

18.06.2026
Sl. No.82
Ct. No.6
gd

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA/805/2026

**Dr Arjun Chowdhury
versus
The State of West Bengal & Ors.**

Dr. Arjun Chowdhury
.... Petitioner (in-person).

Mr. Kunaljit Bhattacharjee, Id. AGP
Ms. Esha Acharya
....State.

1. By the present writ petition the petitioner seeks direction upon the respondent authorities particularly respondent no.2, Registrar, Office of the Registrar of Firms, Societies and Non-Trading Corporations, West Bengal to accept, process and register the application for registration bearing Application No.APP-022334 submitted in respect of *M/s Pinava Legal*, an unregistered partnership firm of advocates without insisting upon a trade license and further declaration that insistence upon production of a trade license as a precondition for registration of a partnership firm consisting exclusively of advocates carrying on the profession of law is arbitrary, unconstitutional, *ultra vires* the Indian Partnership Act, 1932 and contrary to the Advocates Act, 1961 and the Bar Council of India Rules.

2. The petitioner contends that he is an advocate by profession and in his individual capacity as a partner of *M/s Pinava Legal*, an unregistered partnership firm of advocates he has challenged the repeated refusal of the respondent authorities to register the said firm under the Indian Partnership Act, 1932 on the ground of non-production/submission of trade licence of the said firm.
3. Dr. Arjun Chowdhury, petitioner (in-person) submits that *M/s Pinava Legal* being an unregistered partnership firm of advocates applied for getting registration of the said partnership firm before the registering authority. Preliminary objections which were raised by the registering authority has already been complied with save and except the direction to submit trade licence of the business. As per Section 58 of Indian Partnership Act, 1932 (*hereinafter referred to as the 'Act of 1932'*) there is no requirement of submission of trade licence for registration of a partnership firm. The other compliance under section 58 of the Act of 1932 has already been made. The registering authority has no power to refuse registration if the application in prescribed form and the provisions of section 58 of the Act of 1932 is complied. Once the requirement under Section 58 of Partnership Act of 1932 is complied

with, the Registrar concerned is statutorily bound under Section 59 of the Act of 1932 to register the partnership firm. To buttress his contention, he relies on the decision of Hon'ble Division Bench of this court passed in ***The Registrar of Firms, Societies and Non-Trading Corporations, West Bengal & Anr. versus Tarun Manna & Ors.*** reported in **2009 SCC Online Cal 2699**. Therefore, refusal to register the partnership firm by respondent no.2, Registrar on the ground of non-submission of trade licence is arbitrary and should not be insisted upon. Relying on the decision of Hon'ble Supreme Court passed in ***V. Sasidharan versus M/s. Peter and Karunakar and Others*** reported in **(1984) 4 SCC 230** he submits that lawyer's office or a firm of lawyers is not a "commercial establishment. Reliance is also placed on the decision of a Coordinate Bench of this court passed in ***Santosh Choudhary and Associates versus Employees' State Insurance Corporation and Anr.*** (Re: WPA 6417 of 2024). In view of such submissions, he prays for necessary direction upon the registering authority particularly respondent no.2, Registrar to register the partnership firm under the Indian Partnership Act, 1932 and also not to insist upon production/submission of trade licence.

4. On the contrary, Mr. Kunaljit Bhattacharjee, learned Additional Government Pleader representing the State respondents submits that the guidelines for registration of the partnership firm provides a comprehensive list of documents which is to be produced by the concerned firm for registration of a partnership deed which also includes initial and current trade licence. Referring to Bengal Partnership Rules, 1933 he submits that the Registrar is to act in accordance with the rules as framed thereunder and on being satisfied shall register the documents. However, he concedes that lawyer's office or a firm of lawyers is not a "*commercial establishment*."
5. In reply to such contention raised on behalf of the State, Dr Chowdhury, relying on the decision of Hon'ble Supreme Court in ***Union of India and Others versus S. Srinivasan alongwith one other appeal*** reported in ***(2012) 7 SCC 683*** submits that if a rule supplants any provision for which power has not been conferred, it becomes *ultra vires*. Rule must be in accord with the parent statute as it cannot travel beyond it.
6. Having heard the learned advocates for respective parties, the only issue which falls for consideration is whether the respondent no.2, Registrar, was justified in refusing to register the partnership firm namely, *M/s Pinava Legal* on the

ground of non-production/non-submission of trade licence.

7. In order to examine such issue it would be profitable to reproduce the provisions of Section 58 of the Indian Partnership Act of 1932 as hereunder.

“58. Application for registration. —

(1) The registration of a firm may be effected at any time by sending by post or delivering to the Registrar of the area in which any place of business of the firm is situated or proposed to be situated, a statement in the prescribed form and accompanied by the prescribed fee, stating, —

(a) the firm name,

(b) the place or principal place of business of the firm,

(c) the names of any other places where the firm carries on business,

(d) the date when each partner joined the firm,

(e) the names in full and permanent addresses of the partners, and

(f) the duration of the firm.

The statement shall be signed by all the partners, or by their agents specially authorised in this behalf.

(2) Each person signing the statement shall also verify it in the manner prescribed.

(3) A firm name shall not contain any of the following words, namely: —

“Crown”, “Emperor”, “Empress”, “Empire”, “Imperial”, “King”, “Queen”, “Royal”, or words expressing or implying the sanction, approval or patronage of Government, except when the State Government signifies its consent to the use of such words as part of the firm name by order in writing.

8. The aforesaid provisions clearly lay down the mode of making application for registration of a partnership firm. It provides that a statement in the

prescribed form and accompanied by the prescribed fee giving the particulars as provided thereunder in clause (a) to (f) be submitted before the Registrar of the area in which any place of business of the firm is situated or proposed to be situated. There is no quarrel that the firm for getting registration has complied with Section 58 of the Act of 1932. It is relevant to note that Section 58 of the Act of 1932 does not provide for production/submission of trade licence. Section 59 of the Act of 1932 provides that where the Registrar is satisfied that the provisions of Section 58 have been duly complied with, he shall record an entry of the statement in a register called the Register of Firms, and shall file the statement. Thus Section 59 casts a duty upon the Registrar to register a partnership firm after being satisfied that the requirements of Section 58 are complied with by the applicants. In the instant case, since Section 58 has been duly complied with by the applicants i.e the partnership firm, the respondent no.2, Registrar is under statutory obligation to cause registration of the firm.

9. Mr. Bhattacharjee, learned Additional Government Pleader placing reliance on guidelines downloaded from the official website of the Government of West Bengal tried to impress upon the court that as per comprehensive list of documents for registration of a partnership deed initial and current trade licence is

a requirement. Be that as it may, no rule under Bengal Partnership Rules, 1933 has been placed showing such mandatory requirement of submission of a trade licence for registration of a partnership firm formed for the purpose of carrying legal profession. Further even if the guidelines provide for such requirement but it must be in accord with the parent statute and cannot travel beyond it as has been rightly argued by Dr. Chowdhury, relying on *S. Srinivasan (supra)*.

10. In aforesaid backdrop, this court is of the view that the registering authority particularly respondent no.2, the Registrar, Office of the Registrar of Firms, Societies and Non-Trading Corporations, West Bengal cannot insist upon production and/or submission of trade licence for registration of the firm, *M/s Pinava Legal*, an unregistered partnership firm which is formed for carrying on professional practice of law.

11. Accordingly, respondent no. 2, the Registrar, Office of the Registrar of Firms, Societies and Non-Trading Corporations, West Bengal is directed to process the application of the petitioner for registration bearing Application No.APP-022334 submitted in respect of *M/s Pinava Legal* and cause its registration within a period of two weeks from the date of communication of this order,

without insisting for production and/or submission of trade licence of the firm.

16. Petitioner is directed to communicate this order to respondent no. 2, the Registrar, Office of the Registrar of Firms, Societies and Non-Trading Corporations, West Bengal, for necessary compliance.

17. With the aforesaid directions, the writ petition being **WPA 805 of 2026** is disposed of.

18. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.

19. Interim order, if any, stands vacated.

20. All connected applications, if any, stand disposed of.

21. There shall be no order as to costs.

22. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

23. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)