

\$~69

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

+ **W.P.(C) 1699/2018 & C.M.No.7008/2018**

RAJESH SHARMA

..... Petitioner

Through In person.

versus

BAR COUNCIL OF INDIA & ANR

..... Respondent

Through Ms.Priyam Mehta, Adv for BCI with
Mr.Nalin Raj, Asst. Sec.

Col..R.Balasubramaniam with Mr.T.Singh Dev
Mr.Amandeep Kaur, Advs for R-2.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

%

22.02.2018

Vide the present petition, the petitioner claiming to be an advocate practising in Delhi Courts and he is also a contestant for the post of a member in the ensuing Bar Council of Delhi election had sought following prayers:-

“a) A writ of Mandamus commanding the Respondent No.1 & 2 to stop the candidates who are contesting for BCI, BCD or any State Council and all other Bar Associations once a candidate had not resigned from his post and stretched the period for which he/she was elected;

b) A Writ of Mandamus commanding the Respondents No.1 & 2 to take undertaking from the contesting lawyers for BCI, BCD and other State Council Elections, so that the term/tenure of these bodies must not be stretched beyond the prescribed period. The ingredients of the proposed undertaking are annexed alongwith this Petition;

c) A writ of Mandamus commanding the Respondent No.1 & 2 to stop the contesting lawyers from using hoardings, banners, posters and all such material which

can deface, damage any public or private property within court premises or outside court premises;

d) A writ of Mandamus commanding the Respondent No.1 & 2 to stop contesting lawyers from spending exorbitant funds in contesting elections. A limit may be kept at Rs.1,00,000/- only.”

Learned counsel for the petitioner submits that in view of the election to the Bar Council of Delhi having been notified for 16th & 17th March, 20-18, his prayers (a) & (b) no longer survive.

The learned counsel appearing for the Bar Council of India i.e. respondent no.1 submits that upon consideration of a complaint made before the Election Tribunal No.2 dealing with similar issues, various directions have been given by the said Tribunal on 19.02.2018. Learned counsel for the petitioner has been handed over a copy of the said order. Para 6 of the said directions, which is reproduced hereinbelow, squarely covers the other prayer (d):-

“6. The Advocates who are interested in ensuring transparency in elections, can take initiative individually or collectively and bring to the notice of the RO or the Tribunal or the BCI, the instances of corrupt practices if any resorted to by the candidates and steps would be taken by keeping their identity in secret.”

Learned counsel for Bar Council of Delhi/Respondent No.2 points that a Division Bench has vide its order dated 16th February, 2018 in WP (C) No.486/2018, already passed directions dealing with the same issue raised by the petitioner in prayer (b) of his petition. Paras 3 & 4 thereof reads as under:-

“3. A grievance is expressed by the Id. Counsels who are present in person that the elections to Delhi

Bar Council is scheduled for 16th and 17th March, 2018 and that the candidates who are participating in those elections are pasting publicity materials all over the courts as well as in the public places. By doing so, these candidates are rendering themselves liable and culpable for penal action under the Delhi Prevention of Defacement of Property Act as well as Sections 268 and 290 of the Indian Penal Code.

4. Col. Arjun Sharma, Secretary of Bar Council of Delhi is present today. He shall ensure that no candidate in the said elections defaces any public property in any manner. Posters, etc. which have already been pasted in public places and properties, shall be got removed forthwith.”

In view of the directions passed by the Division Bench in WP (C) No.486/2018 as also by the Election Tribunal, the prayers made by the petitioner stand substantially redressed. The respondents assure this Court that they are taking all necessary steps to abide by the aforesaid directions given by the Election Tribunal and the Division Bench of this Court.

The writ petition along with the pending application is accordingly disposed of with directions to the respondents to ensure compliance of the directions of the Election Tribunal as also of the Division Bench of this Court, as noted hereinabove.

REKHA PALLI, J

FEBRUARY 22, 2018

sr