

Ashvini Narwade

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.4206 OF 2024**

Digitally  
signed by  
ASHVINI  
BAPPASAHEB  
KAKDE  
Date:  
2024.03.26  
11:44:13  
+0530

Dilip Shridhar Modgi

... Petitioner

*Versus*

Thane District Courts Bar Association thr. Its Secretary ... Respondents  
& Ors.

Mr. Harshad M. Inamdar for the Petitioner.

Mr. Harshad V. Bhadbhade for Respondent No.1.

Mr. Shriram Kulkarni a/w. Mr. Gaurav Ugale for Respondent No.2.

Mr. Yogendra Rajgor for Respondent No.3.

CORAM: G. S. KULKARNI &  
FIRDOSH P. POONIWALLA, JJ.  
DATED: 20<sup>th</sup> MARCH, 2024

**P.C.**

1. Not on board. On an urgent application as made on behalf of the petitioner, we have taken up the proceedings on board.
2. This Petition under Article 226 of the Constitution of India is filed praying for the following reliefs:-

*“(a) this Hon'ble Court by its Order and / or directions be pleased to Quash and Set aside the Election Program dated 14/03/2024 of Bi-Annual Elections of Thane District Bar Association for the years 2024-2026, the Respondent No. 1 herein;*

*(b) this Hon'ble Court by its Order and/or directions be pleased to direct the Respondent No. 1 & 2 to include the Petitioner's Name in Voter's List and further allow him to contest and also vote the Bi-Annual Elections of Thane District Court's Bar Association for 2024-2026, of the Respondent No. 1 herein; in the alternative without affecting the election program declared by the Respondent No. 2 the Petitioner's name be included in the voters list of TDCBA for the period 2024-2026 and the Petitioner be permitted to vote and also contest ensuing election by giving appropriate directions to the Respondent No. 1 & 2.*

*(c) pending the hearing and final disposal of this writ petition, this Hon'ble Court be pleased to stay the effect, implementation, execution of Election Program dated 14/03/2024 for the Bi-Annual Elections of Thane District Court's Bar Association for 2024-2026;*

*(d) ad-interim / interim reliefs in terms of Prayer Clause (b) and (c) above may please be granted;*

*(e) any other just and appropriate order be passed in favour of the Petitioner in the interest of justice."*

3. It is clear that the reliefs are necessarily in relation to the elections of Respondent No.1, namely, Thane District Bar Association. The Petitioner has made a categorical averment that Respondent No.1 to 3 are private parties as impleaded in the said Writ Petition. In **Rajgoh Rajhan Jaynatilal Vs. Election Scrutiny Committee of B. B. A. & Anr.**( Writ Petition No.3365 of 2024) decided on 4<sup>th</sup> March 2024, this Court in the context of an issue in relation to the elections of the Bombay Bar Association, held that the Bombay Bar Association- (the Respondent in the said case), was not a "State" within the meaning of Article 12 of the Constitution of India. The observations as made by the Court are required to be noted which read as thus:-

*7. Having heard learned Counsel for the parties, we are not persuaded to accept the contentions, as urged on behalf of the Petitioner, that any relief can be granted to the Petitioner, by entertaining this Petition filed under Article 226 of the Constitution. This, firstly, for the reason that we cannot accept the Petitioner's contention that the Bombay Bar Association is a 'State' under Article 12 of the Constitution of India. We are informed by Mr. Tally that the Bombay Bar Association is a society registered under the Societies Registration Act, 1860, having its bye-laws and Rules. It does not receive any aid / financial assistance from the government to meet its expenditures, nor does the government have any other form of controlling stake either in the establishment or in the management or administration of the bar association. There is no deep or pervasive "State control" in the management of its affairs. Furthermore, the functions of the Bombay Bar Association do not relate/or are governmental functions. For all these reasons the Bombay Bar Association cannot be held to be a 'State' under Article 12 of the*

*Constitution of India. Thus, on this ground alone, we cannot entertain this Petition. We may observe that the alternate remedy for the Petitioner, if at all, would be to file a Civil Suit for redressal of any election grievance which the Petitioner has.*

*“8. Be that as it may, the issues which are raised in the Petition concern the elections of the Standing Committee of the bar association. Election itself is a creature of the statute. Such elections are held according to the Rules and Regulations. If the Petitioner has any grievance regarding the same, certainly the remedy for the Petitioner cannot be to invoke the writ jurisdiction of this Court.*

*9. Needless to observe, as fairly stated by Mr. Tally, if the Petitioner has any grievance, she is free to make a representation to the standing Committee of the Bombay Bar Association, which would look into all the concerns raised by the Petitioner.*

*10. Before parting we may clarify that our observations as made in this judgment are confined in the context of the petitioner’s case which raises issues in regard to the elections of the bar association. Hence our judgment ought not to be construed to have delved on any other issues which are not before us.”*

*(emphasis supplied)*

4. The present case also concerns the Elections of the Thane Bar Association, which cannot be regarded as a “State”, within the purview of Article 12 of the Constitution, so as to enable us to exercise the extraordinary jurisdiction under Article 226 of the Constitution of India, in regard to the elections process being held by it.

5. The Petition is accordingly dismissed. However, the other remedies of the Petitioner as the law may permit to institute appropriate proceedings, before appropriate forum, are expressly kept open.

6. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)