

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 10426 of 2024

Amrendra Kumar Singh son of Yogendra Prasad Singh, Resident of Mukrera,
Police Station-Rivilganj, District-Saran.

... .. Petitioner/s

Versus

1. The Bihar State Bar Council through the Secretary, Patna.
2. The Secretary, Bihar State Bar Council, Patna.

... .. Respondent/s

Appearance:

For the Petitioner : Mr. Sarva Deo Singh, Adv.
Mr. Sanjay Kumar, Adv.
For the Respondent/s : Mr. Shantanu Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
CAV JUDGMENT

Date: 12-11-2024

The present writ petition has been filed for quashing the letter dated 11.06.2024 (containing Resolution No. 83/2024 dated 08.06.2024), issued by the Bihar State Bar Council, Patna, whereby and whereunder the financial powers of the General Secretary of the District Bar Association, Chapra i.e. the petitioner herein has been seized and a second show cause has been directed to be issued to him to explain the position, keeping in view the complaint petition filed by 293 Members, including the Executive Members of the District Bar Association, Chapra, application of the Treasurer and report of the Three Member Committee and come forward with detailed



explanation, regarding the issues raised therein, qua the petitioner as also appear before the General Body of the Bihar State Bar Council, Patna, with ledger and other proof in support of his explanation.

2. The brief facts of the case, according to the petitioner, are that the petitioner had contested the election of District Bar Association, Chapra, for the term 2024-26 and was elected as the General Secretary of the Bar Association, whereafter he took oath on 16.04.2024 and the first meeting of the Association was held on 30.04.2024. A general complaint is stated to have been made by the Members of the District Bar Association, Chapra, on 1.5.2024, before the Bihar State Bar Council, Patna, inter alia alleging therein regarding enhancement of the cost of vakalatnama, hajri form, bond paper, bail bond title page, complain title page, application form and file, leading to the Bihar State Bar Council constituting a Three Member Enquiry Committee. The said Three Member Committee had conducted an inspection on 09.05.2024 and submitted an inspection report on 11.05.2024.

3. The learned counsel for the petitioner has submitted that in paragraph no. 9 of the inspection report dated 11.05.2024, the only allegation, which has been made, is regarding enhancement of charges in respect of hajri form disproportionately and



discontinuance of the share of Advocates and Advocate clerks in the same, resulting in resentment in the Bar, apart from some allegations being made in the said report regarding functioning of the Committee during the period 2022 to 2024, for which the petitioner is not responsible, inasmuch as his financial power had been seized vide letter dated 19.07.2023.

4. It is further stated by the learned counsel for the petitioner that a show cause notice was issued by the Bihar State Bar Council, Patna on 13.5.2024, which has already been replied to by the petitioner. It is contended that even the Three Member Committee, in its report dated 11.05.2024, has suggested for conducting audit of the Association by a Chartered Accountant and on the basis of the same, the Bihar State Bar Council, Patna may consider taking further action, hence, it is submitted that there is no specific allegation of defalcation and misappropriation qua the petitioner herein, thus, the impugned order dated 11.6.2024 is fit to be set aside.

5. The learned counsel for the petitioner has next contended that the newly elected Committee of the District Bar Association, Chapra held a general body meeting on 30.04.2024, wherein budget was passed for the period 2024-26, showing expenses to the tune of Rs. 2,12,75,000/- and the



income as Rs. 2,00,89,000/-. Thus, it is submitted that within a few days, no defalcation / misappropriation could have been resorted to by the petitioner and moreover, neither any specific allegation has been levelled against the petitioner in the complaint dated 01.05.2024 nor any specific finding of defalcation and misappropriation has been arrived at in the said enquiry report dated 11.5.2024 qua the petitioner, hence, there is no occasion to issue a second show cause notice, thus the order dated 11.6.2024, passed by the Bihar State Bar Council, Patna, is fit to be quashed.

6. *Per contra*, the learned counsel appearing for the Bihar State Bar Council, Patna, has submitted, by referring to the counter affidavit filed in the present case that the present writ petition is premature, inasmuch as only a show cause notice has been issued to the petitioner and that too after proper inspection of the affairs of the Chapra District Bar Association by a Three Member Committee and submission of report by the said Committee dated 11.5.2024. It is stated that only the financial powers of the General Secretary of the District Bar Association, Chapra, has been seized on account of numerous complaints made against him by several Members of the District Bar Association, Chapra, as has been prima facie found to be having



some substance, by the specially appointed Three Member Committee of the Bihar State Bar Council, Patna, as aforesaid. It is also submitted that a bare perusal of Resolution No. 83/2024 dated 08.06.2024, contained in letter of the Bihar State Bar Council, Patna, dated 11.06.2024, would show that numerous complaints have been made regarding serious financial irregularities prevailing in the District Bar Association, Chapra as also concerning violation of the Uniform Rules. It is contended that the final order will be passed only after hearing the petitioner and upon due consideration of his show reply.

7. The learned counsel for the Respondent-Bihar State Bar Council, Patna, has next submitted that the Bihar State Bar Council, Patna, vide resolution dated 15.07.2023 had seized the financial powers of the then General Secretary, i.e the petitioner and vested the same with the President and the Treasurer of the District Bar Association, Chapra as also had directed the petitioner to hand over the financial documents, cheque book and ledgers to them, however, the petitioner did not do so and instead made huge expenditure in cash, without approval of the General Body of the Association and in violation of the Uniform Rules. Nonetheless, in the meantime the term of the office bearers of the District Bar Association, Chapra, had expired,



whereafter election was held for the term 2024-26 and the petitioner again won as the General Secretary of the said Association, whereupon he took oath on 16.04.2024 and then the first meeting of the District Bar Association, Chapra, was held on 30.04.2024. The petitioner again started functioning in the same manner as he was doing earlier, leading to filing of complaints, hence, the Bihar State Bar Council, Patna, had appointed a Three Member Committee to visit District Bar Association, Chapra and furnish its report. The Three Member Committee had then visited the District Bar Association, Chapra and submitted its report dated 11.05.2024, which clearly shows that serious financial irregularities and administrative lapses have been found as also it has been detected that the petitioner has failed to hand over the financial documents, cheque book and ledgers, as was directed earlier by the Bihar State Bar Council, Patna. It is stated that the order under challenge is purely temporary in nature and by the same, opportunity has been granted to the petitioner to file his reply and show all the documents in his support and the final decision shall be taken only after hearing the petitioner, hence, the present writ petition is not maintainable.

8. The learned counsel for the Respondent-Bihar State Bar



Council, Patna, has further contended that on the very first day of meeting of the newly elected committee of the District Bar Association, Chapra, i.e. 30.4.2024, the budget has been shown to have been passed, without adhering to the mandatory period of notice, as provided for under Rule 17 of the Model / Uniform Rules, which stipulates giving of 14 days' clear notice for convening Annual General Meeting. In fact Rule 29(xv) & (xvi) of the Model / Uniform Rules further stipulates that budget can be passed only in the Annual General Meeting, which must be circulated before 7 days of Annual General Meeting, however, the said provision has not been complied with.

9. At this juncture, the learned counsel for the Respondent-Bihar State Bar Council, Patna, submits that the terms and conditions regarding the functioning of the office bearers of the Bar Associations are governed by "the Uniform Rules for Bar/ Advocates/ Lawyers Association of Bihar (hereinafter referred to as the "Uniform Rules"), which have been duly approved by the Bar Council of India, vide letter dated 22.12.2003 and all the recognized Bar Associations of the State of Bihar are being governed by the said Rules. The learned counsel for the Respondent-Bihar State Bar Council, Patna, has referred to Rules 17, 17A, 25(xii)(n) to (s), Rule 32 and Rule 32B of the



Uniform Rules, which are reproduced herein below:-

“Rule 17- Annual General Meeting-A general meeting of the Association shall be held on such date and at such time as may be fixed by the Executive committee to consider the affairs of the Association on general and such matters as may be placed before it by the Executive Committee. A notice with the agenda for the meeting shall be issued by the General Secretary at least fourteen days before the date fixed for the meeting and circulated to the members of the Association.

Rule 17A- There shall be general meeting of the Association in every three months to consider the working of the Association, Courts or any other matter related thereto in the interest of the Members of Bar and/or any matters related thereto. The Secretary General shall convene the meeting without fail. The notice of the meeting shall be published 14 days prior to the completion of the period of three months.

Rule 25(xii)(n) to (s)-

(xii). The General Secretary shall be incharge of the office of the Association and besides his ordinary functions and those delegated to him by the Executive Committee and shall perform the following functions:-

(n). To see that the regular subscription and cost, etc. are realised in time and entered in cash book and receipts are issued therefore under his signature.

(o). To see that the daily collection or income, sale of Hazari form, Vakalatnama, rents, etc. are deposited in the



account of the Bar Association either in Post Office or Bank wherever the account is opened and entry to this effect is also made in the cash everyday.

(p). To see that every payment made on behalf of the Association by the Secretary is entered in the cash book on expenditure side very day.

(q). To see that cash book is properly maintained and every day's income and expenditure are entered under the signature of the General Secretary.

(r). The General Secretary shall see that the every day's Income is deposited in the account of the Association on the next day and the General Secretary shall not keep any money in his hand beyond the said period.

(s). To see that all disbursements are made after withdrawal from the Account of Association.

Rule 32- Decision of the Bar Council shall be binding on all the Association and lawyer of the State of Bihar. Amendment/alteration, etc. in rule is subject to approval of the Bar Council.

Rule 32B- The General Body of Association will have power to remove any office-bearer from the post on ground of financial irregularity and/or proved misconduct subject to approval of the Bar Council. In case of financial irregularity or misappropriation, the Bar Council will take suo motu action against the concerned office-bearer.”

10. The learned counsel for the Respondent-Bihar State Bar



Council, Patna, has next contended that the Rule making power, applicability of the Uniform Rules to all the Bar Associations affiliated with the Bihar State Bar Council and power of the Bihar State Bar Council in respect of the recognized Bar Associations of the State of Bihar, has already been upheld by this Court, by a judgment dated 31.7.2023, passed in CWJC No. 15876 of 2022 (***Rajiva @ Rajiv Ranjan vs. Bihar State Bar Council & Ors.***).

11. I have heard the learned counsel for the parties and perused the materials on record from which this Court finds that the petitioner was General Secretary of the District Bar Association, Chapra, for the term 2022-2024 and has again been elected as General Secretary of the District Bar Association, Chapra, for the term 2024-2026, pertaining to which complaint has been made by 293 Members of the District Bar Association, Chapra, including the Executive Members and the Treasurer, regarding serious financial irregularities prevailing in the District Bar Association, Chapra as also concerning violation of the Uniform Rules. In fact the allegations made in the said complaint stands prima facie substantiated by the findings arrived at by the Three Member Committee, constituted by the Bihar State Bar Council, Patna, in its enquiry report dated



11.05.2024.

12. As regards the contention of the learned counsel for the petitioner to the effect that neither the complaint made by the Advocates nor the Three Member Committee report dated 11.05.2024 contain such allegations so as to warrant such a drastic action, as has been taken by the Bihar State Bar Council, Patna, by way of issuance of second show cause notice and seizure of the financial powers of the General Secretary of the District Bar Association, Chapra i.e. the petitioner, this Court is of the view that while exercising the powers of judicial review, this Court is not sitting in appeal, as an appellate court, over the actions of statutory authorities and what is to be seen is the error in the judicial/decision making process and not the validity of the decision itself. The Hon'ble Apex Court has repeatedly held that a court cannot go into the question of the aptness or sufficiency of the grounds upon which the subjective satisfaction of an authority is based and the Court has to only see as to whether there are materials or not. In the present case, prima facie, there are sufficient reasons to reckon that financial irregularities and administrative lapses are prevailing in the District Bar Association, Chapra, thus the said issue raised by the petitioner is answered against the petitioner and it is held



that the impugned action of Bihar State Bar Council, Patna, vide letter dated 11.6.2024, containing Resolution No. 83/2024 dated 08.06.2024, issued by the Bihar State Bar Council, Patna, in the facts and circumstances of the present case, does not warrant any interference by this Court.

13. Now coming to the issue of seizure of the financial powers of the petitioner, this Court is of the view that since the said measure has been taken by the Bihar State Bar Council, Patna, as an interim measure and not by way of punishment, such exercise of power by the Bihar State Bar Council, Patna, is ancillary to the exercise of main power as also is in aid of substantive power of punishment / removal, otherwise the substantive power itself would become meaningless, hence, it cannot be said that the Bihar State Bar Council, Patna, has no power to suspend, in view of Rule 32B of the Uniform Rules. This aspect of the matter stands fully covered by an Judgment passed by a coordinate Bench of this Court dated 29.11.2013, in CWJC No. 1051 of 2013 (*Sanjay Kumar Modi vs. The State of Bihar & Ors.*), relevant paragraphs whereof are reproduced herein below:-

“Before proceeding with the judgment, I want to make certain observation with regard to power of this Court.



This Court is not sitting in appeal over actions of statutory authorities. It is exercising right of judicial review. What is to be seen is the error in the judicial process and not the judgment itself. Thus, the scope for interference by this Court has to be viewed in that limited sense.

Coming to the question of jurisdiction, learned counsel for the State Bar Association refers to Rule 32B of the Model Rules for the State Bar Council. There is no dispute amongst the parties that this Rule would be applicable towards the scope and ambit of this Rule that would decide the validity of the stand of either side. Rule 32B reads thus:

“32B. The General Body of Association will have power to remove any office-bearer from the post on ground of financial irregularity and/or proved misconduct subject to approval of the Bar Council. In case of financial irregularity or misappropriation, the Bar Council will take suo motu action against the concerned office-bearer.”

From the Rule aforesaid, it would be seen that if any office bearer of an Association is found to be guilty of financial irregularity or misconduct then the Association can remove him subject to approval of the State Bar Council. This is an independent power given to the Association with power of superintendence to the State Bar Council. In addition to and not in derogation to the aforesaid power is the power of the State Bar Council to take suo motu action against the concerned office bearer.



Here, the expression suo motu is of some significance. Suo motu means on its own, without being formally moved. Thus, whether anyone informs the Bar Council or not, whether Bar Council gathers information from any source or not, if conditions are appropriate, it has the jurisdiction to remove an office bearer. From this, another question arises whether if they have power to move an office bearer? Whether they have power to suspend an office bearer?

On behalf of petitioner, it is submitted that they lack the power to suspend. In my view, the contention is misconceived. If suspension is by way of punishment then certainly the power has to be conferred by Statute or any force having force of Statute but if power of suspension is being exercised as an interim measure then such power is power ancillary to the exercise of main power and must inhale in all such authorities otherwise the substantive power itself would become meaningless. To illustrate, without being exhaustive, if there are allegations of grave financial irregularities being committed by an office bearer then if he is asked to show cause and allowed to continue, severe damages may be committed having serious consequences. Ultimately, if the office bearer is removed, he would have ruined the situation beyond redemption and, as such, to overcome such a situation, as an interim measure and not by way of punishment, such ancillary power inhales to an authority. It is in aid of substantive power of removal. Thus, it cannot be said that the Bar Council has no power to suspend in view of Rule



32B.

*The last submission of learned counsel for the petitioner is that there were no facts justifying the drastic action taken. In my view, this Court, exercising powers of judicial review as noted above, is not sitting as an appellate Court. It is only to see the decision making process and not the validity of the decision itself. It has been held by the Apex Court in the cases of **Barium Chemicals Limited and Another –Versus- Company Law Board and Others** since reported in **AIR 1967 Supreme Court 295** and **Rohtas Industries –Versus- S D Agarwal and Others** since reported in **1969 (1) Supreme Court Cases 325** that it is not open to the Court to see whether sufficient materials are there or not. What the Court has to see whether there are materials or not. Whether they are sufficient or not is a question which has to be determined by the authorities themselves and that decision cannot be substituted by the Court.*

Thus seen, if we see the letter of the President of the Association to the State Bar Council, there are serious allegations of financial irregularity and impropriety being committed. Whether they are sufficient or not is not a question open to judicial review. Thus, in my view, the action of the State Bar Council either under impugned Annexure 6 or under impugned Annexure 11 cannot be questioned.”

14. Having regard to the facts and circumstances of the case and for the foregoing reasons, I do not find any merit in the



present writ petition, hence, the same stands dismissed.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	02.09.2024
Uploading Date	12.11.2024
Transmission Date	NA

