

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4354 OF 2024

Rahil A. Hanfi & Ors.

...Petitioners

Vs.

The State of Maharashtra Trh. G. P. & Ors.

...Respondents

Mr. Azimuddin Kazi a/w Mr. Rizwan Khan i/b N. N. Kazi & Associates for Petitioner.

Ms. Shruti D. Vyas, Addl. GP a/w Mr. Sachin Kankal, AGP for State.

Mr. Harshad Bhadbhade, for Respondent No.2.

Mr. Shriram S. Kulkarni, for Respondent No.3.

Mr. Shekhar Jagtap a/w Mr. Ishan Paradkar, for Respondent No.5.

Mr. Yogendra Rajgor a/w Mr. Jagdish Rajgor a/w Mr. Pravin Ranpise, for Respondent No.6.

**CORAM: G. S. KULKARNI &
GAURI GODSE, JJ.**

DATE: 22 MARCH, 2024.

P.C.

1. This petition under Article 226 of the Constitution of India is filed praying for the following reliefs:

“a. By an appropriate writ/order/direction, of this Hon’ble Court, the Respondent No.3 be directed to publish the fresh voters list according to the letters/communications submitted by the members, to check and delete the names of outsider’s names who are practicing somewhere else and having separate bar association. On such terms and condition Hon’ble Court deem fit and proper.

b. By an appropriate writ/order/direction, of this Hon’ble Court, the Respondent No.6 Bar Council of Maharashtra and Goa and the Respondent No.5 Bar Council of India, be directed to announce unified process for conducting District Bar Association Elections and role of election officer during the election. On such terms and condition Hon’ble Court deem fit and proper.

c. Pending the hearing and final disposal of the captioned writ petition, the Respondent No.2 and 3 be direct to reschedule the election program and further directed respondent no.2 to form scrutiny committee demanded in by members and add the present petitioners to member of scrutiny committee for final voters list. On such terms and condition Hon'ble Court deem fit and proper.

d. Interim/ad interim relief in terms of prayer clause (a), (b) and (c) above be granted.

e. Any other and further relief be granted.”

2. As the issue/dispute as raised in the present petition concerns Elections to be held of the Thane District Court Bar Association, it may not be possible for us to exercise our writ jurisdiction, considering the view taken in the case of **Dilip Shridhar Modgi Vs. Thane District Courts Bar Association through Its Secretary & Ors.** in Writ Petition No. 4206 of 2024 decided on 20 March 2024. In such judgment referring to the decision in **Rajgoh Rajhan Jaynatilal Vs. Election Scrutiny Committee of B. B. A. & Anr.** the Court had made the following observations:

“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 categorically made an averments that Respondent No.1 to 3 are private parties to the said Writ Petition, they are invoked under the writ jurisdiction of this Court. In Rajgoh Rajhan Jaynatilal Vs. Election Scrutiny Committee of B. B. A. & Anr. (Writ Petition No.3365 of 2024) decided on 4th March 2024, this Court has taken a categorical view that the Bombay Bar Association, who was the Respondent in the said case, was not “State” within the meaning of Article 12 of the Constitution of India. In such context in regard to the “State” control it needs to have a body to be categorically as a “State” within the meaning of Article 12 of the Constitution of India and also in the context of the elections of Bombay Bar Association, this Court made the following observations:-”

“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 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.”

4. We are satisfied that the present case is also on the Elections of Bar Association, would not maintainable however all other remedies of the Petitioner to institute appropriate proceedings before appropriate forum. Petition stands disposed of in the aforesaid terms. No costs.”

3. In this view of the matter, the petition is dismissed. However, all remedies of the petitioner to institute appropriate proceedings before appropriate forum are expressly kept open.

4. Disposed of. No costs.

(GAURI GODSE, J.)

(G. S. KULKARNI, J.)