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

+ W.P.(C) 4014/2018 & CM No. 15836/2018

BAR COUNCIL OF INDIA

..... Petitioner

Through: Mr Preet Pal Singh, Advocate.

versus

UNION OF INDIA

..... Respondent

Through: Mr Rajesh Gogna, CGSC with Ms  
Liu Gangmei, Advocate for R-1.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

% **12.02.2019**

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“i issue a Writ, Order or Direction in the Nature of Mandamus thereby directing the respondent to issue necessary clarifications to the notice dated 23<sup>rd</sup> February, 2016 and office memorandum bearing no.O-17034/6/2016/PSP II dated 03<sup>rd</sup> June 2016 issued by respondent thereby clarifying that Bar Council of India being statutory and autonomous body not coming under any ministry of Government of India does not require any approval/consent of any Ministry before publication in official gazette.”

2. The petitioner (Bar Council of India – hereafter ‘BCI’) is a statutory body constituted by virtue of Section 4 of the Advocates Act, 1961. In exercise of powers conferred under Advocates Act, 1961, BCI has framed the Bar Council of India Rules, which were notified on 06.09.1975. These

Rules have been amended from time to time. Further, in exercise of its powers, BCI has also framed Rules known as Rules of Legal Education, 2008. These Rules were also notified and published in the Official Gazette on 21.03.2009.

3. BCI's grievance is with regard to notice dated 23.02.2016 issued by the Government of India, Department of Publications. In terms of the said notice, it was directed that all printing material to be printed in Part-III, Section IV of Gazette of India, are required to be forwarded, under cover of the letter of an officer of a rank of the Joint Secretary of the concerned Ministry. The aforesaid Notice was further clarified by an Office Memorandum, No. 0- 17034/6/2016/PSP II, dated 03.06.2016 issued by the Ministry of Urban Development, Department of Publication. The said Office Memorandum reads as under:

“Subject: Printing of material of Statutory Bodies/ PSUs in the Gazette of India

The undersigned is directed to refer to the Department of Publication's notice dated 23.02.2016 on the above subject and to clarify that in so far as publication of any material of Statutory Bodies/ Autonomous Bodies in Part III Section IV of Gazette of India published by the Department of Publication is concerned, a forwarding letter duly signed either by the competent authority of that organization not lower than the rank of a Joint Secretary to the Government of India or an authorized signatory duly authorized by the concerned Administrative Ministry/ Department for the purpose, shall accompany the printing material for publication in the Gazette.

2. This issues with the approval of competent authority in the Ministry of Urban Development.

(SK Mandal)  
Controller of Publication

To  
All Ministries/ Departments/ Statutory/PSUs/  
Autonomous Organizations

4. It is BCI's case that it is a statutory body and therefore, is not under the administrative control of any Ministry of the Government of India, and therefore any material required to be printed in the Official Gazette cannot be forwarded under the signatures of an officer of any Ministry of the Government of India. It is further contended that its members or office bearers also cannot be equated as officers of the rank of Joint Secretary to the Government of India.

5. It is contended that in view of the aforesaid Memorandum dated 03.06.2016, the Government of India, Department of Publication has declined to publish any of the notifications as well as the reports, as forwarded by BCI.

6. It is contended on behalf of the BCI that there are several provisions under the Advocates Act, 1961 as well as the Rules made thereunder, which require certain reports and notifications to be published in the Official Gazette. Mr Preet Pal Singh, the learned counsel appearing for the BCI has also referred to Section 12 and 14 of the Advocates Act, 1961. In terms of Sub-section (4) of Section 12 of the said Act, BCI is required to cause its accounts, alongwith Audit Report, to be published in the Gazette of India. Similarly, in terms of Section 14 of the said Act, no election of a member of a Bar Council can be called in question for want of notice if the same is published in the official gazette at least thirty days prior to that date. He

submits that there are provisions which required Bar Council to issue notifications/publications in the official gazette. It is BCI's principal grievance that since BCI does not fall under any administrative control of any ministry, it is disabled from issuing notifications for publication in the official gazette.

7. Mr Gogna, learned counsel for the respondent states that he has received instructions to the effect that the difficulty of BCI has been noted by the concerned authorities and the same would be addressed within a period of about one month. He submits that during the interim period, BCI can forward all publications through their Secretary to the Ministry of Law and Justice.

8. In view of the above, no orders are required to be passed at this stage. However, in the interregnum period – that is, till respondents carry out the necessary modifications or issue any clarification providing for mechanism for BCI to get their notices and other materials printed in the official gazette – some arrangement is required to be made to enable BCI to get the necessary material to be printed in the Official Gazette. Accordingly, the Department of Publication, Government of India is directed to accept the publications issued under the signatures of the Secretary of BCI and publish the same in the Gazette as requested by BCI. It is clarified that this is only a temporary measure till appropriate protocol is established by the respondents.

9. The petition is disposed of in the aforesaid terms.

**VIBHU BAKHRU, J**

**FEBRUARY 12, 2019**  
**MK**