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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 11777/2016 and CM APPL. 46466-46467/2016

DR ARORA AND ORS ..... Petitioners

Through: Mr. Rajesh Jain, Advocate with Mr. K.J. Bhatt, Mr. V.K. Jain, Mr. Virag Tiwari and Mr. Sudhir Sangal, Advocates

versus

SALES TAX BAR ASSOCIATION ..... Respondent

Through: Mr. Kirti Uppal, Senior Advocate with Mr. Awadh Kaushik, Advocate and Mr .Sanjay Sharma, President and Mr. Suresh Agrawal, Secretary of the respondent/Association in person.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI

O R D E R

% **16.12.2016**

1. The present petition has been filed by five petitioners out of whom, petitioners No.1 to 4 are Chartered Accountants by profession and members of the Institute of Chartered Accountants of India and the petitioner No.5 is a Value Added Tax practitioner in whose favour, the Commissioner of Trade and Taxes has issued a certificate of enrolment. All the petitioners are aggrieved by the Notice dated 07.12.2016 issued by the respondent/Sales Tax Bar Association, deciding to hold the Annual General Meeting (in short 'AGM') of the Association on 30.12.2016 at the time and venue mentioned therein. One of the notes at the foot of the said Notice, i.e., footnote No.3 is the reason for the petitioners to have approached this Court for relief.

Footnote No.3 states as below:-

> *"3. In view of the Judgment and Order of Delhi High Court dated 31.05.2016 and 18.10.2016 in W.P.(C) No.8106/2010 titled as* ***P.K. Dash, Advocate and Ors. Vs. Bar Council of India and Ors. and other connected matters, non advocate members shall not be entitled to vote and contest the elections*** *and an Advocate member who is a member of any of the following Bar Associations annexed to and recognized by the Bar Council of Delhi and who files the Declaration (as enclosed) that he/she has not voted in the immediately preceding election in any of these Bar Association and is not voting in any election of any such Bar Association latest by 6:00 PM on 19.12.2016, shall be eligible to vote and contest the election, if necessary. Any member who does not file the declaration by 19.12.2016 shall not be eligible to vote and contest the election.*
>
> *(a) Supreme Court Bar Association*
> *(b) Delhi High Court Bar Association*
> *(c) Delhi Bar Association*
> *(d) New Delhi Bar Association*
> *(e) Shahdara Bar Association*
> *(f) Rohini Bar Association*
> *(g) Saket Bar Association*
> *(h) Dwarka Bar Association*
> *(i) CAT Bar Association*
> *(j) DRT Bar Association*
> *(k) Armed Forces Tribunal Bar Association*
> *(l) Sales Tax Bar Association*
> *(m) Delhi Tax Bar Association*
> *(n) Taxation Bar Association*
> *(o) Kashmere Gate Bar Association*
> *(p) NCDRC Bar Association*
> *(q) Consumer Forum Bar Association*
> *(r) Kapashera Bar Association"*

2. Further, the petitioners are aggrieved by the Notice dated 07.12.2016 issued by the respondent, wherein a schedule has been laid down for conducting the election to the post of Office Bearers and members the

Executive Committee for the year 2016-2017, of the Sales Tax Bar Association, on 30.12.2016.

3. Learned counsel for the petitioners submits that incorporation of Footnote 3 in the impugned Notice of the AGM dated 07.12.2016, by the respondent/Association has resulted in disqualifying the petitioners and other similarly placed non-Advocate Members and has denied them the right to vote and contest the elections without even affording them an opportunity to file a declaration, in accordance with the principle of "One Man One Vote", as laid down in the judgment dated 31.5.2016, pronounced by a Division Bench of this Court in a batch of writ petitions, lead matter being **W.P.(C) 8106/2010**, entitled <u>'P.K. Dash, Advocate and Ors. Vs. Bar Council of India and Ors.'</u>.

4. Mr. Uppal, learned Senior Advocate, who appears alongwith the counsel for the respondent/Association on advance notice, states on instructions that it was with the idea of implementing the directions issued in the case of <u>P.K. Dash (supra)</u> and a clarificatory order dated 18.10.2016 passed subsequently in the same case, that Note 3 has been appended at the foot of the impugned Notice dated 07.12.2016. He states that the respondent/Association does not have any objection to non-advocate members exercising their right to vote and contest the election on the condition that they submit a declaration, as stipulated in Footnote 4 of the very same notice.

5. Both the parties agree that the timeline for conducting the elections being too short, it would be appropriate if the Notice of the AGM dated 07.12.2016 is recalled, a fresh election schedule is declared by the respondent/Association so that adequate time is granted to non-advocates

and advocate members to file their declarations in terms of the directions issued in Footnote 4 of the impugned Notice dated 07.12.2016.

6. As all the parties are agreeable to the aforesaid course of action, the present petition is disposed of by setting aside and quashing the impugned Notice of AGM and the Notice of election, both dated 07.12.2016, with directions issued to the respondent/Association to issue a fresh notice for holding the AGM and laying down a fresh schedule of the election. Adequate time shall be afforded to all the eligible members as prescribed in the Rules and Regulations of the Sales Tax Bar Association to submit their affidavits of declaration in the office of the respondent/Association within the time, as may be specified by the respondent/Association, when issuing a fresh notice for holding the AGM and for declaring a fresh election schedule for filling up the posts of Office Bearers and members of the Executive Committee for the year 2016-17.

7. The petition is disposed of alongwith the pending applications.

DASTI.

HIMA KOHLI, J

DECEMBER 16, 2016

rkb/ap