

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.658 of 2015 (O&M)
Date of Decision:- 05.05.2015.

Savita Devi

.....Appellant

Versus

Bar Council of Punjab and Haryana and others

.....Respondents

LPA No.694 of 2015 (O&M)

Savita Devi

.....Appellant

Versus

Bar Council of Punjab and Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Appellant in person along with
Mr. Ragbir Singh Bajwa, Advocate and
Mr. Munish Kumar Garg, Advocate.

SURYA KANT, J. (ORAL)

- 1.) This order shall dispose of LPA Nos.658 and 694 of 2015
as both have arisen out of a common issue pertaining to appellant's

eligibility to vote and contest for the post of Lady Executive Member of the Punjab and Haryana High Court Bar Association. In LPA No.658 of 2015, the appellant has challenged the order dated 22.04.2015, passed by learned Single Judge whereby Election Committee of the High Court Bar Association was directed to delete the names of such members of the Bar from the voter list who have been granted waiver either in the Entrance Fee or the Subscription Fee during the period from 1st May, 2014 to 31st March, 2015. In the second appeal i.e. LPA No.694 of 2015, the appellant assails the order passed by learned Single Judge, dismissing the writ petition where she questioned the decision of the Election Committee in deleting her name from the voter list and, consequently, denying her the right to contest the above-mentioned election.

2.) In sum and substance, learned Single Judge has found that as per the Constitution and the Rules formulated by the High Court Bar Association, every member was required to deposit the membership fee including arrears of subscription by 31st March of the year and there could not be waiver of the deposit of such subscription by way of an omnibus Resolution of the Bar Association. Since the appellant being a newly enrolled member of the Bar was not asked to deposit the subscription fee on the basis of the resolution under which the deposit of such subscription fee by new members was exempted and subsequent deposit of fee by her was after 31st March of the year, learned Single Judge has upheld the

decision taken by the Election Committee of the High Court.

3.) We have heard Shri Bajwa, learned counsel for the appellant as well as the appellant in person at a considerable length.

4.) It is undeniable that under the Rules and Constitution of the Bar Association, relevant provisions whereof have been extracted by learned Single Judge, the membership fee and the arrears of subscription were required to be deposited by 31st March of the year. Equally important is that no power is vested in the Bar Association or its Executive to accord waiver of such subscription fee. As the Resolution was passed contrary to the Rules of the Association that the learned Single Judge has intervened and directions have been issued for deletion of names of members enrolled **en bloc** after availing the benefit of waiver of fee.

5.) It is true and we hold so that the appellant did not persuade the Bar Association to pass any Resolution to waive off the subscription. She, thus, cannot be blamed for such erroneous decision. Equally true is that the appellant did not move any application to grant her the benefit of waiver. It was extended wholesome to her as well as several other newly enrolled members. The appellant availed that benefit incidentally, without knowing whether such a Resolution could be passed by the Bar Association.

6.) But then the law stands as it ought to be. The Executive of the Bar Association was not competent to waive off the subscription fee and that erroneous decision has since been set

aside by the learned Single Judge. The Bar Association has accepted the decision and given effect. In these circumstances, no exception can be carved out in favour of the appellant or any other newly enrolled member who incidentally got the benefit without any entitlement. The rejection of the appellant's claim by learned Single Judge, thus, does not warrant any interference. However, in view of the fact that the appellant's nomination stands cancelled, she would be entitled to refund of nomination fee deposited on 09.04.2015.

**(SURYA KANT)
JUDGE**

**(P.B. BAJANTHRI)
JUDGE**

May 05, 2015.

sandeep sethi