

CWP-7233-2017

Date of Decision : 06.04.2017

Vipin Kumar Advocate and others

.....Petitioners

versus

District Bar Association, Jinda and Others

....Respondents

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. V.D. Sharma, Advocate
for the petitioners.**M.M.S. BEDI, JUDGE (ORAL)**

As per the provisions of Section 17 of the Advocates Act, 1961 read with the Bar Associations (Constitution and Registrations) Rules, 2015 framed by the Bar Council of Punjab and Haryana, Chandigarh, the District Bar Associations as well as the State Bar Council is required to maintain a list of the advocates. Any person enrolled as an Advocate with the Bar Council of Punjab and Haryana on filing an application can become a member of particular Bar Association and any Advocate enrolled has got a right to participate in the election for particular Bar Association. Even an Advocate from other Bar Association can get himself transferred under Section 18 of the Advocates Act, 1961 from one State to another.

The petitioners through instant petition, have approached this Court for issuance of a writ in the nature of certiorari for setting aside the final voters list Annexure P-3 of District Bar Association, Jind for the year 2017 which does not contain the names of the petitioners. A copy of the Register maintained by the District Bar Association, Jind has been appended as Annexure P-1 to substantiate the contention that the

petitioners are the members of the District Bar Association, Jind and have paid entire dues and that their names have been wrongly excluded from the final voters list.

Learned counsel for the petitioners submits that in total 24 members including the petitioners have been excluded without giving them any opportunity of hearing and that the election of the District Bar Association, Jind is scheduled on 08.04.2017. As per Rule 11 of the Bar Associations (Constitution and Registrations) Rules, 2015, in case of any dispute in connection with the voters list in election of office bearers, the matter will be taken up with the Bar Councils *suo moto* or on the basis of complaint filed by any affected member and the decision of the Bar Council will be final. The Chairman of the Bar Council is required to constitute a committee of three members of the Bar Council whose decision would be final.

In view of alternative remedy available with the petitioners the present writ petition is not maintainable.

Notice of motion to respondent No.3, Bar Council of Punjab and Haryana.

On asking of the Court, Mr. Jai Vir Yadav, Chairman on behalf of respondent No. 3 has appeared and accepted notice. Copy of the petition has been handed over to him.

The petition is disposed of with a direction that the Chairman, Bar Council of Punjab and Haryana, Chandigarh would immediately constitute a Committee as per Rule 11 of the Bar

Associations (Constitution and Registrations) Rules, 2015 and take a decision regarding the validity of the decision of the District Bar Association, Jind in excluding the names of the petitioners and other members. The contents of the petition will be considered as the representation/complaint of the petitioners as the Bar Council has got authority even to *suo moto* consider the validity of a particular voters list as per Rule 11.

Since the election process has already commenced, an interim direction is issued that in case, the claim of the petitioners is not decided by 8:00 AM on 08.04.2017, the petitioners will be provisionally permitted to participate in the election process without prejudice to the rights of any of the members under Rule 11 (d) of the Bar Association (Constitution and Registrations) Rules, 2015.

It will be open to the Bar Council of Punjab and Haryana to adopt appropriate mode for hearing the authorized agent of District Bar Association, Jind i.e. telephonically, by email or through special messenger.

(M.M.S. BEDI)
JUDGE

06.04.2017

Neha

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No