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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7281/2018, CM No. 27904/2018**
SHAILENDRA KUMAR SINGH

..... Petitioner

Through: Mr. Manoj Kumar Singh, Adv. with
Mr. Rupesh Gupta & Ms. Tanya
Tiwari, Advs.

versus

NEW DELHI BAR ASSOCIATION AND ORS.

..... Respondent

Through: Mr. Sushil Kr. Pandey, Adv. with Mr.
Sahaj Garg, Adv. for R-1/NDBA
Mr. Ankur Chhibber, Adv. for R-3

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
23.07.2018

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1. The present petition has been filed by the petitioner with the following prayers:-

*“In the facts and circumstances stated herein above, it is most respectfully prayed that this Hon’ble Court may be pleased to:
(a) Pass a Writ of Certiorari or any other writ/order/direction quashing the Minutes of Meeting / decision / Order dated 04.07.2018, the noting at Serial No.135 in the document titled “Decision of the Election Committee, New Delhi District on 312 number of objections received from the members of NDBA to the Draft Voter’s List for NDBA Elections 2018” and the inclusion of the Petitioner’s name at Serial No.118 in the document titled “Final List of Members of NDBA not entitled to vote in NDBA Elections 2018” all dated 04.07.2018 whereby the Petitioner has been held ‘not entitled*

to vote’;

(b) Pass a Writ of Mandamus or any other writ / order / direction to direct the Respondent no.1 to include the Petitioner in the Final list of eligible voters entitled to vote in the NDBA elections 2018;

Pass any other order which this Hon’ble Court may deem fit and proper in the interest of justice.”

2. In substance, the grievance of the petitioner is that in the final list of Members of NDBA issued on July 04, 2018 by the Election Committee against his name at Sl. No.118, it has been observed that the petitioner “*is not entitled to vote*” in NDBA Elections, 2018. According to Mr. Manoj Kumar Singh, learned counsel for the petitioner, the said noting of the Election Committee is untenable, as in terms of the judgment of the Division Bench of this Court in ***P.K. Dash V. Bar Council of Delhi W.P.(C) No. 8106/2010 decided on October 18, 2016*** any Member of the Bar Association, who had not voted in any of the election of the another Bar Association, is entitled to vote.

3. According to him, it is the case of the petitioner that even though petitioner is a Member of the Delhi Bar Association, the declaration purported to have been given on his behalf with the Delhi Bar Association expressing his intention to vote in the election there, is a forged one. In other words, no such declaration has been given by the petitioner. He has

also stated that the Delhi Bar Association has given a certificate to the extent that the petitioner has not voted in the election held on January 20, 2017. It is also the case of the petitioner that he has not voted in the election of the DBA held on January 20, 2017. Mr. Singh also refers to a letter dated January 13, 2017 of the petitioner to the Returning Officer of the Delhi Bar Association, which reads as under:-

*“To
The Returning Officer,
Delhi Bar Association,
Tis Hazari Court,
Delhi*

Sub: Withdrawal of my declaration and cancel my voting right in forthcoming DBA Election held on 20.01.2017.

Dear Sir,

I, Shailendra Kumar Singh, S/o Sh. K.B. Singh, Enrolment No.D/954/2000, am the member of Delhi Bar Association.

It is inform you that someone has filed my declaration and subscription without my consent. It is neither in my knowledge, nor consent was taken by the person who did so. It is pertinent to mention here that the signature is not mine in the Declaration Form.

Therefore, kindly withdraw my declaration and voting right in forthcoming DBA Election.”

4. It is the submission of Mr. Singh that the letter dated January 13, 2017 shows much before the election took place in the DBA, the petitioner had expressed himself about the fact that someone else has filed his declaration

form and subscription without his consent. He also referred to the last paragraph of the said letter wherein the petitioner, in any case has withdrawn the declaration and voting right in the DBA Election. According to him, even though the declaration in DBA would not be relevant for the purpose of inclusion of the petitioner's name in the voter list of NDBA, still the petitioner, having withdrawn his purported declaration and has also not voted in the election of the DBA, he could not have been barred from casting his vote in the election of NDBA.

5. Mr. Chhibber appearing for the respondent No.3, the contesting party Election Committee states that the Election Committee has decided on the basis of the fact that as the petitioner's name exists in the voter list of the DBA, to debar the petitioner from voting. He concede to the fact, in para 52(a), as modified by the Division Bench vide its order dated October 18, 2016 only stipulates that the declaration has to be that he (the Member) has not voted and is not voting in the election of any other Bar Association.

6. Even though, Mr. Chhibber has relied upon the directions given by the Division Bench in para 13 of the order dated October 18, 2016 in CM No. 36262/2016, the said paragraph only relates to preservation of the records by a Bar Association. Such records, are the relevant verification of

declaration including declaration given by Members, a final list of voters and final list of candidates with their declaration. This Court is of the view in the peculiar facts of this case, the petitioner shall be allowed to vote in the election. Accordingly, the observation of the Election Committee against Serial No.118 of the list as referred above, necessary amendment be made making the petitioner “*eligible to vote*”. Suffice to state, this order is confined to the petitioner herein in the peculiar facts. Petition stands disposed of.

CM No. 27904/2018 (for stay)

Dismissed as infructuous.

V. KAMESWAR RAO, J

JULY 23, 2018/ak