

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP 11328 of 2016 (O&M)

Date of Decision: March 29, 2017

Gagandeep Singh and others

.....Petitioners

Vs.

Bar Council of India and ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.G.N. Malik, Advocate
for the petitioners.

Mr. Amit Khanna, Advocate for
Mr. Amit Khattar, Advocate, for respondent No.1.

Mr. Sanjeev Manrai, Sr. Advocate with
Mr. Gaurav Talwar, Advocate
for respondents No.3 and 4.

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M.M.S. BEDI, J. (ORAL)

The petitioners are Advocates of District Bar Association,
Mohali. The grievance of the petitioners is that without there being any
elections, certain members of the Bar are permitted to continue as office
bearers of the District Bar Association, Mohali.

Vide order annexure P-29 dated April 19, 2016, the Bar Council of Punjab and Haryana High Court, a Regulatory Authority under the Advocates Act had directed that the elections, as per the schedule, would be conducted. Some directions had been given to the District Bar Association pertaining to the Chamber Construction Committee in which Sh.H.S. Diwana, former President of the District Bar Association and the President of the District Bar Association at that time were authorized to exercise their authority for signing certain documents for transfer of the land for the Chambers of the Advocates. The petitioners had been directed to hand over the record of District Bar Association, Mohali and Bar Association Chambers Construction Committee, within 15 days. A direction was also given that one special committee be constituted to check the role of the petitioners regarding some misrepresentations and some misappropriation pertaining to the records of District Bar Association, Mohali. Aggrieved by the above said order, the present writ petition has been filed.

Since the Bar Council of Punjab and Haryana is a statutory body made under Advocates Act for regulating the provisional conduct and other activities of the Advocates and Bar Associations respectively, the order annexure P-29 dated April 19, 2016 cannot be said to have been passed without jurisdiction but the law that every statutory authority is required to function as per the parameters laid down by the instructions and not to act

arbitrarily, would apply to the functioning of the Bar Council of Punjab and Haryana.

With the assistance of counsel for the petitioners and respondents, I have gone through the impugned order. Part of the writ petition appears to have become infructuous as the election of the Bar Association, Mohali having already been concluded and the new President and office bearers having been selected, so the writ petition regarding the direction by the Bar Council of Punjab and Haryana becomes infructuous.

So far as the grievance of the petitioners that elections were not being conducted, is concerned, counsel for the petitioners has submitted that he has got instructions not to press for the said relief. The present writ petition for the said prayer has also been rendered infructuous without prejudice to the rights of the petitioners to avail an appropriate legal remedy as per the Bar Associations (Constitution and Registrations) Rules, 2015.

So far as the constitution of Committee to sign certain documents for the expeditious and timely construction of the Chambers is concerned, that action has also already been taken as such no adjudication regarding the legality of the order in that aspect is called for and the petition qua the said challenge also becomes infructuous.

The remaining grievance of the petitioners is that the order annexure P-29 dated April 19, 2016 having been passed, without giving an opportunity of hearing to the petitioners and to explain the circumstances, is contrary to the rules of natural justice and that on the basis of presumptions

and assumptions, a direction has been given to constitute Special Committee to check the role of the petitioners regarding some misappropriation of funds.

It has been informed by President and members of the Association that the entire relevant material record pertaining to the District Bar Association, Mohali and Chambers Construction Committee stands already handed over as per the directions of the Committee as such the petition in that context has also become infructuous.

In this context counsel for the respondents informed that neither any Committee has been constituted nor any action has been taken for considering the role of the petitioners for the alleged irregularities.

In view of the claim of the petitioners and rival contention of the respondents, the only controversy which requires to be looked into is whether the order passed by the Bar Council of Punjab and Haryana directing the constitution of Special Committee to examine the conduct of the petitioners, who are Advocates, is legal and appropriate. The order dated April 29, 2016, so far as any observations regarding misappropriation of funds and forging of records of District Bar Association, Mohali, are concerned, any observation made in that context which is prejudicial to the petitioners and having been made without associating them and without hearing them is not sustainable. Besides this, the said order has not been implemented as yet.

In view of said circumstances, the order dated April 19, 2016 regarding any adverse observations against the petitioners is hereby quashed and it is ordered that in case any Committee is to be constituted to examine any illegality or misconduct on the part of the petitioners. The petitioners would be given a fair opportunity of hearing by Bar Council of Punjab and Haryana or any other Committee or Authority constituted for the said purpose before any action is launched against them.

In view of the above circumstances, this petition is disposed of as having been rendered partly infructuous and partly allowed as mentioned hereinabove. Nothing said in this order by this Court or Bar Council of Punjab and Haryana will effect any proceedings, if any, launched against the petitioners.

March 29, 2017
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether reportable:	Yes/No.