



2026:AHC:116231-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
WRIT - C No. - 6613 of 2026**

Chandrashekhar Upadhyay, Advocate

.....Petitioner(s)

Versus

State of UP and 8 others

.....Respondent(s)

Counsel for Petitioner(s)	: Ashok Kumar Upadhyay, Manoj Kumar Dubey
Counsel for Respondent(s)	: Ashok Kumar Tiwari, Rakesh Pande, C.S.C., Sai Girdhar, Vishakha Pande

With
WRIT - C No. - 9562 of 2026

Ankit Kumar

.....Petitioner(s)

Versus

State of U.P. and 2 others

.....Respondent(s)

Counsel for Petitioner(s)	: Devendra Kumar Shukla, Sarjjeet Kumar, Sunil Kumar Dwivedi
Counsel for Respondent(s)	: Aishwarya Pratap Shahi, Nipun Singh, C.S.C.

AFR
Reserved

In Chamber

**HON'BLE ATUL SREEDHARAN, J.
HON'BLE SIDDHARTH NANDAN, J.**

(Per: Siddharth Nandan,J.)

Prologue

"[The advocate] has a duty to the court which is paramount. It is a mistake to suppose that he is the mouthpiece of his client to say what he wants: or his tool to do what he directs. He is none of these things. He owes allegiance to a higher cause. It is the cause of truth and justice. He must not consciously misstate [sic] the facts. He must not knowingly conceal the truth...He must produce all the relevant authorities, even those that are against him. He must see that his client discloses, if ordered, the relevant documents, even those that are fatal to his case. He must disregard the most specific instructions of his client, if they conflict with his duty to the court. The code which requires a barrister to do all this is not a code of law. It is a code of honour. If he breaks it, he is offending against the rules of the profession and is subject to its discipline.

(Lord Denning)¹

1. Affidavit filed on behalf of intervenor- High Court Bar Association, Allahabad is taken on record. HCBA, was permitted as an intervenor, as with passage of time, the disputes of like manner, as in the present Petition, are ensuing, more frequently than ever before; and the lacuna in the Model Bye-laws or on account of no clarity, the Associations are more engrossed in litigation, than meeting the cardinal purpose, for which they are in existence.

2. Heard Shri Manoj Kumar Dubey and Shri Devendra Kumar Shukla, learned counsel for the petitioners, Shri Ashok Kumar Tiwari, learned counsel for the Bar Council of U.P., Shri Rakesh Pande, learned Senior Advocate assisted by Ms. Vishakha Pande, Advocate for the High Court Bar Association, Allahabad, Shri Manoj Kumar Mishra, learned Standing Counsel for the State-respondents, Ms. Naina Sharma, Advocate and Mr. Achintya Rai Sharma, Advocate, as Amicus Curiae.

1. Rondel vs. Worsley 1966 (3) WLR 950

3. This Court is flooded with writ petitions being filed by the various Bar Associations of the districts in the State of Uttar Pradesh, as well as, on occasions the High Court Bar Association has also approached this Court, seeking redressal of issues, which basically concerns the election of their respective societies; and since the issues pertaining to both the writ petitions are touching the same legal issues, this Court deems it appropriate to address the issue by way of a common order, by the consent of the parties.

4. In writ petition no.6613 of 2026, the petitioner is a Member of District Bar Association, Mau and has filed the present writ petition with the following prayer:

i. To issue writ, order or direction in the nature of certiorari quashing the resolution dated 04.02.2026 passed by respondent no.2 Shri Pramod Kumar Singh Paliwal, The President, District Bar Association Mau, whereby the respondents no. 5 to 9 have been nominated as the members of the elder committee and the nominated members have been authorized to initiate proceedings regarding the election of the office bearers of the District Bar Association Mau for the year 2026 and a decision has been taken not to hold the election of the elders committee.

ii. To issue writ, order or direction in the nature of Mandamus restraining the respondent no. 5 to 9 not to initiate any proceedings for holding the election of District Bar Association, Mau for the year 2026 pursuant to the resolution dated 04.02.2026 passed by the respondent no.2 and the said nominated elder committee may not take any policy decision for holding the election.”

5. In writ petition no.9562 of 2026, the petitioner is a practicing Advocate and is Member of the District Bar Association, Bijnor and has filed the writ petition with the following prayer:

“(i) Issue a writ, order or direction in the nature of certiorari for quashing the impugned order dated 19.02.2026 jointly issued by the President and Secretary of District Bar Association and Library, Bijnor (Annexure No.4 to the writ petition)

(ii) Issue a writ, order or direction in the nature of mandamus directing to the Elders Committee of District Bar Association and

Library, Bijnor constituted under Clause 7 of bye-laws, to hold the election of District Bar Association and Library, Bijnor.

(iii) Issue a writ, order or direction in the nature of mandamus directing to the President and Secretary of the District Bar Association and Library, Bijnor not to interfere in the election of District Bar Association and Library, Bijnor.”

6. In order to appreciate the historical background of the controversy and advent of the Elders Committee, by way of the Model Bye-Laws, this court deems it necessary, to refer to the judgement, in the case of **Shiv Kumar Akela and others vs. Registrar, Societies, Firms and Chits and others**², wherein a Division Bench of this Court while considering a petition, on behalf of regular legal practitioners in High Court, Allahabad, having approached this Court raising pertinent issue regarding the influx of non-resident Members, who under the guise of advocates ordinarily practicing in the High Court of Allahabad, taking recourse to unethical means/practices and giving allurements, were influencing the HCBA elections; and as such the very objective of forming the Bar Associations and their pursuit to secure the “aims and objects, enshrined under the bye-laws” of HCBA was being defeated; and having given affiliation vide Affiliation No. 13 of 1989.

7. The other issue which was raised before the Court, was in spite of the fact that one year term of the “governing body” (under HCBA Rules) having come to an end, there was manipulated “extension of the term”. The third issue raised was regarding “One Bar One Vote”.

Case of Bar Council of Uttar Pradesh

8. The Bar Council of U.P. admitted that in absence of any procedure/modus operandi, under “Advocates Act, 1961”, to ascertain and revoke enrollment of non-practicing/non-professional advocates or to test knowledge, competence and suitability of one, to be “enrolled” as “Advocate” and inadequacy of Rules and infrastructures, to carry out periodical scrutiny or to update Roll of Advocates in profession, unscrupulous persons and at the time even based on forged certificates,

2. 2007 (2) AWC 2011 (ALD)

members were being registered; and the role of Bar Associations, should also be made accountable, regarding advocates practicing in Courts, tribunals etc.

Historical background with respect to the Model Bye-Laws framed by Bar Council of Uttar Pradesh

9. The Bar Council of Uttar Pradesh constituted the following Committee, for drafting a “*Model Bye-law*” :

- i. Shri Tej Pratap Singh, Convener (Bar Council of Uttar Pradesh, Allahabad)
- ii. Shri Vinay Chandra Mishra, Member (Bar Council of Uttar Pradesh, Allahabad)
- iii. Shri Ramesh Chandra Mehrotra, Member (Bar Council of Uttar Pradesh, Allahabad)
- iv. Shri Birendra Kumar Srivastava, Member (Bar Council of Uttar Pradesh, Allahabad)
- v. Shri Banshidhar Singh, Member (Bar Council of Uttar Pradesh, Allahabad)
- vi. Shri Imran Mabood Khan, Member (Bar Council of Uttar Pradesh, Allahabad)

10. The model bye-laws, vide resolution no.2389 of 2005, dated 12.02.2005, were provisionally approved by the Bar Council; and in its meeting dated 09.01.2005, certain amendments were also suggested, which were incorporated subsequently e.g.:

(A). In format (A) at serial no.6 the following amendment was incorporated:

- i. the bye-laws propounded by the Bar Council of U.P., to be registered with Registrar of Societies Registration;

(B). In format (D) for the purposes of affiliation of the Advocates Association with the Bar Council of U.P., shall incorporate the following at serial no.6:

i. a certificate to the effect that Advocates Association, which is attached with the Bar Council, have not violated any of the provisions of the bye-laws propounded by the Bar Council.

11. For ready reference amendments in format “A” and “D” at serial no.6, are reproduced below:

बार कौंसिल से संबद्धन हेतु आवेदन पत्र के प्रारूप (क) में संलग्नक के क्रम संख्या 6 पर निम्नलिखित बिन्दु बढ़ाया गया:-

6. बार कौंसिल उत्तर प्रदेश द्वारा प्रतिपादित उप विधि जो रजिस्ट्रार सोसाइटीज़ रजिस्ट्रेशन के साथ पंजीकृत हो।

बार कौंसिल से अधिवक्ता संघ के संबद्धन के नवीनीकरण हेतु आवेदन पत्र के प्रारूप (घ) के संलग्नक के क्रम संख्या 6 में निम्नलिखित संशोधन किया गया:-

6. इस आशय का प्रमाण पत्र कि अधिवक्ता संघ ने बार कौंसिल द्वारा प्रतिपादित उप विधि व संबद्धन नियमावलियों का उल्लंघन नहीं किया है।

12. Before, we proceed, we may examine the role of the Players, who are the Participant and being referred as “Legal Fraternity”. Legal practitioners are not merely agents of parties pleading a particular case, but are officers of the Court, expected to assist in the administration of justice, and to sustain the unimpaired dignity of Courts by all means in their power.

13. In the recent past, the management and functioning of the Bar Association came under public criticism and like other institutions, the constitution of the Bar Association was hijacked by non practicing and non-professional Advocates. [Refer: Sunita Sharma vs. Deputy Registrar, Chits, Funds Society and others³]. Consequently, 'Bar' as well as 'Bench' started feeling obstructions in the dispensation of justice, and those lawyers who were committed to the system became ineffective and the control and regulation of the Bar Association went into the hands of non-practicing and non-resident lawyers and consequently, the regular legal practitioners, including the parent bodies like 'State Bar Council' as well as 'Bar Council of India', took up the cause to save the Bar Association

3. AIR 2014 All 141, 2014 (6) ADJ 77

from the clutches of such lawyers, and a request was made to the Court of Law, to regulate entry into the premises and ensure that only bona fide genuine Advocates, enter the Court premises and regular legal practitioners alone are extended privileges and facilities by the Court, without which the Court cannot function smoothly and various measures were suggested to maintain the role of practicing lawyers, to curb the menace of uninterested non-practicing lawyers, obstructing the functioning of the Court, by frequent strikes and closure of the Courts' work. [Refer to P.K. Dash and others vs. Bar Council of Delhi and others⁴].

14. Money-power started controlling the constitution of the Governing Council of the Bar Association, which started functioning for their personal ends by adopting malpractices and influencing the justice delivery system. The matter was taken up by the Bar Council of India, as not only the local Bar Association, but also the statutory Bodies; such as 'Bar Council of State' and 'Bar Council of India', started becoming their victims.

15. During election campaigns, it was noticed that large numbers of law graduates, who are enrolled with the Bar Councils as a registered Advocate, are involved in various other professional activities and running businesses, but are voters for the purposes of elections of Bar Council and are thus affecting its constitution, with the result that those who are in active practice and are part and parcel of justice delivery system' lost their say; and as such the formulation of a proper regulatory system, in ensuring just and independent justice delivery system', thereby ultimately influencing such a noble cause in strengthening the Judiciary, which is one of the most important pillar, of the democratic system, became the need of the hour.

16. Having felt the adverse effect of such menace in polluting the justice delivery system, the High Court also invoked its "Rule Making Power" and evolved the principle of "One Bar One Vote". The entire

4. Writ Petition © 8106 of 2010

concentration was made by the 'Bar' as well as the 'Bench', to ensure election of the Governing Council of the Bar Associations, should be by a person who is in active practice, as a lawyer, so that the dignity of the noble profession be maintained. It is for this, the role of an Elder Committee, is of great importance, as with their experience and wisdom, they can give guidance, in the election process.

17. Quality of the dispensation of justice, is directly dependent upon professional standards of ethics and discipline amongst the members of legal profession, and the same cannot be expected from a person, who is not a member of the profession. [Refer. Supreme Court Bar Association and others vs. B.D. Kaushik⁵]

18. The Bar Association Rules were framed by such non-practicing lawyers who were dominating the Governing Council, more inclined to support their own cause than the system. It was resolved by the 'Bar Council of India' as well as the 'State Bar Councils' to ensure that the electorate of the Governing Council of various Bar Associations is constituted by actively practicing lawyers.

19. Consequently, the desirability of framing "Model Bye-Laws" was felt, which should be uniformly adopted by the Bar Associations. In order to ensure their adoption by various Bar Associations, provisions were made for their recognition, by granting affiliation through the respective Bar Councils, to those Associations which have adopted the Bye-Laws.

20. So far as the State of U.P. is concerned, a Model Bye Laws was framed by Sri T.P. Singh, Senior Advocate, the then Member, Bar Council of India as well as Chairman of Bar Council of India Trust and Sri V.C. Mishra, the then Chairman, Bar Council of U.P.

21. 'Model Bye Laws' also took care of the issue of non-holding of the election even after the expiry of period of their tenure, consequently, in Model Bye Laws, a provision for the constitution of an "Elders

5. 2012 (6) SCC 152

Committee” was made, authorizing it, apart from other functions, to hold the election, after expiry of the period of tenure of office bearers, if they don't hold the election within time, giving relaxation of one month, for such endeavor.

22. The provision for taking over charge from the outgoing office bearers, by the Elders Committee after the expiry of period of their tenure was made, but attempts to frustrate the same is continuous, by office bearers elected, for their personal gains.

23. The provision and procedure for constitution of Elders Committee, is being altered by the Bar Association by amending their Rules; and consequently members started approaching the High Court; with the disputed regarding the validity of the constitution of Elders Committee, for non-adherence of the Model Bye Laws and neglectful attitude of the Bar Council towards violation of the Model Bye Laws, by way of not refusing affiliation to the Association; and consequently, this Petition is also in row of such litigation and another attempt by this Court, to help their counterpart and awakening the conscience, of bodies like “State Bar Council” as well as “Bar Council of India”, to rise to the occasion and bring the system in line, shunning the appeasement policies.

24. In the case in hand, it is strange to note that the concept of the constitution of Elders Committee by the Five Senior Most Members of the Bar Association, which they have earned by their long tenure of active practice and continuous involvement with the administration of justice, is being diluted by adopting means to disrupt the constitution of the Elders Committee, by direct election or outgoing Committee, trying to nominate Elders Committee, in violation of Cl. 7 of the Model Bye-Laws, as in the case on hand.

25. In order to ensure that such Model Bye-Laws are being adopted by the various Bar Associations, the provision for affiliation, to give legal status to those Associations, was introduced by the Bar Council of U.P., **"Bar Council Uttar Pradesh Adhivakta Sangh Sambandhan Niymavali,**

2005"; and it was further provided that members of those Associations who are affiliated to the State Bar Council under such Rules will be entitled to avail the benefit of various Welfare Schemes sponsored by the State Bar Council; but because of the appeasement actions without visualizing the harm being caused to the justice delivery system on account of such latitude and the dishonor to the Rules formulated by nobody else than the Members of the Bar Council themselves, i.e. the Bodies formulating the Rules themselves, are acquiescing their violation.

26. ***Section 34(1) of the Advocates Act, 1961*** empowers High Court to frame rules, laying down conditions subject to which an Advocate shall be permitted to practice in the High Court and Courts Subordinate thereto, which has been held similar to the power under Article 145 of the Constitution of India. In a very rare case, a Court of law has encroached on the power of the Bar Members.

27. Section 38 of the Advocates Act, 1961 provides that even in disciplinary matters, the final Appellate Authority is the Supreme Court. 'Bar' and 'Bench' are the inevitable two shores of one river' wherein flows 'stream of Justice'. [Refer. To IN Re vs. Zila Adhivakta Sangh, Allahabad⁶].

28. Bar Association stands on higher pedestal, as compared to other registered Societies because of their role in the functioning of 'State' organs.

29. ***Rule 3(c) of the "Bar Council of Uttar Pradesh- Election Rules, 1992"*** defines a "Bar Association", which is registered under the 'Indian Societies Act' and also affiliated by the 'State Bar Council' in accordance with Rules framed by State Bar Council, for the purposes of these Rules.

30. Bar is the 'Army' of the Bench. The Judges are required to speak through their Judgement but at times they cannot express their agony or pain, publicly; then it is only the Bar which can come to their rescue.

6. 2015 SCC Online All 297 - dated 24.03.2015

31. The Bye-laws of the Association builds the character of the Bar, it is their dignity which determines the status of Bar and naturally the strength of the Army is to protect the “Judges” from various evils, obstructing justice delivery system'. It ensures that no illegal or improper means are used to influence the Judges; and it is responsible to prevent it's clients, from resorting to sharp or unfair practice. He has to use restrained language in correspondence, avoiding scurrilous attacks in pleadings, and using intemperate language during argument in court; and indisciplined or non-practicing lawyers, cannot maintain such standards.

32. In the matter of **Ajay Pratap Singh**⁷, a Division Bench of this Court, apart from other issues, gave direction that Elders Committee shall be constituted strictly in accordance with Rule 7 of the Bye-laws. In the event, no Senior Advocate is available, for any reason, then the next Senior Advocate, on the basis of seniority as Senior Advocate, will be the member of the Elders Committee.

33. The Apex Court in the matter of **Supreme Court Bar Association and others vs. B.D. Kaushik**⁸, has given the special status to the Bar Association which goes by the name of that Court e.g. "District Court Bar Association” for a particular District or "High Court Bar Association, Prayagraj" as a 'special status' of "Court Annex Bar Association".

34. The court annexed Bar Associations, start with the name of the court, as part of the name of the ‘Bar Association’ concerned. That is why we have ‘Supreme Court Bar Association’, ‘Tis Hazari District Court Bar Association’, etc. The very nature of such a Bar Association necessarily means and implies that it is an Association representing members regularly practicing in the court and who are responsible for proper conduct of its members in the court and for ensuring proper assistance to the court.

7. 2014 (3) ADJ 394

8. 2011 Legal Eagle SC 839

35. In consideration thereof, the court provides space for the office of the Association, library and all necessary facilities like chambers at concessional rates, for members regularly practicing in the court, parking place, canteen, besides several other amenities.

36. In the functions, organized by the court annexed Bar Associations, the Judges participate and exchange views and ascertain the problems, if any, to solve them and vice-versa. There is thus regular interaction between the members of the Bar Association and the Judges. The regular practitioners are treated as officers of the court and are shown due respect.

37. Right to vote is not an absolute right and to contest election is neither a Fundamental Right nor a common law right, but it is purely a statutory right governed by statute/rules/regulations. The right to contest an election and to vote can always be restricted or abridged, if statutes/rules or regulations prescribe so. (Ref: In Rev Zila Adhivakta Sangh Allahabad⁹). Voting right restrictions also can exist in the Rule.

38. Nature of a reasonable restriction, as to the right to vote is neither a common law right nor fundamental right under Article 19(1)(c); but a statutory right prescribed by the Statute, as has been held in several reported decisions of this Court. If a person is the member of several associations of advocates and wants to participate in the affairs of different associations of which he/she is a member; but circumscribed by a reasonable restriction, he/she may not be in a position to be really involved in the affairs of all associations of which he/she is a member. A person who is a member of more than one association, would form a different class than the person who is a member of only one association of lawyers, particularly the association of the Court in which he/she regularly practices. Though an advocate can be member of several associations, the right to form an association or be a member of an association does not necessarily include the right to vote.

9. 2015 SCC OnLine All 297

39. "One Bar One Vote" is a prescription which is in furtherance of the right to form an association and be able to manage the affairs of the association by those who regularly practice in the courts, for which the association is formed.

40. Having referred to the issues of Appeasement, neglectful attitude of State Bar Council and the restrictions of 'One Bar One Vote'; and also the mandatory requirement to form the 'Elders Committee' as per Clause 7 of the Model Bye/Laws, in the factual Matrix of the present case, while discussing its benefits and corresponding facilities, extended to the 'Court Annex Bar Association'; since the issue which this Court has been called upon to address, pertains to the elections that are required to be held as per the bye-laws of the Bar Associations and which also has to conform to the Model bye-laws, which have been propounded by the the Bar Council of U.P., and is a *sine qua non*, for affiliation of the said Bar Association; this Court deem it appropriate to refer to Rule 18, 29, 51, 52, 53, and 54 of the Model Bye-Laws for Bar Association, U.P.; prior to framing Issues:

TERMS OF OFFICE

18. The office bearers of the Association and Members of the Governing Council / Executive Committee shall hold the office till the completion of one year from the date of their election, however, in extraordinary circumstances they may continue for a further period of 1 month with the prior approval of Elders Committee for the reason to be recorded within which they will get the election completed failing which the administration of the Association will vest in the Elders Committee, who will hold the election at there earliest as per bye-laws preferably within another 1 month.

BUSINESS AT THE ANNUAL GENERAL MEETING

29. The Annual General Meetings of the Association shall;

(a) fix a date for electing office bearers, and other members of the Governing Council from amongst its ordinary/life Members;

(b) pass the audited annual accounts, the annual report and sanction the Budget for the year from the 1 of August to the 31-July;

- (c) adopt such resolutions as might be brought forward for guiding the activities of the Association or its bodies; and*
- (d) appoint the auditor for the ensuing year.*

BREACH OF RULES

51. Any member of the Association who shall be guilty of continuous infraction of the rules herein contained or of any bye-laws made there under, shall be liable to expulsion by a vote of the majority of the members present at a General Meeting of the Association.

BYE-LAWS

52. Subject to these Rules the Governing Council may, from time to time, frame bye-laws, for the purpose of carrying out the objects or regulating the activities of the Association. the bye-laws framed shall not be effective till they have been approved by the Bar Council.

AMENDMENT OF RULES

53. None of the these Rules shall be altered or modified or rescinded nor shall any new rule be framed unless they have received the assent of two-thirds of the members present and voting, by secret ballot, at a General Meeting convened for the purpose and be subject to approval by "Bar Council".

PROCEDURE OF ELECTION

54. The meeting of the General Body of the Association will convene at least a month before the expiry of the term of the office bearers and shall fix a date for Election.

The Elders Committee will act as Penal of the Returning Officer to hold Election and be entitled to include any other member of the Association, provided one is not contesting the Election and the result of the Election shall be declared in the meeting of the General Body so convened by the Elders Committee.

In order to meet the heavy burden of expenditure of the Bar Association, the Elders Committee will also fix security money for various posts, which shall not be refundable after the nomination is accepted and found valid. Only ordinary members, who have put in 2 years of continuous membership, will be entitled to vote and participate in the Election.

"the person, who has held office in any post will not be entitled to contest the following election in sequence for any post, however, he can contest the election in any post after a gap of one tenure.

The election of the Bar Association in the entire State shall be held under the supervision and control of the Bar Council of Uttar Pradesh.

The Advocate shall be entitled to cast his votes, only in the election of Bar Association, name of which Bar Association is mentioned in his C.O.P. Certificate & Identity Card.

ISSUES

1. For the breach of bye-laws of the Advocate Association, which has to be in conformity with Model Bye-laws as propounded by the Bar Council of U.P.; whether the parties are required to approach the Bar Council of U.P. or they are required to seek redressal before the Assistant Registrar, under the Societies Registration Act, 1860.
2. In case of an *inter se* seniority dispute amongst the Members of the Elders Committee and being referred to the Bar Council; in such an eventuality what would be the extent of power, that can be exercised by the Bar Council while, determining the dispute.
3. What shall be the powers of the Elders Committee, and as to whether the same can be borne out from the model bye-laws propounded by the Bar Council of U.P. or from the bye-laws of the Advocates Association.
4. Consequences, if any, in a situation where the Elders Committee, does not complete the election process, within 1 month or a dispute arises with regard to the elections conducted.

Discussion: Issue Nos.1 & 2

1. For the breach of bye-laws, of the Advocate Association, which has to be in conformity with Model Bye-laws as propounded by the Bar Council of U.P.; whether the parties are required to approach the Bar Council of U.P. or they are required to seek a redressal before the Assistant Registrar under the Societies Registration Act, 1860.

2. In case of an inter se seniority dispute amongst the Members of the Elders Committee and being referred to the Bar Council; in

such an eventuality what would be the extent of power, that can be exercised by the Bar Council, while determining the dispute.

41. The breach that this Court is concerned viz a viz the constitution of the Elders Committee, generally pertains to an *inter se* seniority dispute, for the purposes of nomination of the Elders Committee, therefore Issue Nos. 1 and 2 are being dealt with, together.

42. Rule 51, though provides for an eventuality for the breach of rules, by a Member of the Association; but it does not make a provision, in case, there is a dispute of seniority, while determining the 5 senior most members of the Association, to constitute the Elders Committee.

43. This question in a narrow compass, may not detain us, as the Bar Council has powers under Section 21 of the Advocates Act, 1961 to decide the question of seniority amongst the Advocates, who are enrolled with the Bar Council; but however, the dispute is often raised, as to whether the seniority in the Bar Council of U.P. is to be reckoned or the seniority from the date of enrollment in the Bar Association is to be seen; and further the extent of the powers of Bar Council, while determining the seniority dispute, often disrupts the elections.

44. Shri Ashok Kumar Tiwari, Advocate appearing on behalf of the Bar Council of U.P. has submitted that any Bar Association in Uttar Pradesh, which has affiliation with the Bar Council of U.P., has to adhere to the following enactments:

- i. Bar Council of U.P. (Advocate Association Affiliation) Rules, 2005
- ii. U.P. Advocates Welfare Fund Act, 1974
- iii. Model Bye-Laws for Bar Associations, U.P.
- iv. Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015; along with Circulars, Guidelines and Bye-Laws issued from time to time by the Bar Council of U.P.

45. He submits that “Bar Council U.P. Advocate Association Affiliation Rules, 2005” provides that any Association, who is having requisite number of membership, may apply for affiliation by depositing requisite

fee as prescribed in Rule 5 and completing all formalities and by filing the application form provided in this regard.

46. Rule 7 of the Rules, 2005 provides that an Advocate can become member of only one Association, if there is more than one Association in the same area/Court.

47. He further submits that Rule 8 (ल) of Rules, 2005 provides that concerned affiliated "Advocate Association" is duty bound under the Rules to conduct elections of the Association, every year in the same month; and Rule 8 (व) of Rules, 2005 provides that after conducting the yearly election, the elected office bearers shall forward the list of the registered members along with their address to Bar Council of U.P.

48. Rule 8(द) of Rules, 2005 provides that the concerned Association, shall ensure compliance of directions issued by the Bar Council of Uttar Pradesh.

49. He has further submitted that Rule 10 of Rules, 2005 provides the condition under which affiliation was granted earlier, may be cancelled, wherein Rule 10 (क) stipulates that failure of the concerned Bar Association to apply for renewal of its affiliation, within a period of 3 months, may result in disaffiliation; and also in case, if any, Rules and directions issued by Bar Council are violated; and as per Rule 10 (ख) and 10(ग), it clearly provides that in case of not holding timely election, the affiliation of concerned Bar Association can be cancelled. In Rule 10 (घ), it has further been provided that in case any false or incorrect information is furnished, then in that event, affiliation granted earlier may be cancelled.

50. On the strength of the aforesaid provisions he has submitted that as per model bye-laws elections has to be held every year and in case, any Association fails to hold its election within a period of 1 year + 1 month (extraordinary circumstances) (With prior approval of the Elders Committee) and another 1 month (time given to the Elders Committee to hold the election), it may result in disaffiliation of the concerned Bar

Association, from the Bar Council of U.P. (Refer to Rule 18 of Model Bye-Laws read-with Rule 10 (ख) and (ग) of the Rules, 2005)

51. He has further submitted that the Bar Council of India, enacted the Bar Council of India "Certificate and Place of Practice (verification) Rules, 2015" which was published in the Gazette of India on 13.01.2015, in order to weed out non-practicing advocates who had switched over to other profession/service/business, without any information to State Bar Council or the Bar Associations; and the said phenomena had assumed alarming proportions, which resulted in bona fide advocates who are regularly practicing being denied of the benefits of the Welfare Schemes, as well as the same resulting in non practicing advocates casting votes and contesting election of Bar Association, due to which degradation to legal profession was being observed and this was even noticed by this Court and up to the Apex Court.

52. Chapter-II of Bar Council of India Certificate and Place of Practice (verification) Rules, 2015 provides for "Local Bar Association" which clearly states that Advocate can become a member of Bar Association, where he/she normally practices law.

53. Rule 6.3, of Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015 provides that "Bar Association" shall apply to respective "Bar Council" within whose jurisdiction it is located, for being recognized under these Rules.

54. Rule IV of Bar Council of India Certificate and Place of Practice (verification) Rules, 2015 provides procedure for moving applications for verification and for issuance of verification of certificate and place of practice by State Bar Council.

55. Rule 15.2, provides that State Bar Council shall issue identity card, after necessary verification, that an Advocate concerned is continuing in profession and the identity card shall be valid for the period of 5 years, from the date of issuance and it shall be required to be produced at the time of voting for election of State Bar Council or the Bar Association concerned.

56. Now, we proceed to examine the “Model Bye-Laws” framed by the Bar Council of U.P., in the aforesaid context, which was tentatively approved by the Bar Council of U.P. vide resolution No. 2389/2005 in its meeting dated 09.01.2005 and after certain modifications, same was confirmed vide resolution in its meeting dated 12.02.2005, and the model bye laws so framed by Bar Council of U.P. had been also approved by Bar Council of India vide its resolution dated 15/16.09.2006; and has come in to force in the State of U.P. from the said date.

57. By placing reliance on Rule 54 of the Model Bye-Laws, Sir Ashok Kumar Tiwari, Advocate submits that the election of the Bar Association in the entire State shall be held under the supervision and control of Bar Council of U.P.

58. Per contra, Shri Rakesh Pande, learned Senior Advocate appearing on behalf of High Court Bar Association, as well as learned counsel for the petitioner, has submitted that the said Rule 54, to the extent it gives the power to the Elders Committee to act as a panel of the Returning Officer to hold elections and the election of the Bar Association being under the supervision and control of the Bar Council of U.P. is *per se* in conflict with the decision of this Court in the case of Elders Committee, Central Bar Association, Azamgarh^{10]}.

59. Shri Ashok Tiwari, learned counsel appearing on behalf of the Bar Council of U.P. has further submitted that Note (III) of Chapter-II of Model Bye-Laws, provides that any resolution passed by the Bar Association, in contravention to provision of bye-laws, without approval of Bar Council of U.P. shall be deemed to be void; and Note (IV) to Schedule-II provides that all such Bar Associations, which do not adopt model bye-laws and have not got registration from the Registrar, Societies, Firms and Chits within the period of 3 months from the receipt of bye-laws, will stand disaffiliated.

10. (C.M.W.P. No. 61100 of 2011) dated 26.04.2013

60. Further, Note (V) provides that all those Advocates, who are not Members of the Bar Association affiliated to the Bar Council of U.P., shall lose their right of availing the various beneficial/welfare schemes, sponsored by the Bar Council of U.P.; and Note (VI) provides that if the election is in violation of provisions of bye-laws, it will hold the Election Officer, President and Secretary of that Association liable to be tried for misconduct under Section 35 of the Advocates Act.

61. Shri Ashok Kumar Tiwari, Advocate appearing on behalf of Bar Council of U.P. has further submitted that the following are the benefits available to an Advocate through the Bar Council of U.P.:-

(i) The 'Uttar Pradesh Advocates Welfare Fund Trustee Committee' provides a financial assistance of Rs. 5 lakh to the dependents of deceased advocates, up to the age of 60 years. This scheme is effective from 1 January 2014. Subsequently, according to a government order issued on 09.03.2019, the age of deceased lawyers has been increased from 60 to 70 years. Now from 09-03-2019, a payment of Rs 5 lakh is being made to the dependents of deceased lawyers, up to the age of 70 years.

(ii) The Bar Council of Uttar Pradesh has launched "The Advocates' Old Age Death Grant Scheme" on 24-08-2008. Under this scheme initially, financial assistance of Rs. 25,000 was provided to the dependents of deceased advocates between the age limit of 60 to 70 years; but at present, after 01.11.2023, the amount has been enhanced to Rs. 3 lacs and the age limit, has been increased, while the benefit is provided for deaths between 70-80 years, as well.

(iii). An additional payment of Rs. 1 lakh is made by the 'All India Bar Council Advocates Welfare Committee' to the dependents of advocates, who died accidentally.

(iv) There is a provision for providing medical assistance of Rs. 10,000/- to Rs 25,000/- to the advocates, by the Bar Council of Uttar Pradesh and in case of serious illness, this amount can be given up to a maximum of Rs. 25,000/- to Rs. 50,000/-.

(v) All India Bar Council Advocates Welfare Committee (Rule 40) also provides for medical assistance to advocates up to a maximum of Rs. 25,000/- and in case of serious illness, this amount can be given from Rs. 25,000/- to Rs. 50,000/-.

(vi) There is a provision for financial assistance of maximum of Rs. 50,000/- for library to the Bar Associations of the district and Tehsil level, by the All India Bar Council Advocates Welfare Committee (Rule 40).

62. He has further submitted that all the above facilities are payable only to those advocates, who are members of any Bar Association of the State; and that Bar Association is affiliated to the Bar Council of Uttar Pradesh.

63. Per contra, Shri Rakesh Pande, learned Senior Counsel submits that the said provisions in the model bye-laws cannot be termed as mandatory and are merely directory in nature and breach of any of the said provisions of the bye-laws, can only give a right to the Bar Council of U.P. to disaffiliate the Bar Association and consequences shall follow. But however, to say that the resolution of the Bar Association shall be void or the Members of the Bar Association, shall lose their right of availing the various beneficial/welfare schemes sponsored by the "State Government", is absolutely beyond the jurisdiction or powers of the Bar Council of U.P.

64. In case, an Advocate does not choose to be a Member of any Bar Association, which is not affiliated to the Bar Council of U.P., the benefits of the State sponsored schemes, which are for the Advocates, as defined under the Advocates Act, 1961, cannot be taken away from them.

65. He further submits that in case the elections are not held as per the bye-laws of the Bar Council of U.P., the only consequence can be disaffiliation and it is preposterous to suggest that such an Association, through its President and Secretary, is liable to be tried for the misconduct under Section 35 of the Advocates Act. The same amounts to

infringement of the fundamental rights of the members, to form an Association.

66. However, it is no longer *res integra* that the Bar Council of India or the Bar Council of U.P. or for that matter any Bar Council, as a statutory body under the Advocates Act, under the garb of regulating the conduct of Advocates and maintaining discipline, do not have any power or authority to intervene in the elections of the Bar Association or to stop the Elders Committee from taking steps for holding the elections. We gainfully refer to the judgment of this Court in the case of Elders Committee Central Bar Association, Azamgarh vs. State of Uttar Pradesh (supra).

67. However, if a resolution or an Amendment in the Association's Bye-Laws is in contravention of the Model Bye-Laws, the same can only be implemented, if the said provision, by way of an Amendment is incorporated in the Model Bye-laws, which in turn, also has to be approved by the BCI, or else the Bar Association can face disqualification.

68. This Court finds that though the Bar Council has admitted that it cannot directly interfere with the internal election dispute of an independent society, but the grant of recognition cannot be a tool for forcing an Advocates Association, by providing penal consequences, like a provision to initiate proceedings under Section 35 of the Act, 1961, for non-compliance of the bye-laws while conducting their elections; while the limited authority available with the Bar Council of U.P., can only be by way of a consequence of disaffiliation and not any professional misconduct. However, this issue is left open, as the same is not directly in issue before this Court.

69. The Allahabad High Court maintains the list of Senior Advocates, designated under Section 16(2) of the Advocates Act, 1961 read with Section 34(1) of the Act. Specific Rules governing this process is

outlined in Part-VI of Chapter-XXIV of the Allahabad High Court, Rules 1952, commonly referred as the Designation of Senior Advocates Rules.

70. In view of the aforesaid, we answer the Issue Nos.1 and 2 as follows:

(I). In case of a breach of a bye-law of an Advocates Association, which has to be in conformity with the Model By-Laws, as propounded by the Bar Council of U.P., with respect to dispute of the seniority of a Member; and the bye-laws of the Association, makes provision to determine the seniority, taking into account the date of enrollment as an Advocate by the Bar Council (In case of an affiliated Bar Association of a District in State of U.P.); the only recourse available for the redressal of the said grievance is to approach the Bar Council of U.P. under Section 21 of the Act, 1961. For ready reference Section 21 of the Act, 1961 is reproduced below:

“21. Disputes regarding seniority.—(1) Where the date of seniority of two or more persons is the same, the one senior in age shall be reckoned as senior to the other.

[(2) Subject as aforesaid, if any dispute arises with respect to the seniority of any person, it shall be referred to the State Bar Council concerned for decision.] “

(II) However, in case a dispute of seniority amongst Members of the Elders Committee is referred to the Bar Council, under Section 21 of the Act, 1961, the Bar Council shall only determine the said seniority dispute and under no circumstances, either pending the dispute or otherwise, issue any directions to the “Advocates Association” regarding the postponement of the elections of the “Advocates Association” or directives otherwise, interfering in the process of elections; [Ref. To *Rajesh Kumar Shukla v. Assistant Registrar, Firms, Societies and Chits and Another*¹¹]

(III) And in an eventuality of the dispute of the seniority being referred under Section 21 of the Act, 1961 and it is germane to the process of election, in the first instance, it shall be the decision of the senior most Members of the Elders Committee i.e. the Chairman of the Elders

11. Writ-C No.21861 of 2015 decided on 18.05.2015

Committee, regarding the deferment of the election; and in case the seniority of the Chairman of the Elders Committee is itself in dispute, the remaining 3 senior most Members of the Elders Committee shall take a decision by way of a majority amongst themselves; and when the deferment to be made is beyond 1 month, the Elders Committee shall call for Extra Ordinary General Members Assembly, for fixing the date of the election.

(IV) However the Bar Council of U.P. shall neither interfere in the elections to be conducted by the Elders Committee nor issue any directives in relation to the said elections.

(V) And, as far as the determination of the Elders Committee of an Advocates Association of the High Court is concerned, 5 designated senior most Advocates, actively practicing in High Court by virtue of their seniority, shall be considered and since the seniority list of designated Advocates in the High Court, is maintained by the Allahabad High Court, the same has to be strictly adhered to; and only if a designated senior refuses to accept the responsibility as a Member of the Elders Committee, the next senior most designated senior Advocate as per the seniority list of the Allahabad High Court, shall be considered; and so forth.

(VI) Immediately after completion of the Elections, the list of elected members shall be forwarded to the State Bar Council [Rule 8 (ब)] along with a copy of the Association's Bye-Laws; and if found elections has been held in conformity of the Association's Bye Laws (which has to be in conformity with Model Bye-Laws) the same shall be accepted; and if not, the same shall be rejected; and if valid elections are not held, the affiliation can be cancelled, as per Rule 10 (ख) r.w. (ग) of the Rules, 2005.

71. The directions contained in Clause (III) are only in the interregnum, while the Bar Council of U.P. may consider the aforesaid directions for making suitable amendments in the Model Bye-Laws and send the same for approval before the Bar Council of India, if the need so arises.

72. This Court also takes notice of the judgment in the case of **Satish Chandra Pandey vs. Registrar, Firms and Societies, U.P. and others**¹². For ready reference, the ratio laid down in the aforementioned judgment is as follows:

“Whether any substantial irregularity has been committed in holding the elections or during the elections, which has materially effected the result of the election or which vitiates the elections, are such questions, which normally would not be entertained in writ jurisdiction of this Court. It may be kept in mind that the Bar Association of lawyers cannot be equated with the membership of club or society and intervention by the Registrar has to be minimum, if at all permissible under law and for that purpose, the Elders Committee has been constituted under the bye-laws, which has been vested with the responsibility of managing the affairs and holding the election after the term of the Committee of Management comes to an end. Had the intention of the bye-laws been that on the expiry of the term, the Registrar shall take over and hold the elections, there was no occasion for making such a bye-law, giving an alternative specifically defined Body (Elders Committee) for getting the election held, after the expiry of the term of the elected Committee of Management. Section 25(2) of the Act, which gives power to the Registrar to hold the elections of the Society or the Committee of Management, after the expiry of its term, shall have no applicability in the case of Bar Association, whose elections have to be conducted in accordance with the model bye-laws or under the amended Rules of Association.”

73. The question whether in case of a dispute with respect to the continuation of a Member of the Committee or a dispute regarding the elections, it is no longer *res integra* that Section 25(2) of the Act, 1860, which gives power to the Registrar to hold the elections of the Society of the Committee of Management, after the expiry of its term, shall have no applicability in the case of Bar Associations; since the same are conducted in accordance with the Model Bye-Laws or under the Rules of the “Advocates Associations”, which are duly approved by the Bar Council of the State and Bar Council of India, which are the statutory

12. Writ-C No.3033 (MB) of 2008

bodies under the Advocates Act, 1961. [Also Ref. To Bar Association & Anr. v. State of U.P. and 4 others¹³]

74. The said determination, is on the application of the intervenor HCBA and after the consideration of the issues raised at bar, in exercise of extra-ordinary powers under Article 226 of the Constitution of India, to bring quiteous to the numerous litigations which are being initiated and which also affects the dispensation of Justice.

Issue No. 3 and 4

3. What shall be the powers of the Elders Committee, and as to whether the same can be borne out from the model bye-laws propounded by the Bar Council of U.P. or from the bye-laws of the Advocates Association.

4. Consequences, if any, in a situation the Elders Committee, does not complete the election process, within 1 month or a dispute arises with regard to the elections conducted.

75. The next issue which requires consideration is regarding the powers of the Elders Committee and as to whether the Model Bye-Laws make provisions for the same.

76. Shri Rakesh Pande, learned Senior Advocate appearing on behalf of the HCBA, submits that it is an admitted position that under the bye-laws of the Association, as well as, the Model Bye-Laws, the term of the office is 1 year; but however, the said term as per clause 18 of the Model Bye-Laws is to be computed from the date of the election; but however, as per the bye-laws of the HCBA, the office bearers of the Association and the Members of the governing council, shall hold the office till completion of 1 year, from the date when the new Executive Council takes over the charge (which according to their Bye-Laws is the 'date of election')

77. He further submits that the other point of distinction is that under the Model Bye-Laws, the governing council/Executive Committee can continue further for a period of 1 month, with the prior approval of the Elders Committee; but however, under the bye-laws of the HCBA it has

13. C.M.W.P. No. 34436 of 2013; dated 26/06/2013

been provided that the Governing Council/Executive Council will continue for 1 more month, during which the election of Executive Council has to be completed.

78. However, in case the elections are not held within 13 months, the Elders Committee will take over the charge of the Governing Council and will conduct the election within 1 month, and during this period the administration of the Association i.e., the Administrative power will vest in the Elders Committee. [Ref. To Rajesh Kr. Shukla v. Asst. Registrar¹⁴] On this issue there is no distinction between the Model Bye-Laws and the By-Laws of the HCBA.

79. However, the bye-laws of the HCBA provides that the Elders Committee will not take any policy decision, except to perform day to day work, which is necessary in the interest of the Bar Association. For ready reference Rule 18 of Rules of HCBA is reproduced below:

“Rule- 18 Terms of Office:

The Office Bearers of the Association and members of the Governing Council shall hold the office till the completion of one year from the date when new Executive Council takes over the charge. However, it will continue for one month more during which election of Executive Council has to be completed.

If the election of the governing council is not held within one year and one month then after 13 months, Elders’ Committee will take over the charge of Governing Council and will conduct the election within one month, during this period, administration power will implant in Elders’ Committee. Elders’ Committee will not take any policy decision however perform day to day work, which is necessary in the interest of Bar Association.

Explanation :-*Date of election is date when the new Governing Council takes over the charge.”*

80. From the aforesaid conjoint reading, it is evident that the administration of the Association will vest in the Elders Committee and such Elders Committee has to perform its functions. In order to elaborate the functions, Rule 8 of the Rules of HCBA is also reproduced below:

14. 2015 (3) AHC CK90

“ELDERS COMMITTEE

“8. There shall be an Elders Committee of the High Court Bar Association, Allahabad consisting of five designated Senior Most Members of the Association actively practicing in the High Court at Allahabad

(a) Senior Most Member of the Elders Committee will be the Chairman

(b) In case any member of Elders Committee is a candidate in the election rest of the Member shall function as its Members till he is relieved of his elected post and will thereafter joined as its member

(c) Only the Designated Senior who is the member of the High Court Bar Association and also practicing at the Allahabad High Court will be the member of the Elders Committee.

(d) It will be a permanent body once constituted for the first time by Executive Committee

(e) Short term vacancy due to death or resignation or on health grounds, rest of the members will elect/co-opt the member absolutely in accordance with seniority fulfilling other qualifications.

(f) One Senior Most members of the Elders Committee will retire after completing the election.

(g) All Existing Members of the Elders Committee will induct a new member by cooption/election and new Elder Committee will be declared along with the result of general election of the Association.

(h) New member will be inducted by the outgoing Elder Committee after full deliberation with the senior most member.

(i) If first senior member is unwilling, then the next senior will be inducted.

(j) If list of senior members is exhausted, it will rotate back and will start again from the senior most member.

(k) The Elders' Committee will work as on Election Commission independently. If the Executive Committee could not conduct the election within the period of one year and one month from the date of assuming charge, the Elders' Committee will conduct the

election with assistance of the members of the High Court Bar Association, Allahabad.“

81. Shri Rakesh Pande, learned Senior Counsel submits that as per the certificate dated 20.12.2022, the Bar Council of U.P. in General House meeting dated 18.12.2022, has approved the amendments in bye-laws dated 01.12.2022 and such modifications have been accepted by the Bar Council of U.P., to be in conformity with the Model Bye-Laws as propounded by the Bar Council of U.P.

82. However, this court finds that such deviations, as detailed, herein above; and which are not in consonance with the Model By-Laws, cannot be permitted. Such non-conformity with the Model Bye-Laws and its approval, by the Bar Council, cannot be permitted, for one Association and not for another.

83. The only way to permit any deviation proposed by any Bar Association, is to consider the same by a democratic process and then pass a commensurate amendment in the Model Bye-Law; and also send the same for approval to the BCI; and once BCI approves, the amended Model Bye-Laws is to be implemented across the Bar Associations in State of UP. Any deviation prior to this, can only be construed as violation of Model Bye-Laws and can attract disaffiliation.

84. In case, such modifications are to be permitted, firstly the Model Bye-Laws are to be amended and approved by the BCI. This will ensure a uniformity, across all the Associations in different Districts.

85. Bar Council, may form a committee, where such suggestions can be sent, so that it can be considered democratically and a consensus be reached through a process, and not through whims and fancies, of individual members of the Bar Councils, which does not reflect any transparency or a democratic process.

86. Now coming back to the question of the functions and powers of the Elders Committee, it is evident that now the administration of the Association will vest in the Elders Committee; however, they shall not

take any policy decision except to perform day-to-day work, which is necessary in the interest of the Bar Association.

87. However, the Model Bye-Laws and the Rules of the HCBA, Allahabad does not provide for the consequences, in case the Elders Committee for whatsoever reason, is not able to hold the elections as per the bye-laws, within a period of 1 month. The aforesaid situation also leads to a conflict of interest and at times unrest amongst the Members of the Association, being devoid of a democratically elected Governing Council/Executive Committee.

88. The aforesaid situation is not unfathomable, as time and again the Bar Associations, members of the Bar in individual capacity, as well as, on behalf of the Association, the Office Bearers etc., have approached this Court, for resolving the disputes or disorder prevailing in the Association; and this Court, as one of the wheels of the chariot dispensing justice in the country, had invoked its extraordinary power under Article 226 of the Constitution of India, for solving the said disputes, fully conspicuous of the fact that the legislature has taken care to maintain the sanctity and status of the Bar Association, consisting of lawyers belonging to a noble profession, performing a very important role of maintaining the judicial system of the country, the backbone of the democratic structure of the country; but still when the need arises, it is the hardened duty of the Court to ensure that one of its wheels is not in disorder, as it will directly have an impact on the functioning of the judiciary.

89. A plethora of judgments already exists on the issues, reflecting the concern of the Court towards the Bar in resolving the disputes. In this endeavour, to help their counterparts, even at the instance of a Member of the Society i.e. “Advocates Association”, which is a registered body under the provisions of Societies Registration Act, 1860, which provides a complete mechanism to deal with the disputes, this Court has taken care and even by way of judicial pronouncement in the case of **Satish**

Chandra Pandey (supra) has held that the lawyers cannot be equated with the members of a club or society, and intervention by the Registrar has to be minimum, if at all permissible under law for that purpose.

90. The Elders Committee, which has been constituted under the bye-laws is vested with the responsibility of managing the affairs and holding the elections after the term of the Committee of Management has come to an end; as such the powers under Section 25(2) of the Act was held to have no applicability in case of a Bar, whose elections have to be conducted in accordance with the Model Bye-Laws or under the amended rules of the Association.

91. In the case of the **Shiv Kumar Akela** (supra) also this Court had observed as follows:

"In general functioning of the justice delivery system, and in particular, functioning of the 'High Court' (which is an essential component of the said system and vital organ of administration of justice in the State). Quality of dispensation of justice is directly dependent upon professional standards of ethics and discipline amongst the members of the legal profession. One cannot expect the system to function smoothly and deliver desired fruits unless all the wings (Bar is one of it) are healthy and maintain dignity of the noble profession."

92. Apparently, a society registered as an Advocates Association has been given a distinct status and its existence is with an object to ensure proper functioning of the Court and to provide legal expertise to public at large so that justice may be dispensed in real sense. It is *prima facie*, a function having all the flavors of public utility service and basically a public function. The very object of an "Advocates Association" is that, all levels of courts, come with affiliation/recognition, extended by the State Bar Council, regulating Members of the legal professions under Advocates Act, 1961 and Rules framed thereunder.

93. The initiation of various statutory welfare schemes, under the control of the State Bar Council and sponsored by the State Government e.g. to arrange "library" to its Members, to promote high professional tools,

standard and conduct amongst Members of the legal profession, to promote and develop legal science, to watch legislation for the purpose of assisting in the progress of sound legislation; and as such it performs a very onerous duty to ensure healthy functioning of the “apparatus” meant for the justice delivery system, namely the Courts.

94. The entire functioning of the Advocates Association and the statutory bodies which regulate the same, are only towards the concern regarding the welfare of the “public” and “bar”, which is nothing but a “public functionary”. It can also be said that the concept of “Advocate Association” itself has emerged from the solemn object, to ensure proper and smooth functioning of the Courts, so that justice may be dispensed with, to the public at large.

95. The Apex Court in the case of **Rajendra Sail vs. Madhya Pradesh High Court Bar Association and others**¹⁵ has noted:

"The confidence of people in the institution of judiciary is necessary to be preserved at any cost. That is its main asset. Loss of confidence in institution of judiciary would be end of Rule of law. Therefore, any act which has such tendency deserves to be firmly curbed. For rule of law and orderly society, a free responsible press and independent judiciary are both indispensable. Both have to be, therefore, protected."

96. The law laid down in the matter of **Zee Telefilms Ltd. and others vs. Union of India and others**¹⁶ also supports the maintainability issue.

97. The concept of the constitution of Elders Committee, as it goes by its name "Elder", is correlated to his experience, connected with his age and that is why the Bar Council while adopting the Model Bye Laws has used the word "seniority" and "Senior most"; if it is universally adopted all over the State or even in the country, such cases, which keep arising again and again disputing the constitution of the Elders Committee will come to an end.

98. The Model Bye-Laws under clause 3A(c) defines the Elders Committee as follows:

15. AIR 2005 SC 2473

16. 2005 (4) SCC 649

“Elders Committee” means a Committee, the composition of which is mentioned in Bye-Laws no.7 of these rules.”

99. For ready reference Rule 7 is reproduced below:

“7. There shall be an Elders Committee of each association consisting of 5 senior most members of the Association actively practising in that court as :-

(a) As far as the High Court is concerned 5 designated Senior Most Advocates actively practising in High Court by virtue of their seniority.

(b) so far as the District Court is concerned the seniority of the members of the Elders Committee will be determined taking into account the date of enrolment as an Advocate by the Bar Council and having atleast rendered 10 years regular practice in that court and continuing as regular practitioner of that Court.

(c) Senior most member of the Elders Committee will be the Chairman.”

100. We have already referred to Rule 8 of the HCBA, Allahabad, wherein, apart from some deviation pertaining to the time period, when the Elders Committee comes into the effective control of the administration of the Association, in sum and substance there is conformity with Rule 7 of the Model Bye-Laws; and as such the powers of the Elders Committee, shall be the same as that of the Governing Council/Executive Council, as the administration of the Association vests with the Governing Council or Executive Committee.

101. We may also gainfully refer to Rule 3A(e) of the Model Bye-Laws, which is as follows:

3.(A) Defination: Unless the context otherwise require in this By laws.

e) "Governing Council or Executive Committee or any other Committee" by whatever name called, means a body to manage the affairs of the Association.”

102. For ready reference Rule 4(d) and (e) of HCBA Rules are also being reproduced below:

4. Definition: Unless the context otherwise require in these Rules:-

(d) "General Body" Means a body comprising of all the Members of the Association

(e) "Governing Council" Means a body to manage the affairs of the Association

103. From the perusal of the aforesaid definition and Rules 7 of the Model Bye-Laws, it is evident that the intent is to give the administration of the Association, in the hand of the Elders Committee; but for a limited period i.e. 1 month, within which the election has to be held.

104. However, the Model Bye-Laws does not envisage a situation, where due to unavoidable reasons the elections cannot be held; and in such a situation, in case, the Elders Committee continues with the effective control of the administration of the Association, the same may not be in spirit of formation of a society, to be run by a democratic process.

105. In the aforesaid eventuality the powers of the Elders Committee is to be circumscribed and the continuation of the Elders Committee could only be by way of approval by the General Council of the Association.

106. It is not disputed that the powers which vest in term of clause-18 of the Model Bye-Laws in the Elders Committee, is at par with the functioning of the Governing Council/Executive Council and an extraordinary general meeting, of the ordinary Members of the Association can be convened on a requisition and also by the requisitionists, which shall be presided over by one of the Senior Members of the Elders Committee. For ready reference clause-31 of the Model Bye-Laws is reproduced below:

“ 31. An extra ordinary General Meeting of the ordinary members of the Association shall be convened by the President/Secretary at the requisition of 60 ordinary Members. Such requisition shall be in writing, addressed to the President/Secretary and accompanied by a statement.

(a) In case the extraordinary general meeting of the Association is not convened as per the requisition and same is also not ruled out

by the Governing Council the requisition shall be entitled to convene the meeting to be presided over by one of the senior member of Elders Committee.

(b) No decision will be taken to strike work in the Court by the Bar Association beyond a strike of one day, unless the decision is taken by majority of members present and voting by Secret Ballot in a General Body Meeting of Association. Only life/Ordinary members will participate in voting who are entitled to vote on that day according to rules of the Association.”

107. In view of the aforesaid, what is borne out from the various provisions of the Model Bye-Laws, is that after completion of 1 year from the date of their elections, in extraordinary circumstances, the Members of the Governing Council/Executive Committee can continue for another 1 month; but only with the appropriate approval of the Elders Committee, for the reasons to be recorded, within which they will get the elections completed. But thereafter, when the said period expires and the Elders Committee takes charge, what the Bye-Laws do not provide is, in an eventuality, even if the Elders Committee does not hold elections within 1 month, then which sanctions/approvals are required, prior to the extension of their effective control.

108. Accordingly, in the interregnum, we provide as follows:

(I) The Elders Committee will not take any financial decisions or decisions pertaining to the movable and immovable properties of the Association; and shall exercise only such financial powers which may be necessary for performing day to day functions of the Association or for the conduct of the elections.

(II) The Elders Committee shall be permanent in nature consisting of 5 designated senior-most Advocates, actively practicing in the High Court by the virtue of their seniority as designated Advocates; and in case of district court, the seniority of the Members of the Elders Committee will be determined by taking into account, the date of enrollment as an advocate by the Bar Council; and having rendered atleast 10 years regular practice in that Court and continuing as regular practitioner of

that Court; and the senior most Member of the Elders Committee, will be the Chairman of the respective Associations i.e. the High Court and the District Courts.

(III) Once the situation contemplated in clause-18 of the Model Bye-Laws arises and the elections are not held within 1 year, the extension of period of 1 month shall only be given, considering an extraordinary circumstance, by the Elders Committee, for the reasons to be recorded and with an undertaking that the elections shall be held within the said extended 1 month by the outgoing Committee. However, in failing to hold the elections within the extended 1 month for whatever reasons, the Elders Committee shall take over the administration of the Association and shall hold the elections within another 1 month; failing which the extraordinary general meeting has to be called and the elections has to be held on the date fixed by the General Assembly, by the Elders Committee.

(IV) Once the elections are held, the charge shall be handed over to the newly elected Committee; thereafter one senior-most Member of the Elders Committee i.e. the Chairman, will retire and the existing Members shall induct the next senior most Member i.e. a designated Advocate actively practicing in High Court by virtue of his seniority (in case of HCBA); and the next senior most Member (in case of District/Tehsil Bar Associations) having rendered atleast 10 years regular practice in that Court and continuing as regular practitioner of that Court. The Chairman, shall be the senior most Member, of the newly constituted Elders Committee. However, the retiring Chairman of the Elders Committee, shall again be eligible, after the next elections, to be inducted in the Elders Committee.

(V) The Elders Committee shall hand over the list constituting the Elders Committee to the newly elected Committee; which shall recognize the said "Elders Committee" in its first meeting; and thereafter it shall be open to the Members of the Association to file objections before the newly elected Committee, only confining to the seniority as envisaged in

Rule-7 of the Model Bye-Laws, and the same shall be determined as provided herein above i.e. in case of a District Court, the issue shall be referred under Section 21 of the Act, 1961 to the Bar Council of U.P.; and in case of a seniority dispute in the HCBA, the same shall be determined as per the list of senior designated Advocates, maintained by the High Court of Judicature at Allahabad, in an in-house proceeding.

(VI) It is also clarified that if any senior Member is unwilling, the next senior will be inducted, and the consideration for the said induction of a new Member, by retiring the senior most person; shall be confined within the top 10 senior Members either in the list of designated senior Advocates (for the purpose of HCBA) or top 10 seniors, who have rendered at least 10 years regular practice in that Court and continuing as regular practitioners of that Court, by virtue of their date of enrollment as an Advocate by the Bar Council (in case of District Courts).

(VII) If there is any deviation from the Model Bye-Laws either Suo Moto or on a complaint being received, from any member of the Bar Association, it shall be incumbent upon the State Bar Council, to examine the same, after giving due opportunity, to the concerned Bar Association; and if found to be correct, the said Bar Association will be given an opportunity to amend their Bye-Laws and bring the same in conformity to the Model Bye-Laws, within 30 days, failing which the same shall be disaffiliated.

(VIII) The State Bar Council may form a permanent Committee, where the Bar Associations may file their objections and suggestions and at least once a year, the Committee may deliberate upon the same and either it may accept the same or reject the same. Once accepted the proposed amendments may be sent to BCI, and if approved, the same may be made applicable to all Bar Associations, uniformly. Needless to say that all proposed amendments, may be made, adhering to the Principles of Natural Justice and all applicable Laws.

(IX) In case the elections are disputed, the same can also be referred to the Elders Committee, who shall decide the dispute, on the principles laid down under Section 25(1) of the Society Registration Act, 1860.

The aforesaid directions are only in the interregnum, till the Bar Council, if deems necessary, exercise their powers to make amendments, in the Model Bye-Laws, and which will only be implemented, after it's approval from the BCI.

In WRIT - C No. - 6613 of 2026

(Chandrashekhar Upadhyay, Advocate vs. State of U.P. and 8 others)

109. In view of the foregoing discussions, since by way of the impugned order, the resolution dated 04.02.2026 passed by the outgoing President of the District Bar Association, Mau, whereby respondent nos.5 to 9 were nominated as Members of the Elders Committee, de hors the mandate of the Model Bye-Laws and the Bye-Laws of the Association, apart from it being in violation of Clause 7 of the Model Bye-Laws, cannot be sustained and accordingly, is set aside and the consequences shall follow.

In WRIT - C No. - 9562 of 2026

(Ankit Kumar vs. State of U.P. and 2 others)

110. In view of the foregoing discussions, the impugned order dated 19.02.2026 by way of which a Committee of 20 Members for holding elections of the Bar Association was constituted, de hors the mandate of the Model Bye-Laws and the Bye-Laws of the Association, in question, is hereby set-aside and consequences shall follow.

111. Before parting with the judgment, we may also observe that the High Court of Judicature at Allahabad, is a chartered High Court with a distinctive history and traditions which discharges a very pivotal role in the administration of justice, in one of the biggest State in the country; and in any matter which concerns the well being of Advocates, has to be

resolved in a spirit of cooperation, in order to ensure the ensuing problems, do not assume unmanageable proportions.

112. We may also refer to a decision of this Court in P.I.L. No.26676 of 2024 (Sunita Sharma vs. Deputy Registrar, Chits, Funds, Society and others¹⁷), wherein, an objection was received by the Elders Committee, to the effect that the voters list has not been prepared in accordance with the Rules; and this Court while entertaining the writ petition, scrutinized the role of Elders Committee and thereafter issued directions with respect to the elections of HCBA.

113. The said judgment is only being referred to indicate that against the decision of Elders Committee, a Member who is aggrieved, is not remediless but at the same time this Court while considering the various mandates of the bye-laws, indicated the perspective of the Elders Committee and the pivotal role which the Advocates play in the administration of justice, is also paramount; and accordingly, as far as possible the disputes, should be settled amicably and by way of an in-house proceeding.

114. Bar Council of U.P. is directed to circulate a copy of this judgment to all the affiliated Bar Associations in the State of U.P. and ensure strict compliance of the Model Bye-Laws; and in case any bye-laws of the affiliated Bar Association is found to be, not in consonance with the Model Bye-Laws, the Bar Council may take steps, by providing them a reasonable time at the first instance, to bring their bye-laws in conformity with the Model Bye-Laws; and failing which the said Bar Association may be disaffiliated.

115. The said exercise may be completed within a period of 1 year, to ensure that the elections held for the year 2027, with respect to the affiliated Bar Associations, are in conformity with the Model Bye-Laws.

116. Registrar (Compliance) is directed to send a copy of the judgment to the Bar Council of U.P. for necessary compliance.

17. P.I.L. No.26676 of 2024

117. Before parting with the Judgement, we would like to make a special mention, for the the assistance rendered by the President of HCBA, Shri Rakesh Pande, learned Senior Advocate and the other Members of the Bar, who rendered their assistance, as an officer of the Court, including the Amicus Curiae Ms. Naina Sharma, Advocate and Mr. Achintya Rai Sharma, Advocate, for their assistance by providing their valuable research on the legal issues. We also appreciate the gesture of the Amicus Curiae, for refusing to not accept any remuneration, for the service rendered.

118. With the aforesaid observations/directions, both the writ petitions stands disposed off.

(Siddharth Nandan,J.) (Atul Sreedharan,J.)

May 20, 2026
S.Prakash