandum categorically stated "pending issue of the amendment, the District Collectors are instructed to take action to collect levy from millers and dealers not exceeding the percentage mentioned above for the crop year 1976-77". District Collectors acted on the basis of this Memorandum. The millers were compelled to sell rice to FCI. in the background of all these facts, it is not open to the State Government to contend that the Memorandum was not notified and therefore, no right or obligation flowed from that Memorandum. If the Memorandum was required to be notified, the Government cannot take advantage of its failure to notify it. Having acted on the basis of the unnotified Memorandum and having collected rice compulsorily from the millers on the strength of this Memorandum and also having paid the millers at the rate fixed by the Memorandum, the Government cannot be heard to say that the Memorandum is of no legal effect and the payment was made

under mistake of law.

15. In our view, it will be inequitable to permit the Government to take the plea of irregularity of its own Order after procuring rice on the basis of that order."

44. At this stage, it also needs to be clarified that the main issue before the Hon'ble Supreme Court of India is regarding the steps taken by the Bar Council of India to find out fake lawyers out of its members and/or persons who are not even members of the Bar Councils and/or members of any Bar Associations of the Country in accordance with the Advocates Act, 1961 and the rules framed thereunder. Therefore, also the present petition cannot be said to be not maintainable.

45. The net result of the aforesaid discussion is that there is merit in this writ petition and the same is accordingly allowed. Consequently, the election of petitioners No.1 to 3 as Chairman, Vice Chairman and Member Representative of the Bar Council of India and that of petitioners No. 4 to 8 as members of various Committees is upheld and the order dated 15.09.2018 passed by respondent No.1 is quashed and set aside. In addition thereto, the entire proceedings held by six members Committee appointed by respondent No.1 pursuant to the resolution dated 15.09.2018 and constitution of the Committee is held to be null and void and consequently all the recommendations and findings recorded are also declared null and void and not binding on the petitioners.

46. The petition is allowed in the aforesaid terms, leaving the parties to bear their own costs. Pending application(s), if any, also stand disposed of.