

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CROCP NO.8 of 2015 (O&M)

DATE OF DECISION: JULY 3, 2015

HARJOT SINGH HARIKAY

...APPELLANT

VERSUS

RAKESH GUPTA AND ANOTHER

...RESPONDENT

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MRS. JUSTICE RAJ RAHUL GARG.**

1. Whether the judgement should be reported in the digest?

PRESENT: PETITIONER IN PERSON .

M. JEYAPPAUL, J.

CM-17963-2015

For the reasons set out in the application, the application is allowed exempting the applicant from filing certified copies.

CM-17962-2015 & CROCP-8-2015

This is a frivolous and vexatious contempt petition moved by an Advocate party in person. He has also sought permission of this Court to file such a contempt petition.

It has been alleged in the contempt petition that Mr.Rakesh Gupta and Mr.Parvesh Yadav, Chairman and Secretary respectively of the Bar Council of Punjab and Haryana published a letter dated 21.3.2015 which publication interferes/scandalizes the administration of justice of this Court. The Bench of this Court never directed the respondents to frame the Rules regulating the election process of District Bar Associations. But the

respondents have narrated in the above letter that they have published the said letter on the directions of Punjab & Haryana High Court in LPA No.1427 of 2014 decided on 1.9.2014. When no compliance report as directed in the order passed by the Division Bench on 1.9.2014 was filed, it has been wrongly narrated in the letter published by the respondents on 21.3.2015 that compliance report was submitted in the Court alongwith the Rules framed by them. It is the grievance of the writ petitioner that the respondents had fraudulently used the name of the Punjab and Haryana High Court to circulate the above letter to all the Punjab and Haryana Bar Associations. Thus, they have scandalized and lowered the status of the Punjab and Haryana High Court, it is contended.

The petitioner party in person who is an Advocate by profession vehemently submitted supporting the above contentions raised in the petition that the respondents framed Rules without the directions of the High Court. But they have chosen to narrate in the said letter as though the Rules had been framed only on the basis of the directions issued by this Court. Referring to the order passed by this Court in CM No.988-989-LPA of 2015 in LPA No.1427 of 2014 dated 25.3.2015, he would submit that the Division Bench of this Court clearly observed that they had not directed the respondents to regulate the elections of the District Bar Associations vide order dated 1.9.2014. He would further submit that the respondents had the audacity to refer in their letter dated 21.3.2015 that they had already submitted a compliance report to this Court despite the fact that no such report was submitted. False and contradictory affidavits filed by the

respondents against the spirit of the order dated 1.9.2014 invite initiation of contempt proceedings, it is further submitted by him.

Sh.Mohinder Singh Chauhan, aggrieved by the order dated 14.8.2014 passed by the Single Judge preferred LPA No.1427 of 2014. Sh.Mohinder Singh Chauhan had in fact challenged the sanctity of the bye-law preventing the Advocate from holding the office of local Bar Association beyond three terms, as he had intended to contest the election even thereafter.

The question that arose for consideration before the Bench in the LPA filed by Mohinder Singh Chauhan was whether a Member of the Bar Association can hold the office for more than three terms, in spite of the bye-law which prescribed that a Member of the Bar Association could hold the office only for three terms. The Bench of this Court made an observation that the State Bar Council is vested with ample powers under the Advocates Act, 1961 to frame Rules as regards the right of a Member of the Bar Association to hold office beyond three terms. Sh.Rakesh Gupta, Chairman of the Bar Council of Punjab and Haryana was in fact present alongwith some of the elected members/office bearers in the Court. While disposing of the above LPA, this Court made the following observation which, in our view, is very much relevant for disposal of this petition:-

“We have impressed upon them that let the Bar Council address the aforesaid and other related issues and enact appropriate Rules which could be applied uniformly to all the Sub Divisional or District level Bar Associations.”

In the last paragraph of the above order passed in LPA, the Bench of this Court directed the Bar Council to submit compliance report.

In the above order passed by this Court in LPA No.1427 of 2014, there was no specific direction to the Bar Council to enact Rules to regulate the elections of District Bar Associations. Under such circumstances, the Bench of this Court while disposing of CM No.988-989-LPA of 2015 in LPA No.1427 of 2014 made the following observation:-

“We are of the view that both the applications are totally misconceived. We have nowhere directed to regular the elections of District Bar Associations vide order dated 1.9.2014.”

On a careful perusal of the records relating to the LPA No.1427 of 2014, it is found that Sh.Rakesh Gupta, Chairman, Bar Council of Punjab and Haryana moved an application in CM No.477-LPA of 2015 in LPA No.1427 of 2014 submitting a compliance report alongwith the Rules prepared by the Bar Council of Punjab and Haryana.

The Bench of this Court in its order dated 25.3.2015 in CM No.988-989-LPA of 2015 specifically referred to the compliance report filed by the Chairman of the Bar Council of Punjab and Haryana alongwith the Draft Rules formulated by the Bar Council. As it was informed to the Court during the hearing of those applications that the Draft Rules framed by the Bar Council of Punjab and Haryana were required to be approved by the Bar Council of India, liberty was accorded to the Bar Council of Punjab and Haryana to forward the draft Rules to the Bar Council of India for

appropriate decision and necessary action. In a communication dated 5.3.2015 sent by the Chairman of the Bar Council of Punjab and Haryana, it has been specifically referred that pursuant to the order dated 1.9.2014 passed by the Division Bench of the Punjab and Haryana High Court in LPA No.1427 of 2014, the new Draft Rules titled as The Bar Associations (Constitution and Registration) Rules, 2015 were placed before the Division Bench and the same were taken on record with a direction to get it approved from the Bar Council of India.

The above orders passed by the Division Bench in LPA No.1427 of 2014 would go to show that the Bar Council of Punjab and Haryana was permitted to enact appropriate Rules with a view to apply the same uniformly to all the Sub-Divisional or District Level Bar Associations. The Bench also has in fact sought for a compliance report in accordance with the permission accorded to the Bar Council of Punjab and Haryana to frame necessary Rules. It is to be noted that the compliance report has been submitted by the Bar Council of Punjab and Haryana and the same was taken note of by the Bench of this Court. As it was brought to the notice of the Court that the prior approval of the Rules by the Bar Council of India was required, we accorded liberty to the Bar Council of Punjab and Haryana to forward the Draft Rules to the Bar Council of India for appropriate decision.

The Rule making power concerning the issues which were the subject matter of the LPA was recognized by the High Court. Accordingly, the Bar Council of Punjab and Haryana was permitted to formulate the

Rules.

Inasmuch as the Rules were formulated only with the sanction of this Court and the Draft Rules also were placed before this Court in compliance of the directions issued by this Court, we are of the considered view that the letters communicated by the Chairman of the Bar Council of Punjab and Haryana to all the concerned do not attract any contempt proceedings. We find, *prima facie*, that there was no deliberate attempt on the part of the respondents to malign or scandalize or interfere with the administration of justice. Under such circumstances, the petition for initiating contempt as against the respondents is totally ill-founded. Under such circumstances, we decline to grant any permission to initiate criminal contempt as against the respondents. Therefore, CM No.17962 of 2015 as well as CROCP No.8 of 2015 stand dismissed.

(M. JEYAPPAUL)
JUDGE

July 3, 2015
Gulati

(RAJ RAHUL GARG)
JUDGE