

Court No. - 36

Case :- WRIT - C No. - 3240 of 2025

Petitioner :- Elder Committee Ekikrit Bar Association Mati Kanpur Dehat
District Kanpur Dehat

Respondent :- State Of Up And 3 Others

Counsel for Petitioner :- Dharmendra Singh

Counsel for Respondent :- C.S.C.,Ankit Saran,Ashok Kumar Tiwari,Ram
Murti Yadav

Hon'ble Kshitij Shailendra,J.

1. Though today was declared as a local holiday on account of Mauni Amavasya, this special bench has been constituted under the order passed by Hon'ble the Chief Justice entertaining an application for urgent hearing filed on behalf of the petitioner. Hence, the matter is listed before me at 3.00 PM today and, accordingly, taken up for consideration. The writ petition was filed on 23.01.2025.

2. Heard Sri Dharmendra Singh assisted by Sri Anil Kumar and Sri Dileep Srivastava, learned counsel for the petitioner, Sri Surya Bhan Singh, learned Standing Counsel along with Sri Akhilesh Kumar, for the respondents no.1 and 4 and Sri Ashok Kumar Tiwari, learned counsel for Bar Council of U.P. (respondent no.2) through video call as he could not present himself expressing certain difficulties and there being no previous request for appearing through video conferencing mode, this Court heard him through video call which was facilitated by the learned counsel for the petitioner in open Court today.

3. As far as respondent no.3 is concerned, though a caveat application was filed on his behalf by Sri Ankit Saran, Advocate and a copy of urgency application was served upon him through whatsapp mode attaching therewith the PDF of the writ petition, as stated by the learned counsel for the petitioner, learned counsel has

shown to the Court a whatsapp communication made by Sri Ankti Saran, Advocate stating *"Sir I express my inability as you have informed of the writ yesterday itself and I am out of town and for the same reason, I shall be unable to attend the proceedings today"*.

4. In view of formation of special bench under the orders of Hon'ble the Chief Justice and presence of all the learned counsel except Sri Ankti Saran Advocate, this Court proceeded to hear the matter on merits.

5. Elder Committee, Ekikrit Bar Association, Mati Kanpur Dhat has assailed validity of the impugned order dated 19/20.01.2025 communicated through Letter No.249 dated 20.01.2025 whereby the Chairman, Bar Council of U.P., has recalled his previous order dated 12.01.2025 and has issued a direction to the President/Secretary of the Bar Association to constitute an Elders Committee in the order of seniority and hold elections of the Bar Association under the supervision of a Committee of Observers constituted by the Bar Council. Further direction has been issued that the disputed Elders Committee shall neither take any decision nor conduct any proceeding in relation to the elections.

6. Before the learned counsel for the petitioner opened his arguments, Sri Ashok Kumar Tiwari, learned counsel for Bar Council, raised a preliminary objection stating that since elections have already taken place on 28.01.2025, the instant writ petition has rendered infructuous and, in case, any party has grievance arising out of elections, he may approach the Prescribed Authority under Section 25 of the Societies Registration Act, 1860 (as applicable in the State of U.P.).

7. Learned counsel for the petitioner submits that an Elders

Committee was constituted much earlier as per the enclosed Byelaws and an election programme of the Bar Association was notified on 21.12.2024, according to which, nomination papers were to be issued on 09.01.2025, the date for submitting the nomination papers was notified as 16.01.2025, nomination papers were to be scrutinized on 18.01.2025, the same could be withdrawn on 20.01.2025 and elections were to be held on 28.01.2025.

8. The petitioner moved an application dated 12.01.2025 before the Chairman of Bar Council, U.P., informing him about the elections to be held on 28.01.2025 and requested for sending Observers. The Chairman passed an order dated 12.01.2025 providing an Observer Mr. Ajay Yadav and directed holding of elections under his supervision. It is urged that since, for certain posts, nomination papers were not withdrawn, the office bearers for said posts were declared un-opposed, however, in respect of those posts for which more than one person had submitted nomination paper(s), elections were scheduled to be held on 28.01.2025, as notified earlier. These posts were the post of President, Mahamantri, Mantri and Joint Secretary (Publication).

9. The grievance of the petitioner is that the impugned order dated 19.01.2025 has been passed entertaining an application filed by the respondent no.3 and other persons without providing any opportunity of hearing to the petitioner and without even putting it to notice and it has been observed in the order impugned that since, after death of Chairman of Elders Committee, the next senior-most person, namely, Sri Prem Swaroop Shukla was not doing anything and there was some other dispute regarding Elders Committee, the order dated 12.01.2025 should be recalled and was, accordingly, recalled with a direction to constitute a new

Elders Committee and hold elections under the supervision of the Observers appointed by the Bar Council.

10. Learned counsel for the petitioner has placed reliance upon an order dated 11.07.2019 passed by a Division Bench of this Court in **Writ-C No.31223 of 2018 (Bar Association, Fatehgarh Vs. Bar Council of U.P. and 2 others)** and another order dated 26.06.2013 passed by the Division Bench of this Court in **Writ-C No.34436 of 2013 (Bar Association and another Vs. State of U.P. and 4 others)** and it is urged that there are successive decisions pronounced by different Division Benches of this Court wherein it has been held that Bar Council has no power or authority under the **Advocates Act, 1961** to interfere with the elections of a Bar Association. It is also argued that in Writ-C No.34436 of 2013 also, the order impugned was passed by the Chairman of Bar Council of U.P. where too he had not only decided the dispute of constitution of Elders Committee but had also directed for holding elections of the office bearers of the Bar Association of Dhampur, Bijnore, which was a society registered under the Societies Registration Act and this Court found it unsustainable.

11. In the light of the aforesaid facts, it is urged that since, as per the decisions of the Division Benches, the order impugned is without jurisdiction, in case the same is allowed to stand, a situation would arise where a new Elders Committee would be formed and a new election would be held and, therefore, the effect and operation of the impugned order be stayed.

12. Learned Standing Counsel substantially supports the contention of petitioner that once proceedings pursuant to the previous order dated 12.01.2025 passed by the Chairman, Bar

Counsel of U.P., had begun and were substantially over, the said order should not have been recalled at least without providing opportunity of hearing to the petitioner.

13. Per contra, on merits, Sri Ashok Kumar Tiwari, learned counsel for Bar Council, submits that the order impugned has been passed in exercise of powers under Section 15 of the **Advocates Act, 1961** and the Bar Council has every power to ensure that there exists a duly constituted Elders Committee. He further submits that no new Elders Committee has been appointed by the Bar Council or its Chairman, rather only a direction has been issued to the President/ Secretary of Bar Association to constitute a new Elders Committee as per the Model Bye-laws and, then, hold elections. It is again urged that since elections have already been held, any grievance in relation to the elections may be raised before the Competent Authority under the Societies Registration Act, 1860.

14. It is not in dispute that elections have already been held on 28.01.2025 in which certain office bearers have been elected and the petitioner is not aggrieved by elections or its result. A news item published as regards holding of elections and depicting photographs of the elected members has also been placed before this Court, which is taken on record. Apart from this, a list of office bearers elected in the elections held on 28.01.2025 has also been placed before this Court and has been taken on record.

15. Having heard learned counsel for the parties, this Court is of the prima facie opinion that placing reliance upon previous decisions, coupled with interpretation of Section 15 of the **Advocates Act, 1961** read with other provisions including **Bar Council of U.P. Election Rules, 1992** framed under Section 15(2)

of the Advocates Act, at least two Division Benches, as noted above, have held that Chairman of Bar Council has no power or authority to decide the issue of constitution of Elders Committee or issue a direction for holding elections of the office bearers of a Bar Association. Though Sri Tiwari submits that Model Bye-laws have come into existence conferring statutory powers upon a Bar Council to ensure proper constitution of Elders Committee and to issue other allied directions, this Court is of the prima facie opinion in this case that once an election schedule was notified in December, 2024 and elections were held on 28.01.2025 in respect whereof, as per the election schedule, even the nomination papers were scrutinized and certain un-opposed declaration was also made on 20.01.2025 pursuant to the order dated 12.01.2025 issued by the Chairman, Bar Council of U.P. himself, which was confined only to provide Observers to supervise holding of elections on 28.01.2025, recalling his own order on 19.01.2025 entertaining an application filed by certain persons including the respondent no.3, without providing opportunity of hearing to the petitioner and, further, issuing certain directions as regards formation of a new Elders Committee and holding of another elections and, further, restraining the existing Elders Committee, terming the same to be "disputed" as regards election, appears to be contrary to the verdict of the Division Benches, as referred above.

16. Once elections have already been held and parties aggrieved by the elections have statutory right to approach appropriate forum, in case the order impugned is allowed to stand, for intervening period during the pendency of the writ petition, it would create further complications and would cause interference in the functions to be performed by an elected body. It may be noted that the petitioner is not aggrieved by the election or its result.

17. A prima facie case for grant of interim relief, therefore, stands made out.

18. Four weeks' time is granted to all the respondents for filing counter affidavit.

19. Two weeks thereafter for the petitioner for filing rejoinder affidavit.

20. Put up as fresh on 24.03.2025 before appropriate Bench.

21. The case shall not be treated as tied up with or part heard by this Bench.

22. Till the next date of listing, the effect and operation of the order impugned dated 19.01.2025 communicated through Letter No.249 dated 20.01.2025 passed by the Chairman, Bar Council of U.P. (contained in Annexure No.5 to the writ petition) shall remain **stayed**.

Order Date :- 29.1.2025
AKShukla/-

(Kshitij Shailendra, J.)