

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COCP No. 56 of 2015
Date of Decision: 09.01.2015

Mohinder Singh Chauhan

...Petitioner

Versus

Rakesh Gupta, Chairman, Bar Council of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Satya Veer Sharma, Advocate
for the petitioner.

HARINDER SINGH SIDHU, J.

This contempt petition has been filed praying for initiating contempt proceedings against the respondents for willfully, disobeying the order dated 01.09.2014 passed in LPA No. 1427 of 2014.

The petitioner, who is the member of District Bar Association, Gurgaon was elected to the post of President, District Bar Association, Gurgaon for three terms i.e. 1998-99, 2000-01 and 2002-03. Rule 12(8) of the District Bar Association Rules states that any elected member for any post can hold the office of the District Bar Association only for three times in his life time. As in

terms of the aforesaid Rule, the petitioner was debarred from contesting the election for the office of President, District Bar Association, Gurgaon for the fourth time, he filed CWP No.595 of 2014 challenging Rule 12(8) on various grounds. Vide interim order dated 09.04.2014, he was permitted to contest, which he successfully did, and was declared elected as President of the District Bar Association, Gurgaon on 05.05.2014 subject to the outcome of the writ petition. Ultimately, on 14.08.2014, the writ petition was dismissed. The petitioner preferred LPA No.1427 of 2014, which was disposed of on the assurance given on behalf of the Bar Council of Punjab and Haryana that the issue raised in the appeal would be addressed by them and necessary steps shall be taken to introduce a uniform pattern of eligibility condition for contesting, voting and the tenure of Executive Members/Office-bearers of Bar Association at District or Sub-division levels. As the Bar Council had assured of a resolution to the issues raised by the petitioner, it was directed that the fresh election process, initiated to elect the President of District Bar Association consequent on the dismissal of the writ petition, be kept in abeyance till the Bar Council takes its decision and the petitioner be permitted to continue as interim President till then.

In furtherance of the aforesaid directions, the Bar Council called a meeting of all Presidents, Secretaries and other

office bearers on 10.09.2014. They were requested to bring Rules/ constitution/ bye-laws of their respective Bar Associations and also requested to submit proposals on behalf of the Bar Associations so that on consideration thereof, Rules and Regulations could be framed to bring in uniformity and transparency in the conduct of the election of various Bar Associations of Punjab, Haryana and Chandigarh. Of the 119 Bar Associations, representatives of 56 Bar Associations attended the meeting and after detailed deliberations, draft Rules and Regulations to be finally approved, were formulated. The same are yet to be approved by the General House. Order dated 10.10.2014 (Annexure P-7) was passed by the Chairman Bar Council of Punjab & Haryana, to resolve the dispute with regard to the eligibility of the petitioner to contest election for the fourth time. It was observed that Rule 12(8) of the District Bar Association Gurgaon Rules clearly debar a person from contesting election more than three times and the said Rules were duly approved by the Registrar under the Societies Registration Act, 1860 as also by the Bar Council. The election of the petitioner being in contravention of the existing Rules was declared invalid and set aside. The Bar Association Gurgaon was given liberty to elect any person for the post of President as per their existing bye-laws. It was directed that in future, elections of Bar Associations shall be conducted according to the Rules as to be approved finally.

The petitioner assailed the aforesaid order through CWP No.22076 of 2014 contending that in terms of the directions of this Court in LPA No. 1427 of 2014, no decision regarding the petitioner's continuance as President could have been taken before framing the Rules. The said writ petition was dismissed on 30.10.2014. The petitioner preferred LPA No.1873 of 2014, which was disposed of vide order dated November 14, 2014. It was observed that the Court would be reluctant to interfere in the internal affairs/ election of the Bar Association as their inter-se disputes are expected to be resolved through in-house mechanism. It was further observed that at least two remedies, if not more, were available to the petitioner namely, one to approach the General House of the Bar Council to formulate a policy and the other to seek modification of the Rules formulated by the District Bar Association, Gurgaon. Still another remedy was available under Section 48-A of the Advocates Act. The LPA was disposed of with liberty to the petitioner to avail of any of the aforesaid remedies.

The petitioner preferred an application under Section 48-A of the Advocates Act, 1961 challenging the order dated 10.10.2014. Pursuant thereto the Bar Council of India passed an order dated 17.11.2014, whereby, the matter was remanded back to the State Bar Council. It was observed that the mandate of the decision of this Court in LPA No.1427 of 2014 was that the fresh

election was to be kept in abeyance till the introduction of uniform rules and that the State Bar Council could not have set aside the petitioner's election without the framing of uniform rules. The State Bar Council was directed to consider the matter afresh and pass necessary orders in the light of the order in LPA No.1427 of 2014 within 6 weeks from the receipt of the order. Till the matter is decided by the State Bar Council, the operation of the order passed by it was directed to remain stayed.

Based on the observations contained in the order of Bar Council of India that the order dated 10.10.2014 passed by the State Bar Council shows gross disrespect to the order passed by the Division Bench in LPA No.1427 of 2014, the present contempt petition has been filed.

I have heard Mr. Satya Veer Sharma, learned counsel for the petitioner, who has contended that in terms of the order passed in LPA No.1427 of 2014, the fresh election process for election of the President of District Bar Association, Gurgaon was to be kept in abeyance till the Bar Council took a decision on introduction of uniform pattern of eligibility conditions etc. for election of office bearers of Bar Associations and till then the petitioner was to be allowed to continue as President. It is contended that the order of the Bar Council of Punjab and Haryana declaring the petitioner's election as President as void *ab initio*

before finalizing the new rules and regulations violates the order passed in LPA No. 1427 of 2014.

In my view, the petitioner is precluded from raising the aforesaid contention at this stage. He challenged the order dated 10.10.2014 passed by the Bar Council by filing CWP No.22076 of 2014, which was dismissed vide order dated 30.10.2014. He assailed that order by filing LPA NO.1873 of 2014, which was disposed of by giving liberty to him to avail of any of the other remedies available to him. Thereafter, he filed application under Section 48-A of the Advocates Act before the Bar Council of India, which has remitted the matter for reconsideration to State Bar Council.

The petitioner having elected and availed of the aforesaid remedies against the orders dated 10.10.2014 of the State Bar Council cannot be permitted to re-agitate the matter through the present contempt petition. Moreover, the Letters Patent Bench in its order dated 14.11.2014 while taking note of the steps taken by the State Bar Council to formulate the new uniform and transparent rules and regulations, which were pending approval of the General House, also noticed the fact that the election of the petitioner was set aside relying on the rules of the District Bar Association, Gurgaon, then in force. It was observed that the Court would reluctant to interfere in the inter-se election

affairs/disputes of the Bar Association or the Bar Council and the petitioner was relegated to other remedies available to him. One of which, the petitioner has since availed.

In the light of the aforesaid, there is no merit in the petition and the same is, accordingly, dismissed.

(HARINDER SINGH SIDHU)
JUDGE

09.01.2015
Atul