

Court No. - 1

Case :- SPECIAL APPEAL No. - 208 of 2025

Appellant :- High Court Bar Association Allahabad Thru. Chairman Elders Committee Shri Vijay Bahadur Singh

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Prin. Secy. Labor Deptt. Lko. And 4 Others

Counsel for Appellant :- Satyanshu Ojha

Counsel for Respondent :- C.S.C.

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Shree Prakash Singh,J.

1. Heard Sri R.K.Ojha, learned Senior Advocate assisted by Sri Mahendra Bahadur Singh, learned counsel for the appellant, Sri Gaurav Mehrotra, Advocate assisted by Sri Ramendra Yadav, learned counsel for the High Court, Sri Tushar Mittal, learned Amicus Curiae, Sri H.G.S. Parihar, learned Senior Counsel and Sri R.V. Pandey, learned counsel for the Oudh Bar Association.

2. The question in the present appeal regarding implementation of the office memorandum dated 09.08.2023, has cropped up in the background of an order passed on the application seeking leave to appeal as against the Judgment/Order passed by the writ court on 19.05.2025 in Writ C No. 3389 of 2025. The order passed by this court on 20.06.2025 is extracted here-in-under:-

“(C.M. Application No.1 of 2025)”

1. Heard Sri R.K. Ojha, Senior Advocate assisted by Sri Mahendra Bahadur Singh, learned counsel for the appellant and learned Standing Counsel for State-respondents.

2. The appellant was not a party to the writ proceedings before this Court.

3. It is submitted by Sri Ojha that the impugned judgment and order dated 19.05.2025 passed in Writ-C No.3389 of 2025 to the extent of some observations made in paragraphs 34, 35, 36 and 38 cause prejudice to the interest of the Bar Association giving rise to appeal.

4. The Bar Association is, thus, aggrieved and is entitled to maintain the present appeal being an aggrieved party.

5. On a plain reading of the judgment impugned herein in this petition, we do not gather that the writ petition involved any such issue insofar as the relief sought in the writ petition is concerned, the suo motu directions issued by this Court have thus come to be issued without hearing the Bar Association.

6. For this reason, if the directions issued against the Bar Association are prejudicial to the interest of Bar, leave to appeal deserves to be granted in the interest of justice.

7. This Court is of the considered opinion that the application seeking leave to appeal is maintainable and the same is thus allowed.

8. The application is, accordingly, **allowed**.

(order on appeal)

9. Let a copy of this intra-court appeal be served to learned counsel for the High Court within three days, who may obtain complete instructions in the matter.

10. List this case on **03.07.2025 in the list of fresh cases**.

11. Copy of the memo of appeal may also be provided to learned counsel for the writ-petitioner."

3. Confining arguments and the grievance raised before us on the touchstone of opportunity of hearing, which any aggrieved party may be entitled to, this court proposes to hear all the concerned parties in the present appeal so as to dispel any confusion as regards the implementation of the circular dated 22.11.2024, as is applicable in so far as the process of photo affidavit rates and it's realization for generating identification number, is concerned. For ready reference, the office memorandum dated 22.11.2024 is reproduced here-in-under:-

"HIGH COURT OF JUDICATURE AT ALLAHABAD
ADMIN, 'G-I' (AMENDMENT) SECTION
OFFICE MEMORANDUM

No.998/Admin. G-I/Allahabad: Dated: November 22, 2024

In supersession of the earlier Office Memorandum No.805 /Admin. G-I/Allahabad: Dated: 09.08.2023, for implementation of the procedure of photo affidavit system of the Hon'ble Court, as per the provisions contained in Chapter IV Rule 3 of the Allahabad High Court Rules, 1952, Hon'ble the Court has been

pleased to direct to issue hereby the modified Office Memorandum to the effect that -

(1) The Oath Commissioners shall maintain a register which shall contain the prescribed particulars with respect to each affidavit sworn;

(2) The deponent of every affidavit shall affix his or her passport size photograph together with the identification number issued by the Allahabad High Court Bar Association or Advocates' Association for Allahabad and Oudh Bar Association for Lucknow Bench, Lucknow;

(3) For one particular case, one identification number shall be allocated to a person by the Allahabad High Court Bar Association or Advocates' Association for Allahabad and Oudh Bar Association for Lucknow Bench, Lucknow which may be used for all subsequent affidavits to be filled by the same deponent in the same case;

(4) The identification number allocated to a particular deponent in a case shall also be specifically recorded in the register;

Provided that the above modalities shall not be insisted upon in regard to the affidavits to be filed by the officials of the State or Union Governments or on behalf of the instrumentalities of the State.

Provided further that an Advocate who is having an AOR number issued by the Hon'ble High Court but is not a member of above associations, shall not be refused for photo identification number.

It is further directed that having due regard to the nature of the work which is to be carried out by the Allahabad High Court Bar Association or Advocates' Association for Allahabad and Oudh Bar Association for Lucknow Bench, Lucknow and the administrative expenses involved, an amount of Rupees One Hundred Twenty Five per identification number may be charged by the Bar Association or Advocates' Association for Allahabad and Oudh Bar Association for Lucknow Bench, Lucknow. The amount so prescribed shall not be enhanced without prior approval of the Registrar General on the instructions of the Chief Justice.

All concerned are directed to comply with aforesaid order with immediate effect.

By Order of the Court

*(Rajeev Bharti)
Registrar General"*

4. Sri Gaurav Mehrotra, learned counsel for the High Court inviting our attention to various provisions of the High Court Rules, has submitted that the affidavits for initiation of the

proceedings before this court in various forms is an essential concomitant which testifies the stand of a litigant/party on oath.

5. It was further informed that on account of imposters swearing the affidavits, serious difficulties were faced in the matter of institution of proceedings before this court of which cognizance was taken and orders passed. In order to streamline the genuineness of the affidavits, a mechanism was evolved for filing the photo affidavits together with identification numbers of the deponents in the proceedings initiated before this court. The register maintained by the Oath Commissioners as per the rules applicable in this behalf was also kept intact.

6. The office memorandum extracted above, in paragraph nos. 1 & 2 clearly specifies that the Oath Commissioner shall maintain a register, which shall contain the prescribed particulars with respect to each affidavit sworn. This apart, the deponent of every affidavit shall affix his/her passport size photograph together with the identification number issued by the Allahabad High Court Bar Association or Advocates' Association for Allahabad and Oudh Bar Association for Lucknow Bench, Lucknow.

7. The requirement of the passport size photograph together with the identification number was permitted to be generated by the respective Bar Associations for which, separate rates were fixed from time to time. In the latest office memorandum issued on 22.11.2024, the rates fixed for such a purpose is Rs.125/- only per identification number, which is permitted to be charged by the respective Bar Associations of the High Court at Allahabad and Oudh Bar Association for Lucknow Bench, Lucknow.

8. It appears that some complaints came to the notice of this

court regarding realisation of some higher amounts by the Bar Associations at the Photograph Affidavit Centres, which gave rise to such an issue for consideration before the writ court.

9. In so far as the applicability of the office memorandum dated 22.11.2024 is concerned, there does not appear to be any dispute between the parties for implementation of the same. Both the Bar Associations have conceded to the position that the Photograph Affidavit Centres for the purpose of generation of a passport size photograph together with the identification number cannot realise more than Rs.125/- for issuance of such a formality at the Photo Affidavit Centre. The facility of passport size photograph together with identification number is also admitted to be @ Rs.125/-.

10. In this view of the matter, there does not appear to be any substantive question involved before us in the present appeal in so far as the implementation of the office memorandum dated 22.11.2024 is concerned.

11. Sri R.K.Ojha, learned Senior Counsel for the appellant has also conceded before us that any welfare scheme formulated by the Bar Association is not a part of the above process of photo identity and generation of identification number, but, the same is an independent effort and contribution of the respective advocates, which does not affect filing of affidavits or compel any litigant to subscribe to the schemes which the Bar Associations may evolve for the welfare of their members.

12. The schemes of Bar Associations are open to be evolved by the Bar Associations having regard to the manner of independent resolutions passed from time to time. To that extent, no such question is either involved before us or is required to be dealt with.

13. Sri Tushar Mittal, learned Amicus Curiae, however, has brought to our notice two relevant informations regarding the receipts issued by the respective Bar Associations in the matter of generation of passport size photographs together with the identification numbers of the deponents, as required under the aforesaid office memorandum.

14. On a bare perusal of the receipts generated by the Bar Association at Allahabad for issuance of passport size photograph together with the identification number, there is a common receipt number for realising the money for photo-affidavit and the contribution under the welfare scheme. The Oudh Bar Association at Lucknow, it is gathered that the format of photo receipt, issued to the party swearing the affidavit, does not mention the amount of Rs.125/- charged for the purpose of photography and generation of identification number.

15. The Oudh Bar Association in the receipts issued merely generates the receipt numbers and does not mention the amount of Rs.125/- on the photographed receipts, whereas, the receipts issued at Allahabad, bear a single receipt number both for issuance of a passport size photograph together with the identification number and the same receipt number is issued for charging an additional amount of Rs.475/- against 'Adhivakta Nidhi'. Any receipt issued for accepting the money under welfare scheme cannot be allowed to form a part of the requirement as per the circular dated 22.11.2024. Both the Bar Associations at High Court Allahabad and Lucknow admit this anomaly.

16. Both the Bar Associations being in agreement are directed to re-model the receipts issued so as to be in conformity with

the circular dated 22.11.2024 at the earliest and preferably within a period of 15 days from the date of receipt and circulation of this order by the Registrar General of this court.

17. We also make it clear that no litigant for institution of the proceedings before this court is compelled to deposit any amount higher than what is prescribed in the aforesaid office memorandum dated 22.11.2024.

18. We, however, do not embark on any other issue regarding the schemes, which the Bar Associations in it's independent capacity, may evolve for the welfare of their members at High Court Allahabad or Lucknow.

19. Learned counsel for the parties have also raised common grievance against the observation/direction contained in paragraph no.24 of the impugned Judgment, which reads as under :-

“24. In view of the practical difficulties pointed out, it is further clarified that the list of defects pertaining to the affidavits shall not be raised by the Stamp Reporting Section in respect of petitions which are supported by affidavits sworn before the Notary Public.”

20. Sri Gaurav Mehrotra, learned counsel for the High Court has stated that a blanket prohibition as regards non marking of defects on the affidavits sworn by the notary public is against the spirit of Rules contained in Chapter II, Rule 1 (ii) of the High Court Rules.

21. From perusal of provisions of Chapter II, Rule 1, Sub. Rule (ii) of the High Court Rules, it is amply clear that the registry is empowered to mark the defects for which the opportunity to rectify the defect is granted to the respective counsel. To this

extent, such a direction does not stand in consonance with the relevant rule and calls for modification. The submission has force.

22. In the view of the submissions made, we clarify the aforementioned direction and permit the registry to act in accordance with the relevant rules and the direction issued by the writ court is modified to that extent.

23. With the clarification as above, the impugned Judgment stands modified.

24. The special appeal stands **disposed of** accordingly.

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(Shree Prakash Singh,J.) (A.R.Masoodi,J.)

Order Date :- 3.7.2025/AKS