

(2009) 08 CHH CK 0026
In the Chhattisgarh High Court

Ravindra Kumar Parashar and Others

APPELLANT

Vs

State Bar Council of Chhattisgarh and Another

RESPONDENT

Date of Decision : 12-08-2009

Acts Referred:

Citation : (2009) 5 MPHT 35 : (2009) 3 MPJR 113

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Satish K. Agnihotri, J.—Challenge in this petition is to the order dated 15th March, 2008 (Annexure P-3) passed by the State Bar Council of Chhattisgarh Election Tribunal (for short "the Tribunal"), whereby the Tribunal rejected the application filed by the petitioners on the ground that the petitioners are liable to deposit at the rate of Rs. 10,000/- each petitioner, as Court fees.

2. The facts, in nutshell, are that the election for the State Bar Council of Chhattisgarh was held on the 19th July, 2007 and the results were declared on the 16th November, 2007, electing 25 members of the State Bar Council of Chhattisgarh. The petitioners, being aggrieved by declaration of the result, filed a combined petition before the Tribunal under the provisions of Rule 31(1) and (2) of the Chhattisgarh State Bar Council Election Rules, 2006 (for short "the Rules, 2006"). The petitioners deposited a sum of Rs. 10,000/- as Court fees as prescribed under sub-rule (2) of Rule 31 of the Rules, 2006 with the election petition. The Tribunal rejected the petition holding that each petitioner is required to deposit Rs. 10,000/- as Court fees, in total Rs. 50,000/-, as there were five petitioners. Accordingly, the petition was rejected with a direction to pay the deficit Court fees on or before 29th March, 2008.

3. The question involved in the present case is interpretation of sub-rule (2) of Rule 31 of 2006. Sub-rule (1) and (2) of Rule 31 of the Rules, 2006 read as under:

31. Disputes to the validity of election.

(1) Any voter may contest the validity of the election of a candidate declared to the Bar Council by petition signed by him and supported by an affidavit and delivered to the Secretary personally or sent by registered post so as to reach him within 15 days from the date of publication of the results of the election.

The petition shall be accompanied by fees of Rs. 10,000/- (Rupees Ten thousand), which shall be paid in cash or shall be sent by Money Order. In case, it is sent by Money Order. The Money Order Receipt shall be attached to the petition. The fees shall not be refundable.

4. On bare perusal of sub-rule (2) of Rule 31 of the Rules, 2006, it appears that the petition shall be accompanied by a fees of Rs. 10,000/-. It is not dependent on the number of petitioners. The learned Tribunal has taken a view that Sub-rule (1) Rule 31 of the Rules, 2006 provides that any voter may contest the validity of the election of a candidate by filing petition to be accompanied by fees of Rs. 10,000/-. Since as many as 5 petitioners have jointly filed Election Petition, each of them is required to pay Court fees of Rs. 10,000/- each, relying on a decision of a Division Bench of Gauhati High Court in *Sri Achinta Mili and Others Vs. State of Assam and Others*, .

5. Reliance of the learned Tribunal on Para 3 of the aforesaid judgment to hold that it is clear that though joint petition by several petitioners can be filed but each of the petitioners have to pay Court fee individually, is misplaced. The Division Bench of High Court was considering Chapter V-A of the Gauhati High Court Rules, wherein a proviso to the High Court Rules was added by a notification in 1992, which reads as under:

5. In 1992 by a notification another paragraph was added which reads like this:

Provided that more than one such individual can jointly file a single writ petition on each of them paying Court-fee payable on such application.

6. In the above case, there was a clear provision to pay Court fee by each individual in a single writ petition filed by more than one individual (petitioner). In the case on hand, Sub-rule (2) of Rule 31 of the Rules, 2006 does not provide for the same. Sub-rule (1) of Rule 31 of the Rules, 2006 is an enabling provision wherein each voter is enabled to file a petition challenging validity of the election of a candidate. Sub-rule (2) of Rule 31 of the Rules, 2006 does not provide for payment of Court fee by each of the petitioner but payment of Rs. 10,000/- on each petition. There is a difference between "petitioner" and the "petition". In one petition, there may be several petitioners. It is clearly specified that each petition shall be accompanied by a fees of Rs. 10,000/-. No other interpretation of the above provision is possible.

7. It is well settled principle of interpretation of statute that if the provision of the Act is clear and unambiguous and does not lead to absurdity or anomaly, the literal interpretation has to be resorted to.

8. In *Jugalkishore Saraf v. Raw Cotton Co. Ltd.* AIR 1955 SC 376, the Supreme Court observed as under:

6. ...The cardinal rule of construction of statutes is to read the statute literally, that is by giving to the words used by the Legislature their ordinary, natural and grammatical meaning. If, however, such a reading leads to absurdity and the words are susceptible of another meaning the Court may adopt the same. But if no such alternative construction is possible, the Court must adopt the ordinary rule of literal interpretation. In the present case, the literal construction of the rule leads to no apparent absurdity, and, therefore, there can be no compelling reason for departing from that golden rule of construction.

9. A Constitution Bench of Supreme Court in *Padmasundara Rao and Others Vs. State of Tamil Nadu and Others*, , observed as under:

12. The rival pleas regarding rewriting of statute and *casus omissus* need careful consideration. It is well-settled principle in law that the Court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the Legislature. The language employed in a statute is the determinative factor of Legislative intent. The first and primary rule of construction is that the intention of the legislation must be found in the words used by the Legislature itself. The question is not what may be supposed and has been intended but what has been said. "Statutes should be construed, not as theorems of Euclid", Judge Learned Hand said, "but words must be construed with some imagination of the purposes which lie behind them." (See: *Lenigh Valley Coal Co. v. Yensavage*). The view was reiterated in *Union of India v. Filip Tiago De Gama of Vedem Vasco De Gama*.

10. In *Harbhajan Singh Vs. Press Council of India and Others*, , the Supreme Court observed as under:

7. ...The Legislature does not waste its words. Ordinary, grammatical and full meaning is to be assigned to the words used while interpreting a provision to honour the rule -- the Legislature chooses appropriate words to express that it intends, and therefore, must be attributed with such intention as is conveyed by the words employed so long as this does not result in absurdity or anomaly or unless material -- intrinsic or external -- is available to permit a departure from the rule.

11. In *Kuldip Nayar Vs. Union of India (UOI) and Others*, , the Hon"ble Supreme Court observed as under:

201. ...We endorse and reiterate the view taken in the above-quoted paragraph of the judgment. It may be desirable to give a broad and generous construction to the constitutional provisions, but while doing so the rule of "plain meaning" or "literal" interpretation, which remains "the primary rule", has also to be kept in mind. In fact, the rule of "literal construction" is the safe rule unless the language used is contradictory, ambiguous, or leads really to absurd results.

12. The Supreme Court in Commnr. of Central Excise, Bhavnagar Vs. Saurashtra Chemicals Ltd., observed as under:

13. A beneficent statute may have to be considered liberally but where a statute does not admit of more than one interpretation, literal interpretation must be resorted to....

13. The objector to the election petition, i.e., respondent No. 74 was impleaded as respondent No. 2 herein. Other respondents in the election petitioner have not objected the payment of Rs. 10,000/- and as such, it was not necessary to implead all the respondents as party respondents.

14. In the case on hand, where the question of payment of Court fee is involved, without expressing any opinion on merits of the case, for the reasons stated hereinabove, the writ petition is allowed. The order dated 15th March, 2008 (Annexure P-3) passed by the Tribunal is set aside. The petitioners are liable to pay fees of Rs. 10,000/- only as required under Sub-rule (2) of Rule 31 of the Rules, 2006. No order as to costs.