

(2010) 08 AHC CK 0033
In the Allahabad High Court
Case No : Misc. Single No. 4211 of 2010

Ramesh Chandra Saxena

APPELLANT

Vs

Central Administrative Tribunal Bar Association and Others

RESPONDENT

Date of Decision : 10-08-2010

Acts Referred:

Constitution of India, 1950 — Article 226
Societies Registration Act, 1860 — Section 25, 25(2)

Citation : (2011) 1 UPLBEC 128

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

Rajiv Sharma, J.—Heard Sri R.C. Saxena-Petitioner-in person and Sri Sudeep Seth, learned Counsel for the Opposite Party No. 6 and Sri M.B. Singh, learned Counsel for the opposite party No. 4.

2. The matter relates to the election of Bar Association and there is urgency in the matter, therefore, with the consent of learned Counsel for the parties, it is being disposed of with the assistance of the Counsels and Members of the Bar.

3. Petitioner-R.C. Saxena, who claims to be a member of Central Administrative Tribunal Bar Association, Lucknow, has approached this Court under Article 226 of the Constitution of India with the prayer that opposite party No. 4 may be directed to hold the election of the Central Administrative Tribunal Bar Association, Lucknow as per provisions of Sub-section 2 of Section 25 of the Societies Registration Act. Further, it has been prayed that an Elder Man Committee may be appointed for holding the election as per the procedure established by law or following/adopting the bye-laws/guidelines of either Central Administrative Tribunal Bar Association, Lucknow, if any, or U.P. Bar Association.

4. In order to verify the allegations made in the writ petition as to whether the outgoing Executive Committee of Central Administrative Bar Association,

Lucknow, had prepared and notified any bye-laws or guidelines for conducting election of the Central Administrative Bar Association, Lucknow and further as to whether opposite party No. 2-Sri Yogesh Kesharwani, Returning Officer, Central Administrative Tribunal Bar Association, Lucknow, had notified the list of life members i.e. 31 and ordinary members i.e. 256 of the Association on 16.7.2010 and was prepared and published the voter list and whether the procedure as laid down in Section 25 of the Societies Registration Act has been adhered to or not before notifying election, this Court, vide order dated 29.7.2010, directed the opposite party No. 4-Deputy Registrar, Firms Societies and Chits, Lucknow to produce the records. Applicant-Ajay Pratap Singh, who has filed an application for impleadment, was also directed to produce the records pertaining to the list of members. Sri Ajay Pratap Singh was further directed to inform this Court as to whether the accounts have been audited by the auditor and the same has been verified by the auditor as required under the Societies Registration Act.

5. Petitioner R.C. Saxena, who appeared in person, had submitted that the term of the office bearer of the Central Administrative Tribunal Bar Association [hereinafter referred to as "Association"] has expired but before expiry of the term, no decision was taken by the Executive Committee/General Body of the Association regarding holding of election of the Association but the outgoing Executive Committee, in an utmost arbitrary manner and without any authority of law, nominated Sri Yogesh Kesarwani-opposite party No. 2 as Returning Officer for conducting the election of the Association. He had stated that Sri Yogesh Kesarwani-opposite party No. 2 has published a schedule for election on 20.7.2010 and the same was pasted on the notice board of the Association for information to the members, wherein it has been mentioned that the date for casting vote/polling is 30.7.2010. It was argued that illegal election of the Association, is under process and if the election process concludes, it will frustrate the very purpose of filing writ petition as the entire procedure for holding election is illegal and invalid. According to him, if the election is allowed to go on, it will serve the purpose and oblique motive of the outgoing Executive Committee.

6. When parties were fully aware of the fact that the Court is seized of the matter and hearing had also taken place, it was obligatory on the part of the parties to wait for the outcome of the proceedings but in the instant case, the matter was taken up on 29.7.2010 and thereafter it was fixed for 30.7.2010 but the Returning Officer started the process for election although a serious dispute was raised by the Petitioner. Further, inspite of the direction of this Court, neither opposite party No. 4-Deputy Registrar, Firms Societies and Chits, Lucknow were present along with the records nor Sri Ajay Pratap Singh was present along with the records. It may also be added that the U.P. Bar Council has notified the guidelines/Model bye-laws for holding of elections by the Bar Associations registered under the Societies Registration Act. The said guidelines has to be followed by the Association but there was no cogent reply that the provision of Model bye-laws have strictly been adhered to.

7. Under these peculiar circumstances, this Court passed an order dated 30.7.2010, restraining the Returning Officer from holding the election of the Association and the matter was directed to be listed in the next week. This writ petition came up for orders on 6.8.2010 and as the arguments could not be completed, the matter was directed to be slated for 10.8.2010.

8. At this juncture, it would be relevant to point out that an application for impleadment has been filed by CAT Bar Association through its Secretary Ajay Pratap Singh.

9. Sri Sudeep Seth, appearing for CAT Bar Association, has vehemently argued that the Petitioner has concealed the material facts and has not arrayed the said Association as one of the parties in the writ petition although it is necessary and proper party. He pointed that the Central Administrative Tribunal Bar Association was a society registered under the provisions of Societies Registration Act of which the Petitioner was elected as President in the year 2003. The legislation of the said association lapsed by the efflux of time and its registration was not renewed by the Registrar of Firms, Societies and Chits and as such, it became a non-existent body. Thereafter, a new Association in the name and style of "C.A.T. Bar Association" was constituted. The Petitioner was one of the signatory to the memorandum of association submitted to the Registrar through a covering letter dated 20.2.2004/13.4.2004. Ultimately, the CAT. Bar Association was registered and the registration certificate dated 31.12.2004 was issued. It is informed that C.A.T. Bar Association is affiliated to U.P. Bar Association. Vide resolution dated 26.5.2010, the General Body of C.A.T. resolved to hold the election of the office bearer on 30.7.2010. In this meeting, Sri Yogesh Keshwarni was appointed as Returning Officer to hold the election of the Managing Committee as per the bye-laws.

10. Today, during the course of arguments, Counsel for the parties and the Members of Bar suggested that an Elder Committee may be constitute to manage the affairs of the Association and to hold the election as per Model Constitution of the Bar Association of the State of UP. issued by the U.P. Bar Council. As all the contesting parties and Members of Bar were in agreement for constitution of Elder Committee, I have refrained myself from entering into the merits of the case.

11. Petitioner suggested the names of S/Sri L.P. Shukla, T.N. Gupta, Siddhartha Verma, Abdul Moin, G.K. Singh, Sunil Sharma, A.R. Masoodi, Ratnes Lal, Surandram P., Smt. Dr. Neelam Shukla, whereas the Counsel for the opposite parties No. 6 suggested the names of S/Sri T.N. Gupta, Surendram P., Siddhartha Verma, Yogendra Mishra and Alok Trivedi, Advocates, to be Members of the Elder Committee.

12. It is not in dispute that there is no validly elected Committee of the office bearer to manage the affairs of the Association and there are some dispute. To resolve the dispute of the Association, I deem it proper to constitute a Elder

Committee of following Advocates:

1. Mr. L.P. Shukla;
2. Mr. T.N. Gupta;
3. Mr. Surendram P.;
4. Mr. A.R. Masoodi; and
5. Mr. Siddhartha Verma

13. It has been pointed out that the members of the Association have found serious difficulties in following the Model bye-laws on account of it being a young association, the members of the Bar of the general body submitted a representation to the Bar Council, U.P. for granting certain relaxation. Therefore, the Elder Committee, first of all, shall make appropriate application to the U.P. Bar Council in this regard. The Elder Committee shall exercise all the powers of the Executive Committee/General Body and shall scrutinize the list of Members/ voter list of the Association and thereafter, will take necessary steps for holding of election and constitution of new Committee of Office Bearers as per Model Bye-laws framed by the U.P. Bar Council within a maximum period of six months. In order to discharge the aforesaid functions, the Elder Committee may take the assistance of Deputy Registrar, Firms, Societies and Chits, Lucknow Division, Lucknow. It is further provided that the Elder Committee shall take over the charge of the Association within three days from today.

14. With the aforesaid observations and directions, this writ petition is disposed of finally.