

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

2024.PHHC.139820-DB



CWP-29441-2023

Date of Decision : 22.10.2024

Manoj Rathee

.....Petitioner

Versus

Bar Council of Punjab & Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Saurav Bhatia, Advocate, and
Mr. H.P.S. Bungar, Advocate, for the petitioner.

Mr. Nayandeep Rana, Advocate, for respondents No.1 and 6.

Mr. S.S. Mor, Advocate, for respondents No.2 and 3.

SHEEL NAGU, CHIEF JUSTICE (Oral)

1. This petition has been filed by one of the practicing lawyers of the Bar Association, Bahadurgarh, District Jhajjar, praying for the following relief:-

“To issue :

(i) a writ, order or direction especially in the nature of certiorari praying for quashing of the result declared by the Returning Officer Bar Association, Bahadurgarh dated 15.12.2023 (Annexure P-12) whereby respondent No.3 has been declared as Secretary as the same has been declared in violation of Article 9 of the Constitution of Bar Association Bahadurgarh and relying upon resolution dated 10.02.2016 and thus a further humble prayer for issuance of a writ, order or direction especially in the nature of certiorari for quashing of the resolution dated 10.02.2016 (Annexure P-3), as the same is illegal and passed in contravention of the Constitution of Bar Association Bahadurgarh and in contravention of Haryana Registration & Regulation of Societies Act, 2012, in the interest of justice;

(ii) a writ, order or direction especially in the nature of mandamus directing the respondent No.1 and 2 to furnish the

original record in relation to the afore mentioned notification dated 10.02.2016, in the interest of justice;

(iii) a writ, order or direction especially in the nature of certiorari for quashing the order dated 08.12.2023 (Annexure P-7) passed by the Returning Officer, Bar Association Bahadurgarh, District Jhajjar (Haryana) and order dated 12.12.2023 (Annexure P-11) passed by the Special Committee, Bar Council of Punjab and Haryana Chandigarh, in the interest of justice.”

2. Vide order dated 02.09.2024 passed by this Court, it was found that respondent No.3 was not eligible to contest elections for the post of Secretary, Bar Association during 2023-24 since he had already been elected as Secretary on last two occasions, i.e. during 2021-2022 and 2022-2023, therefore, suffered disqualification contained in Article 9 (iv) of Constitution of Bar Association, Bahadurgarh. Noticing this, this Court granted opportunity to respondent No.3 to step down and also directed the State Bar Council to re-consider representation (Annexure P-8) and (Annexure P-11).

3. Learned counsel appearing on behalf of the State Bar Council has produced resolution No. 48 passed in meeting of the Bar Council held on 18.09.2024 along with copy of order dated 17.09.2024 passed by the Executive Committee of the State Bar Council, which is taken on record as Annexure 'X'. Vide the said resolution, the State Bar Council has held respondent No.3 to be ineligible to contest the 2023-2024 Bar Association elections to the office of Secretary, Bar Association Bahadurgarh.

4. The objection raised regarding maintainability by learned counsel for respondent No.3, is that there is a remedy available before the Registrar of Firms & Societies under the Haryana Registration and Regulations of Societies Act, 2012. The aforesaid objection is heard to be dismissed at the very outset, since the Bar Association (Constitution & Registration) Rules, 2015 specifically

provides for an election petition after results are declared which was availed of by the petitioner by filing an objection/representation against the acceptance of nomination of respondent No.3 which the State Bar Council had rejected initially. Therefore, it cannot be said that the remedy available to him was not exhausted by the petitioner. More so, the remedy of judicial review is always open to any person despite availability of alternative efficacious remedy even if the same is statutory in nature provided glaring irregularity or arbitrariness or *mala fides* are demonstrated.

5. The grievance raised herein was so palpable by its very nature that on the face of it the nomination of respondent No.3 appears to be wrongly accepted and therefore, this Court entertained this petition.

6. In view of the fact that Bar Council of Punjab & Haryana by its resolution dated 18.09.2024 has held the candidature of respondent No.3 to be ineligible, this Court need not to proceed further in the matter. However, this petition is, therefore, disposed of by taking the aforesaid fact of resolution passed by the Bar Council of Punjab and Haryana dated 18.09.2024 and also quashing the result by which respondent No.3 had been elected as Secretary of the Bar Association of Bahadurgarh, District Jhajjar for the years 2023-24. The petition stands disposed of to the extent indicated above.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

October 22, 2024
narotam/ravinder

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No