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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

**Reserved on: 23<sup>rd</sup> December, 2025****Pronounced on: 05<sup>th</sup> January, 2026**

+ W.P.(C) 3646/2025, CM APPL. 17024/2025, CM APPL. 20920/2025, CM APPL. 22610/2025, CM APPL. 32425/2025 &amp; CM APPL. 40471/2025

VIPIN KUMAR SHARMA

.....Petitioner

Through: Ms. Tanya Gupta, Mr. Harshit Jain, Ms. Radhika Gaur and Mr. Pratik Sharma, Advs. with Mr. Vipin Kumar Sharma, Mr. Bipin Dubey and Mr. Pardeep Sharma, Petitioners in person  
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Mr. Mahmood Pracha, Mr. Bipin Kumar Dubey, Mr. Sandeep Singh, Mr. Vipin Sharma, Mr. Harshit Jain, Mr. Surya Dev Singh, Mr. Ashish Bhardwaj, Ms. Tanya Gupta, Mr. A.K. Mishra, Mr. Naresh Pal, Mr. Arun Kumar, Mr. Anuj Kumar Mishra, Ms. Niharika, Ms. Mahima, Ms. Rashmi Kumari, Ms. Savita Kumari, Mr. Vinod Kumar and Ms. Bibha, Advs.

Dr. Pradeep Sharma, Mr. M. Mihal Mehdi and Mr. S.K. Raut, Advs. for P-3

Mr. Ramesh, Ms. Ruchi Rajora Sharma and Mr. Pratik Sharma, Advs. Dr. N. Pradeep Sharma, Mr. Naresh Kumar, Mr. Rakesh Kumar Bhalla, Mr. Pawan Kumar, Ms. Tabassum, Ms. Tisha and Ms. Kiran Sharma, Advs.



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Mr. Sudhir Kumar, Mr. Anurag Rawat and Mr. Manish Kumar, Advs. for P-1

versus

THE RETURNING OFFICER NDBA ELECTIONS,  
2025

.....Respondent

Through: Mr. Bhavnesh Saini, Mr. Neeraj Saini and Mr. Karan Chawla, Advs. for R-9  
Ms. Raji Nathani, Adv. for R-17 (Through VC)  
Ms. Padma Priya and Ms. Poornima Gupta, Advs. for R-4  
Mr. Sumit K. Batra and Ms. Priyanka Jindal, Advs. for R-GNCTD  
Mob: 7290911000  
Mr. Rajiv Talwar, Mr. S. Shantanu and Mr. Pratap Shankar, Advocates for R-11  
Mob: 9818058809

**CORAM:**  
**HON'BLE MS. JUSTICE MINI PUSHKARNA**

**JUDGEMENT**

**MINI PUSHKARNA, J.**

**Introduction:**

1. The present writ petition has been filed seeking to declare the New Delhi Bar Association ("NDBA") Election Result of 2025, of the Patiala House Courts, New Delhi, declared on 22<sup>nd</sup> March, 2025, as null and void and to cancel the NDBA Election, as held on 21<sup>st</sup> March, 2025. There is further prayer for directions to the respondents to conduct fresh elections.
2. By way of the present petition, the petitioners also seek directions to the respondents for preservation of the CCTV footage of the camera installed inside the NDBA polling station and also the entire election record.



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3. The petitioners before this Court were amongst the various contesting candidates for the different posts in the NDBA Election held on 21<sup>st</sup> March, 2025. The said petitioners allege that the NDBA Election was not conducted in a free and fair manner, and being aggrieved by the same, they have approached this Court under Article 226 of the Constitution of India, 1950 (“Constitution”), seeking to invoke the writ jurisdiction of this Court.

**Factual Matrix**

4. The facts, as set forth in the writ petition, are as follows:

4.1 On 19<sup>th</sup> March, 2024, a full bench of this Court in *W.P.(C)10363/2021* (“Lalit Sharma writ”), titled as *Lalit Sharma and Others Versus Union of India and Others*<sup>1</sup>, held that firstly, elections to all Bar Associations would take place on a single day and secondly, casting of votes during elections to various Bar Associations in Delhi shall be permitted only to the holders of an identity card/proximity card. Various directions were issued in this regard to ensure that the elections are conducted fairly and transparently.

4.2 In pursuance of the directions passed in the aforesaid judgment, Minutes of Meeting dated 10<sup>th</sup> February, 2025, was issued by the Committee for NDBA Election, 2024-2025 on 12<sup>th</sup> February, 2025, whereby, it was resolved that the list of advocates/members for NDBA Elections, 2025 consisted of 2253 advocates/members, i.e., eligible members to whom proximity cards had been issued.

4.3 Subsequently, on 13<sup>th</sup> February, 2025, the Final List of Voters was issued by the Chairperson of the Committee for NDBA Election, 2024-2025,

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<sup>1</sup> 2024 SCC OnLine Del 1901.



i.e., District Judge-05, Patiala House Courts, New Delhi, wherein, the total number of members eligible for voting was 2253.

4.4 Thereafter, another direction was passed in *W.P.(C)10363/2021* on 21<sup>st</sup> February, 2025, whereby, the Court clarified that there should be a final and determinative list, which would regulate the right of participation, and on the basis of which, proximity cards may be issued. It was further provided that elections to all Bar Associations were to be conducted on 21<sup>st</sup> March, 2025.

4.5 In view of the scheduled NDBA Election on 21<sup>st</sup> March, 2025, the respondent no. 1, i.e., the Returning Officer (“RO”), NDBA Election, issued ‘*NDBA Election 2025 Guidelines for Voters*’ (“Guidelines”) on 20<sup>th</sup> March, 2025. The said Guidelines stated that no voters shall be permitted to enter the polling area without their proximity card, and the same was mandatory for identification and to cast vote.

4.6 The NDBA Election, 2025 was conducted on 21<sup>st</sup> March, 2025. During the course of the election process on 21<sup>st</sup> March, 2025, at about 3:30 PM, some supporters of certain candidates tried to enter the polling station illegally, without having valid and genuine proximity cards. With an intention to disrupt the election process, they disconnected the proximity scanning machines and entered inside the polling station to cast bogus and duplicate votes. This went on for an hour and half, during which period, the scanners were made non-functional and on account of the same, votes were cast by unverified persons.

4.7 Petitioners sought to raise a complaint regarding the aforesaid disruption with the respondents, however, no action was taken by them and the polling continued to take place without verification of proximity cards. The polling went on till 7:00 PM and the Electronic Voting Machines



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(“EVMs”) were sealed at 7:28 PM. At the time of sealing of EVMs, the respondents had announced that the total number of votes cast were 2034. Out of the 2034 votes, 2017 were effective votes and 17 votes were recorded as ‘None of the Above’ (“NOTA”) in two polling booths.

4.8 Aggrieved by the aforesaid disruption in election process, the petitioners also gave written complaints to the respondent no. 1/ RO and respondent no.2/ Observer of NDBA Election on the day of the election itself, i.e., 21<sup>st</sup> March, 2025, informing about the serious violation in the election procedure. The petitioners also highlighted the significant breaches of established norms therein. Furthermore, the petitioners addressed an additional letter dated 22<sup>nd</sup> March, 2025, to the RO requesting to provide official data and details, including, the total number of proximity cards scanned and the total number of votes cast, with respect to the NDBA Election conducted on 21<sup>st</sup> March, 2025.

4.9 Thereafter, again on 23<sup>rd</sup> March, 2025, at 4:36 PM, the petitioners addressed an E-mail to the RO, requesting to withhold the declaration of the final NDBA Election Result on account of legal remedies being sought by the petitioners before the High Court of Delhi against the malpractices involved in the election process and inaction of the RO.

4.10 However, on 23<sup>rd</sup> March, 2025, at around 6:00 PM, the RO declared the NDBA Election Result, 2025 in a rushed and hasty manner, i.e., after receiving the aforesaid E-mail of the petitioners. Even though the official NDBA Election Result, 2025 notice bears the date 22<sup>nd</sup> March, 2025, the same was declared on 23<sup>rd</sup> March, 2025, i.e., on a Sunday.



4.11 Thus, the petitioners have filed the present writ petition alleging violation of their fundamental right to free and fair elections, which forms a part of the basic structure of the Constitution.

**Proceedings before this Court**

5. On 24<sup>th</sup> March, 2025, when the present writ petition was listed before this Court for the first time, upon urgent mentioning before the Chief Justice, without going into the merits of the case, this Court had directed *status quo* to be maintained till the next hearing, i.e., 25<sup>th</sup> March, 2025.

6. Subsequently, notice was issued in the petition on 25<sup>th</sup> March, 2025 and the respondent no. 1/ RO was directed to file the video recording of the election process, with respect to the verification of voters and voting in the polling booths, in a CD/Pen Drive. The RO was further directed to produce details of the scanning report with regard to the proximity cards. Further, upon submission of the RO that the Election Result had been declared and the elected candidates had taken charge of the office, this Court directed that the Election Result of NDBA Election, 2025 would be subject to the outcome of the instant writ petition. The order dated 25<sup>th</sup> March, 2025, reads as under:

“xxx xxx xxx

**W.P.(C) 3646/2025 & CM APPL. 17024/2025 (for stay)**

3. *The present petition has been filed challenging the election of the New Delhi Bar Association (“NDBA”) Election, 2025, Patiala House Courts, New Delhi.*

4. *Learned Senior Counsel appearing for the petitioners submits that the said elections, were not conducted in a free and fair manner and therefore, by way of the present petition, it is prayed that the final election result dated 22<sup>nd</sup> March, 2025 of the NDBA elections, 2025, may be quashed.*



5. It is submitted by learned Senior Counsel for the petitioners that the petitioners are the candidates who have contested the NDBA Elections, 2025 for different posts in the New Delhi Bar Association. They are aggrieved by the process of elections conducted by the respondents, as the same was not conducted in a free and fair manner and a large scale of rigging has taken place, which is within the knowledge of the respondents.

6. It is submitted that respondents have totally failed to take effective and necessary action to prevent the malpractices in conducting the elections.

7. It is submitted that during the course of the election process, at 3:30 PM, some supporters of certain candidates tried to enter the premises illegally in the polling station without having valid and genuine proximity cards. Upon objection, they started creating nuisance and shouted at the other members.

8. It is submitted that for about one and a half hours, ruckus was created inside the polling station and the entire polling station was captured. During this period, the proximity scanning process was altogether not made workable, however, the votes were being cast by unverified members.

9. Thus, it is submitted that there is a discrepancy in the number of votes that have been casted and the number of proximity cards that have been scanned. It is the case on behalf of the petitioners that total number of proximity cards scanned is 1850, whereas, the total voters who casted their votes in the NDBA elections, 2025, are 2034. Thus, it is apparent that there is large number of bogus voting that took place.

10. Learned Senior Counsel appearing for the petitioners further submits that instead of 6:00 PM, the elections voting process continued till 7:30 PM.

11. Issue notice.

12. Notice is accepted by learned counsels appearing for respondent nos. 1, 4, 6, 8, 10, 11, 12, 13, 14 and 16.

13. Let notice be issued to the other respondents, by all modes, upon filing of process fees.

14. Learned counsel appearing for the respondent no. 1 i.e., the Returning Officer, submits that there is a proper procedure which is in place, before the voters could have casted their vote in the polling booth. He submits that the stage I verification was at the entry point, wherein, the verification of the proximity card was done. At that point of time, the scanning of the proximity card was done, after



which the voters collected their proximity card and a slip was pasted on their proximity card.

15. It is further submitted by learned counsel appearing for the respondent no. 1 i.e., the Returning Officer, that in stage II, there was a physical re-verification, and the declaration forms of the respective voters, were verified by the officials sitting therein.

16. Upon physical verification, a slip was again pasted on the declaration form, which was red in colour. It was only thereafter, that a voter was allowed to enter the election booth, wherein, the declaration form was deposited back with the slip and voting was done by the respective voters.

17. Thus, learned counsel appearing for the Returning Officer submits that in case there was a glitch in the software for the purposes of scanning the proximity card, the physical verification ensured that only genuine voters casted their vote. He further submits that the physical declaration forms of the respective voters, as verified at the time of election, are in custody of the Returning Officer, and the same have been kept in a sealed cover.

18. On a pointed query by this Court, it is submitted that the whole procedure, right from the verification, till the casting of the vote, has been duly video-graphed. He further submits that the results of the election were declared on 22<sup>nd</sup> March, 2025, and that the respective winning candidates, have already assumed their office.

19. However, the aforesaid fact is disputed by learned Senior Counsel appearing for the petitioners, who submits that no handing over or taking over of the charge, has taken place.

20. Learned Senior Counsels appearing for respondent nos. 11 and 13 submit that the present writ petition cannot be entertained, as the various issues raised by the petitioners are subject matter of trial, for which evidence would have to be led.

21. Learned Senior Counsels for respondent nos. 11 and 13 further submit that the election petition would have to be filed by the petitioners, as per the law laid down by the Supreme Court in the case of **N.P. Ponnuswami Versus Returning Officer, Namakkal Constituency and Others, (1952) 1 SCC 94**. They further rely upon Division Bench judgment of this Court in the case of **Javed Rahat & Ors. Versus Bar Council of India and Ors., 2006 SCC OnLine 122**, to challenge the maintainability of the present writ petition.

22. Learned Senior Counsels for the respondents further submit that scanning of proximity cards, is not a yardstick to assess the number of people who have casted their vote.



23. Attention of this Court has also been drawn to the Constitution of the New Delhi Bar Association, which has been handed over to this Court, to submit that no office bearer is eligible to seek election and hold the same office consecutively for more than two terms of two years each. Further, attention of this Court has also been drawn to the election procedure, as given in the Constitution of the New Delhi Bar Association, Patiala House Courts.

24. Learned Senior Counsels appearing for the respondents also dispute the various averments made by the petitioners by way of the present petition.

25. **Learned counsel appearing for respondent no. 4, i.e., Registrar General of this Court, submits that the role of the Delhi High Court in the present case, was only to the extent of issuing the proximity cards. She submits that after the issuance of the proximity cards, this Court does not have any role in the matter.**

26. Responding to the various submissions made by learned counsel appearing for the respondents, learned Senior Counsel appearing for the petitioners draws the attention of this Court to the Full Bench judgment dated 19<sup>th</sup> March, 2024 of this Court, passed in W.P.(C) 10363/2021, titled as **Lalit Sharma and Ors. Versus Union of India and Ors.**, and in particular relies upon paras 11.6, 11.7 and 11.8 encapsulated in para 35 of the said judgment, to submit that without proximity card, no voter could have cast his or her vote. Thus, he submits that in the absence of scanning of the proximity cards, the said voters, could not have voted in the said election.

27. He further submits that a complaint dated 21<sup>st</sup> March, 2025 was duly submitted to the Returning Officer, which has not been taken into account.

28. Further, he submits that the election result was ante-dated by the Returning Officer, as the election result was declared on 23<sup>rd</sup> March, 2025, whereas, it has been ante-dated as 22<sup>nd</sup> March, 2025.

29. However, learned counsels appearing for the respondents refute the aforesaid and submit that the result was duly declared on 22<sup>nd</sup> March, 2025, itself.

30. Let reply be filed by the respondents within a period of two weeks. Rejoinder thereto, if any, be filed within a period of one week, thereafter.

31. Along with the reply, the respondent no. 1, i.e., the Returning Officer shall duly file in a sealed cover, all the declaration forms of the voters, who have voted in the election held on 21<sup>st</sup> March, 2025.



32. Further, the respondent no. 1 shall also file in a CD/Pen Drive, the video recording of the process, with respect to the verification of the voters and the voting in the polling booth.

33. The respondent no. 1 is also directed to produce before this Court, the details of the scanning report, with regard to the proximity cards.

34. Since learned counsel appearing for respondent no. 1, i.e., the Returning Officer, has made a categorical statement before this Court that the results of the NDBA Elections, 2025, have already been declared on 22<sup>nd</sup> March, 2025, and that the candidates who have been elected, have assumed their charge, it is directed that the election result of the NDBA Elections, 2025, shall be subject to the outcome of the present writ petition.

35. List on 09<sup>th</sup> May, 2025.”

(Emphasis Supplied)

7. An impleadment application came to be filed by UCO Bank, which was disposed of on 02<sup>nd</sup> April, 2025, by noting that operation of bank accounts and FDRs of NDBA shall be carried out by the newly elected Executive, during the pendency of the present writ petition. The newly elected Executive was directed to maintain full record as regards the operation of the said accounts and further, monthly accounts as maintained by the NDBA Executive, had to be produced before the Court at the time of hearing. Additionally, the Court directed the outgoing Secretary and Treasurer to meet, and formally hand over all records, registers, etc., of the NDBA to the newly elected Executive.

8. Various applications were filed by the petitioners in the interim. In one such application being *CM APPL. 20920/2025*, seeking directions to the RO to produce details of scanning report of proximity cards, this Court, *vide* order dated 08<sup>th</sup> April, 2025, directed the RO to preserve and secure the physical record of proximity cards of all those voters, whose cards could not be scanned, but they were permitted to cast their votes in the elections held



on 21<sup>st</sup> March, 2025. It is pertinent to note that on 08<sup>th</sup> April, 2025, when the aforesaid order was passed, the respondents were unrepresented.

9. By way of order dated 26<sup>th</sup> May, 2025, this Court had directed the Registry to keep in its protected custody, the electronic record of elections conducted and record of declaration forms, as submitted by the respondent no.1/ RO.

10. On 11<sup>th</sup> July, 2025, the earlier respondent no. 2, i.e., a sitting Judge of the Patiala House Courts, who was the Chairperson of the Committee for NDBA Election, 2025, was deleted from the array of parties. Pursuant thereto, an amended Memo of Parties was filed by the petitioners on 20<sup>th</sup> August, 2025. For the sake of convenience and clarity, the position of the parties, as referred to in the amended Memo of Parties dated 20<sup>th</sup> August, 2025, shall be referenced hereinafter in the present judgment.

11. During the course of final arguments, it was brought to this Court's attention that petitioner no. 8 had made certain inappropriate statements regarding the present matter on social media platforms. As recorded in the order dated 15<sup>th</sup> December, 2025, this Court cautioned the said petitioner and accepted the unconditional apology tendered by him for making the unwarranted and false statements, who also undertook to remove all the social media posts.

12. Thereafter, upon hearing all the parties at length, the judgment in the present case was reserved on 23<sup>rd</sup> December, 2025. It is further recorded in the order dated 23<sup>rd</sup> December, 2025, that the written submissions, as filed by the respondent nos. 4, 7 and 10, have been adopted by all the other respondents as well.



13. This Court also notes that during the course of the present proceedings, the question of maintainability of the present writ petition came to be raised by various respondents by way of *CM APPL. 22610/2025* and *CM APPL. 32425/2025*. All parties have thereupon made extensive submissions on the preliminary aspect of maintainability of the writ petition, as filed.

14. At this stage, it is relevant to note that during the course of hearing on 31<sup>st</sup> October, 2025, and again on 19<sup>th</sup> November, 2025, the petitioners have orally submitted before this Court that they are not pressing the reliefs prayed for in respect of various disputed questions of facts raised before this Court and that they confine themselves for the purposes of the present writ petition, on the aspect of non-compliance of mandatory directions issued by the full bench of this Court in the case of *Lalit Sharma (supra)*.

15. Thus, this Court shall comprehensively decide the present matter on the aspect of maintainability and merit, as has been argued by the parties before this Court.

#### **Submissions of Petitioners**

16. In support of their case, the petitioners initially raised the following submissions before this Court:

16.1 The writ is maintainable as there are no disputed questions of facts involved, which require adjudication by this Court. The respondent no. 1/RO has not refused that the number of proximity cards scanned was less than the number of votes that were cast, i.e., as per the respondent no. 1/RO, 1850 cards were scanned as compared to 2015 votes cast. Further, the RO has not denied the contentions as raised in the writ petition that the scanners were made dysfunctional and were non-functional for a large part during the post-



lunch polling session. Thus, the RO has failed to deny that all proximity cards were not scanned during polling and that voters had cast their votes without digital verification of their cards and without getting their biometrics scanned. Accordingly, in light of the RO's own admission and non-denial of the aforesaid contention put forth in the writ petition, there are no disputed questions of fact which are required to be adjudicated.

16.2 Bar Associations are amenable to writ jurisdiction under Article 226 of the Constitution as they perform public functions under the Advocates Act, 1961.

16.3 It is settled that the existence of an alternative remedy is not a bar to exercise of writ jurisdiction, when the actions complained of are, *inter alia*, violative of fundamental rights. It is the fundamental right of the petitioners that free and fair elections ought to be conducted and the same is part of the basic structure of the Constitution. A free and fair electoral process is imperative to maintain the legitimacy and trust in representative democracy.

16.4 Reliance has been placed on the decision in the case of ***P.K. Dash, Advocate & Ors. Versus Bar Council of Delhi & Ors.***<sup>2</sup>, to contend that Bar Associations perform a public function and therefore, are amenable to the writ jurisdiction of this Court under Article 226.

16.5 On merits, the petitioners submitted that it had been resolved in the Minutes of Meeting dated 10<sup>th</sup> February, 2025, issued on 12<sup>th</sup> February, 2025, that there were only 2253 eligible voters, i.e., proximity cards were to be issued only to such voters. The Final List of Voters that was issued by the Chairperson of the NDBA Committee, 2024-25 also consisted of a total of

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<sup>2</sup> 2016 SCC OnLine Del 3493.



2253 eligible voters. Further, the Guidelines issued by the RO on 20<sup>th</sup> March, 2025, also clearly stipulated that only members having valid proximity cards would be permitted inside the polling area, and no other proof of identification, would be accepted.

16.6 On 21<sup>st</sup> March, 2025, around 3:30 PM, some supporters of certain candidates illegally barged into the polling stations, without having valid proximity cards and turned off/ disconnected the proximity scanning machines in order to cast bogus/duplicate votes. Despite complaints being made by petitioners, the respondents did not take any action.

16.7 Furthermore, on the date of polling, till 7:28 PM, i.e., at the time of sealing of EVMs, a total of 2034 votes were cast, despite only 1850 proximity cards having been scanned. Whereas, the total number of votes cast should have been equal to the number of proximity cards scanned. Thus, the discrepancy in voting is apparent on the record, and a large number of bogus voting took place.

16.8 As per the petitioners' knowledge, one member, namely Ms. Ruman Puri having Enrolment No. D/3485/2019, NDBA Membership No. 7513, Voter No. 1642, has been shown to cast her vote. However, she was abroad on the date of the election. Thus, this is indicative of the fact that respondents did not properly verify the votes being cast.

17. However, subsequently, the petitioners confined their submissions to the following points:

17.1 In the case of *Lalit Sharma (supra)*, a committee of Judges and members of the Bar was constituted to explore the possibility of holding uniform elections for all Bar Associations on a single day and for preparation of proximity cards. The Court also noted the suggestions of the Committee



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and modified the same in Para 35 of the judgment, and it was directed that votes shall be cast in the elections to Bar Associations only by way of proximity cards.

17.2 Pertinently, the judgment directed that the proximity cards for the members of the Bar Associations shall be prepared by the Registry of this Court under the aegis of an Audit as well as Security and Disaster Management Committee (“Security Committee”). In regard thereto, the Security Committee was constituted by the judges of this Court, which, by way of a Resolution dated 09<sup>th</sup> January, 2025, directed that Election Commissioners/ROs shall make all necessary arrangements for the procurement of EVMs/ballot papers. Further, they shall coordinate with M/s. SEC Communications Pvt. Ltd. for setting up card reader machines and equipment. Subsequently, the said Resolution of the Security Committee was approved in the order dated 17<sup>th</sup> January, 2025, passed in the ***Lalit Sharma writ***, and the ROs were directed to proceed accordingly.

17.3 However, the RO, in her submissions before this Court, has disassociated herself with the scanning process of proximity cards, citing ignorance of the functioning of scanning systems. Thus, the same is in direct contravention of the Resolution dated 09<sup>th</sup> January, 2025, of the Security Committee, and this Court’s order dated 17<sup>th</sup> January, 2025, passed in ***Lalit Sharma writ***.

17.4 Furthermore, the respondent no. 1, in her capacity as the RO, was discharging a public function to ensure compliance with the judgment and subsequent orders in ***Lalit Sharma writ***. It was not open for the RO to allow voting by way of physical verification when the scanners were non-



functional. Such conduct is manifestly illegal and violative of this Court's directions.

17.5 No action was taken by the respondents despite written complaints by the petitioners. Details and information regarding the number of votes cast, etc., were also sought from the RO and Observer of the NDBA Election, 2025. However, the same was also not provided.

17.6 The results were declared by the RO in a hasty and rushed manner on 23<sup>rd</sup> March, 2025, around 6:00 PM, soon after the E-mail sent by the petitioners regarding their apprehension of bogus voting. Even though the results reflect the date of 22<sup>nd</sup> March, 2025, the actual declaration date was 23<sup>rd</sup> March, 2025, i.e., a Sunday.

17.7 All proximity cards were not scanned and the voters, without digital verification of proximity cards and without their biometrics having been scanned and verified, were allowed to enter the polling area and cast their votes.

17.8 To ensure free and fair election, this Court in the case of *Lalit Sharma (supra)*, entailed use of proximity cards during the entire election process. It was not open to the RO to allow voting to continue despite scanners being made dysfunctional.

17.9 The Bar Associations perform public functions under the Advocates Act, 1961, and are therefore, amenable to the writ jurisdiction under Article 226 of the Constitution of India. The election process of the Bar Association involves matter of public interest, as it governs the representation of advocates, who are officers of the Court and integral to the administration of justice.



17.10 Thus, there are no disputed questions of facts that require adjudication in the present writ petition. It is a case of deliberate non-compliance with the directions issued by this Court in the case of *Lalit Sharma (supra)*, and therefore, this Court has the jurisdiction to entertain the present petition and give findings thereto.

**Submissions of Respondents:**

**Submissions of Respondent No. 1 / RO**

18. The contentions put forth by the RO in her counter affidavit, Written Submissions dated 28<sup>th</sup> November, 2025 and Additional Submissions dated 15<sup>th</sup> December, 2025, are condensed as under:

18.1 The allegations made in the petition do not meet the requirement for judicial interference in election matters, as laid down by the Supreme Court in the case of *N.P. Ponnuswami Versus Returning Officer, Namakkal Constituency and Others*<sup>3</sup>.

18.2 Challenge to elections cannot be adjudicated by writ courts as it requires fact finding, and is a matter of trial. Moreover, in the instant petition, reliefs sought are against the respondent no. 1, i.e., RO, and not NDBA. The RO is neither a State instrumentality nor discharging public duty.

18.3 The elections were conducted in a free and fair manner, without any rigging or malpractice, and the Election Result was declared on 22<sup>nd</sup> March, 2025, and contrary allegations by the petitioners are misconceived.

18.4 To ensure free and fair elections, the RO adopted a multi-layer verification process, whereby, physical verification of the proximity cards

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<sup>3</sup> (1952) 1 SCC 94.



was done, in addition to scanning of the cards by M/s. SEC Communications Pvt. Ltd.

18.5 The total number of proximity cards issued is 2284 as against the total 2034 votes cast. Declaration forms of all 2034 voters who cast their votes were duly endorsed and preserved in a sealed cover, and have been filed with the Court. Pertinently, the contention of the petitioners that 1850 proximity cards were scanned, is hearsay. The petitioners claim that this information was received by them from the Joint Registrar of the Delhi High Court, however, the counter affidavit of respondent no. 3, i.e., Registrar General of this Court, does not support this submission.

18.6 There were eight (8) scanning machines, which were connected to one computer. The computer was installed, managed, controlled and operated by the employees of M/s. SEC Communications Pvt. Ltd. The RO merely provided space for installation of the machines. Further, the RO and her team were present in the polling area and assisted in identification of the members. RO was present in the hall where votes were cast, as well as the connecting hall where declaration forms were verified, along with the proximity cards. The RO also took regular briefings from her team and gave instructions on the microphone to ensure that voters maintained the queue.

18.7 In a meeting dated 17<sup>th</sup> March, 2025, a demo regarding the functioning of the scanning machine was given. However, no training was given to the NDBA representatives, nor did they have any expertise to operate the scanning machines.

18.8 To the knowledge of the RO and her team, there was no malfunctioning in the scanning machines. The scanning machines were under the domain of the agency, i.e., M/s. SEC Communications Pvt. Ltd.



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Thus, in order to ensure free and fair elections, the RO conducted physical verification of the proximity cards. Therefore, the election was held in compliance of the directions issued in *Lalit Sharma (supra)*, as proximity cards were mandatory for voting, however, scanning was not compulsory.

18.9 As far as the claim of bogus voting is concerned, it is submitted that only voters having a valid proximity card with their names appearing in the voter list, were allowed to vote in the elections. Even if it is assumed that there was a technical glitch in scanners, no non-proximity card holders could have cast their votes, given the physical verification process. Complete records of the election conducted and counting of votes as per the EVMs, duly compared with the number of declaration forms used, have been maintained. As per the said records, the total number of votes cast was two thousand thirty four (2034), and accordingly, the same aligns with the declaration forms and also corroborates with EVM records. Furthermore, there was no provision for NOTA in the EVMs, as wrongly stated by the petitioners in their petition.

18.10 The time for polling was from 9 AM to 5 PM and the same was not extended. Only voters present at the polling stage before the closing time were allowed to cast their vote. No permission was required from the Registrar of this Court, and no objection was raised by anyone regarding this at any stage.

**Submissions of Respondent No. 3/ Registrar General of High Court of Delhi:**

19. The submissions on behalf of respondent no. 3 in the counter affidavit and Written Submissions dated 28<sup>th</sup> August, 2024, are as follows:



19.1 As per Para 35(11.6) of the judgment in the case of **Lalit Sharma** (*supra*), casting of votes was permitted only to holders of identity/proximity cards.

19.2 The role of the Registry of this Court was limited to preparation of identity/proximity cards. Proximity cards for eligible advocates were prepared after four (04) levels of scrutiny, under the aegis of Security Committee of this Court by M/s. SEC Communications Pvt. Ltd, appointed by the Public Works Department (“PWD”), Government of NCT of Delhi. The proximity cards were given to the respective Election Committees for distribution to concerned advocates. Furthermore, the total number of proximity cards issued, were two thousand two hundred eighty three (2283).

19.3 As per the Minutes of Meeting dated 09<sup>th</sup> January, 2025, the arrangements for elections, procurement of EVMs/ballot papers and space for setting up the card reading machines and other arrangements were to be made by the Election Commissioners or Returning Officers, as per their past practice.

19.4 Site surveys of the premises of NDBA were conducted by technical officials of M/s. SEC Communications Pvt. Ltd. The technical and infrastructure related requirements raised by the said agency were fulfilled by the Election Commissioners/ Returning Officers, in consultation with PWD.

19.5 On 17<sup>th</sup> March, 2025, in the meeting held by the Registrar with the Election Commissioners and Returning Officers, a presentation regarding the proximity card machines was given. The meeting was attended by the Assistant Returning Officer of the NDBA, and minutes of the meeting were communicated to the RO.



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19.6 Dedicated support teams and help desks were deployed in each District Court complex to assist the Election Commissioners and Returning Officers in the smooth functioning of the proximity card scanning process via DES Reader machines.

19.7 Therefore, the role of the Registry was limited to the preparation of the proximity cards and the election process was entirely under the purview of the respondent no. 1/ RO.

**Submissions of Respondent Nos. 7 & 10 / Nagendra Kumar, President and Tarun Rana, Hony. Secretary:**

20. The submissions on behalf of respondent nos. 7 and 10 in their counter affidavit and Written Submissions dated 25<sup>th</sup> August, 2025 and 22<sup>nd</sup> December, 2025, are as follows:

20.1 The writ is not maintainable, as it raises disputed questions of facts, the veracity of which can only be tested upon leading of evidence.

20.2 The petitioners have stated that they were informed by the Joint Registrar of this Court that one thousand eight hundred fifty (1850) proximity cards were scanned. However, it is unfathomable that the Joint Registrar would informally communicate with the petitioners with respect to the same. More so, the Registrar, i.e., respondent no. 3 in its counter affidavit well as reply under the Right to Information Act, 2005 (“RTI Act”), has clearly stated that no such information/data is present with the Delhi High Court. Furthermore, the petitioners had also filed *CM APPL. 40471/2025* in the present petition, seeking directions to the Registrar to produce complete details of the cards scanned, and have also stated that if the number of cards scanned is different from one thousand eight hundred fifty (1850), then the



actual number be provided by the Registrar. This makes it apparent that the petitioners are unaware of the number of proximity cards scanned. On 17<sup>th</sup> December, 2025, when the matter was listed for hearing before this Court, the counsel for the petitioners, Mr. Pradeep Sharma, had argued that the petitioners were struggling to get the numbers and details of the scanned proximity cards.

20.3 Thus, the said contradictory stands and conduct of the petitioners regarding the one thousand eight hundred fifty (1850) scanned proximity cards, and two thousand thirty four (2034) total votes cast, obliterates the very basis of filing the present writ petition. Had the petitioners been in knowledge of the number of cards scanned, they would not have approached the Registrar and this Court for the same.

20.4 The petitioners have raised the issue of bogus voting with respect to a total of one hundred eighty four (184) votes, whereas, *arguendo*, the difference in votes cast to the post of President and Secretary in the NDBA Election is two hundred eighty three (283) and four hundred thirty four (434), respectively.

20.5 Further, disputes with respect to conduct of elections have to be raised and adjudicated in an Election Petition. There is a constitutional bar under Articles 329(b) and 243(zg) of the Constitution. The result of a duly culminated election process should only be challenged by way of an Election Petition as provided for under the rules, and in the absence thereof, by way of a civil suit.

20.6 It is also settled law that election results of Bar Associations cannot be challenged by way of writ petitions, and the appropriate remedy in such cases is filing of a civil suit. Election disputes of Bar Associations, which are



governed by their own bye-laws, are essentially of a private nature and involve disputed questions of fact. The reliance placed by the petitioners on the case of *P.K. Dash, Advocate & Ors. Versus Bar Council of Delhi & Ors.*<sup>4</sup> to assert a purely private right in the present writ petition, i.e., seeking election as office bearers, is misconceived.

20.7 Furthermore, though the relief sought by the petitioners is the setting aside of the NDBA Election Result, however, NDBA has not been arrayed as a respondent. The relief sought is against private advocates/respondents, who are not covered under Article 12 of the Constitution. Though the Registrar of the Delhi High Court has been made respondent no. 3, no relief is claimed against him and he is only a proforma respondent.

20.8 On merits, it is submitted that no complaints regarding the malfunctioning of the scanning machine were received by the Registrar of the Delhi High Court, as per the RTI Reply. Even the RO has stated that she did not receive any complaint from any candidate on 21<sup>st</sup> March, 2025, regarding malfunctioning of the scanning machine. Moreover, the complaint dated 21<sup>st</sup> March, 2025, alleged to have been submitted to the RO, and attached as *Annexure P-8(Colly)* to the petition, bears the receiving of Mr. Jagdeep Vats, who is the erstwhile President of NDBA. He is also arrayed as respondent no. 2 to the present petition as '*Observer, NDBA Elections*', however, no such post of Observer exists. Furthermore, the complaint dated 21<sup>st</sup> March, 2025, has been prepared antedated by showing the receiving of Mr. Jagdeep Vats, in order to create a cause of action to file the present writ petition. The representation dated 21<sup>st</sup> March, 2025, addressed to the

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<sup>4</sup> 2016 SCC OnLine Del 3493.



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‘President, NDBA/Observer’, also bears the receiving of Mr. Jagdeep Vats. The said representation dated 21<sup>st</sup> March, 2025 refers to the total number of votes cast, which also demonstrates that the representations were drafted only after voting was completed, and no representation/complaint was submitted at the time of voting.

20.9 The judgment dated 19<sup>th</sup> March, 2024, in **Lalit Sharma (supra)**, does not mandate the ‘scanning’ of proximity cards, and only requires possession of valid proximity cards as a pre-requisite for voting in the election of Bar Associations. Further, the Court modified the said directions by way of an order dated 28<sup>th</sup> May, 2024, passed in **Lalit Sharma writ**, whereby, the capturing of biometrics of advocates/registered clerks was dispensed with.

20.10 Additionally, the RO has stated in her counter affidavit that the scanning of proximity cards was not in her domain and that the RO only had to ensure that every member casting the vote held a proximity card. In terms of the Minutes of Meeting of the Security Committee of High Court, the President/Secretaries/Election Commissioners/Returning Officers were only supposed to provide the space for setting of proximity card reading machines, and at no point of time did they have any supervision or control over the agency which had set up those machines.

20.11 The case of the petitioners is that only two thousand thirty four (2034) votes have been cast, and therefore, it is not the case of the petitioners that the number of votes cast exceeds the number of proximity cards issued. As per respondent no. 1, two thousand thirty four (2034) votes were cast, which number is less than the number of proximity cards issued. Pertinently, it is the voters’ list, as opposed to the proximity cards issued, that was to be treated as determinative with regard to the eligibility of a voter. The mere



allegation that there is allegedly a difference between the total number of cards scanned and the total number of votes polled does not indicate any bogus voting. As long as a person's name is on the voter's list and they are in possession of a valid proximity card, they are eligible to cast their vote, regardless of whether the card can be scanned or not.

**Submissions of Respondent No. 8 / Vimal Ray Verma, Senior Vice President:**

21. The submissions on behalf of respondent no. 8 in his counter affidavit, in addition to adopting the written submissions of respondent nos. 7 and 10, are as follows:

21.1 The writ petition is not maintainable as NDBA is a private body of individual lawyers, and respondent no. 1, who was appointed as a Returning Officer, is a private person/advocate and member of NDBA. Respondent nos. 8 to 18, who are the duly elected office bearers, are private persons/advocates. Moreover, the NDBA, its election process, or results are not connected to the functions of the State, government or any authority under the law.

21.2 The right remedy to challenge the NDBA Election lies before the civil court as questions with respect to 'right to office' fall within the jurisdiction of the civil court under Section 9 of the Code of Civil Procedure, 1908 ("CPC").

21.3 Furthermore, the Registrar and the District Judge of the Patiala House Courts were made parties to the present petition, only to bring the petition within the ambit of Article 226, even though, both these respondents had no



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control or authority over conduct of the elections or declaration of result, and the elections were conducted and the results were declared by the RO.

21.4 The allegation of the petitioners regarding alleged casting of more votes, extension of time and results declared by RO requires examination of evidence, and therefore, the writ is not maintainable.

21.5 Further, it is denied that during the election process at about 3:30 PM on 21<sup>st</sup> March, 2025, some supporters of certain candidates tried to enter illegally in the polling station without having valid and genuine proximity cards. Further, no alarm or complaint was raised by the petitioners to the RO.

21.6 The judgment dated 19<sup>th</sup> March, 2024 in the case of *Lalit Sharma (supra)*, clarified that elections to all Bar Associations shall be held in accordance with the Rules, Regulations and Bye-Laws of the Bar Association. As per the Memorandum of the NDBA, elections shall be conducted by the RO. Thus, the respondent no. 1 conducted the NDBA Election by physical verification of the proximity cards, in a free and fair manner. The scanning of the proximity cards was under the control of the private agency, having no authority to conduct any election of NDBA. Therefore, the respondent no. 1 has no authority over scanning of proximity cards at the entry level.

**Submissions of Respondent No. 9 / Navneet Panwar, Vice President:**

22. The submissions on behalf of respondent no. 9 in his counter affidavit, in addition to adopting the written submissions of respondent nos. 7 and 10, are as follows:

22.1 The writ is not maintainable as it is an election dispute, raises disputed questions of facts, requires leading of evidence and raises a purely private cause/interest.



22.2 It is not that disputes pertaining to a Bar Association can under no circumstance have a public character and be amenable to writ jurisdiction. However, a pure election dispute challenging the election results on the basis of disputed question of facts, as opposed to a *lis* pertaining to the legal regime governing elections such as qualification, disqualification for candidates and voters, does not have any public character, and is a purely private dispute. The same ought to be raised by way of an Election Petition, if the rules provide for the same, or alternatively, a civil suit.

22.3 An alleged discrepancy between the number of proximity cards scanned and the actual votes cast is based on mere *ipse dixit* of the petitioners and is not evidence of bogus voting. This alleged difference, without conceding that there was a difference, could be due to a technical error which prevented scanning of the proximity cards. However, as long as a person's name is in the voter's list and he is in possession of the proximity card, he/she would be eligible to cast their vote, irrespective of whether the card could be scanned or not.

22.4 Proximity cards were issued as proof of identity to ensure *One Bar One Vote*. The respondent no. 1 has detailed the process of physical verification of the proximity cards, and stated on oath that only voters carrying a proximity card were allowed to vote. Thus, the NDBA Election was conducted in a free and fair manner.

22.5 Moreover, the election was held in the Court complex on a working day, where the learned Principal District & Sessions Judge and other Judicial Officers were working in their office, and a large number of police forces were deployed, however, no complaint was made to them regarding bogus voting.



**Findings and Analysis:**

23. I have heard learned counsels for the parties and have perused the record.

24. The present writ petition challenges the Election Result of the NDBA, Patiala House Courts, declared on 22<sup>nd</sup> March, 2025, primarily on the ground that the said elections were not conducted in a free and fair manner and large-scale rigging took place within the knowledge of the respondents. As per the petitioners, during the course of the election process, some supporters of certain candidates tried to illegally enter the polling station at about 3:30 PM, without having valid and genuine proximity cards. Upon objection, they created nuisance and disconnected the proximity scanning machines and entered inside the polling station to cast bogus and duplicate votes. Further, the miscreants created ruckus inside the polling booth for about one and a half hours and captured the entire polling station. As per the petitioners, during this period, the proximity scanning process was altogether made not workable and the votes were cast by unverified members.

25. Further, as per the petitioners, there was a discrepancy in the number of votes cast and number of proximity cards scanned. Thus, it is the case of the petitioners that the total number of votes cast in the election was two thousand thirty four (2034), however, the proximity cards which were scanned were one thousand eight hundred fifty (1850). Therefore, a large number of bogus voting took place and the election was rigged.

26. It is to be noted that, in all, seventy five (75) members of NDBA contested the election for thirteen (13) posts. Sixty two (62) candidates were not successful in the election, out of which, only nine (9) have filed the



present writ petition.

27. Responding to the aforesaid allegations, preliminary objection was raised by the respondents as regards non-maintainability of the present writ petition, on account of various disputed questions of facts being raised and a civil suit being the correct forum for raising these disputed questions of facts.

28. With respect to the disputes regarding the conduct of elections, it is a settled position of law that such disputes ought to be raised and adjudicated in an Election Petition/civil suit, and not by filing a petition under Article 226 of the Constitution. There is no gainsaying that all the alleged discrepancies as pointed out in the writ petition, are disputed questions of facts, and their veracity can only be tested in duly constituted proceedings, in accordance with law, upon leading of evidence.

29. Thus, holding that in case of any dispute regarding elections, an Election Petition, if permitted under the rules, ought to be filed, and if there is no provision for an Election Petition, then a civil suit should be filed, the Division Bench of this Court in the case of ***Javed Rahat & Ors Versus Bar Council of India & Ors***<sup>5</sup>, held as follows:

“xxx xxx xxx

*22. It is well settled by a series of judgments by the Supreme Court that when the election process commences, there should not be any interference by the Courts. **It is only after the election results are declared and the persons elected assume the charge of the office, that an election petition, if permitted under the rules, can be filed. If there is no provision for an election petition, then a civil suit should be filed. However, the Court should not interfere once the election process has started. Even if the elections are over a writ petition challenging the election should not be entertained, and the***

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<sup>5</sup> 2006 SCC OnLine Del 122.



**petitioner should be relegated to the alternative remedy of filing an election petition, and if there is no provision for an election petition, them he should file a civil suit.**

xxx xxx xxx”

(Emphasis Supplied)

30. It is to be noted that the NDBA is a private body of individual lawyers, which is registered with the Registrar of Societies. The Memorandum of the NDBA Constitution provides for elections to be conducted by the Returning Officer duly appointed by the Bar Association. Clause 8(b) of the Memorandum of the Constitution of NDBA, Patiala House Courts, reads as under:

“xxx xxx xxx

8. a).....

b) *The office bearers and the members of the Executive Committee of the Association shall be elected by secret ballot. No office bearer and member of the Executive Committee shall be eligible to hold office for more than two (sic) consecutive years. (At this meeting, **The Returning Officer shall be appointed who shall conduct elections, in case of contest for various offices**).*

xxx xxx xxx”

(Emphasis Supplied)

31. Perusal of the Memorandum of NDBA shows that there is no provision in the said Memorandum with respect to the eventuality which may arise in case of a challenge to the election of any candidate, i.e., the right to office of any candidate duly declared successful in the election process. In this regard, reference may be made to Explanation I of Section 9 of CPC, which provides that when right to office and property is contested, the same is civil in nature, and jurisdiction lies with the civil courts only. Explanation I of Section 9 of CPC, reads as under:



“xxx xxx xxx

**9. Courts to try all civil suits unless barred.—The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.**

**Explanation I. — A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.**

xxx xxx xxx”

(Emphasis Supplied)

32. Thus, in the present case, a civil suit would be the proper forum for raising and agitating the various issues with respect to conduct of elections of NDBA.

33. The Supreme Court in the case of *N.P. Ponnuswami Versus Returning Officer, Namakkal Constituency and Others*<sup>6</sup>, while emphasizing the importance of bringing the election process to culmination in a democratic polity, held that the results of the election could be challenged by way of a duly instituted Election Petition. Thus, it has been held as follows:

“xxx xxx xxx

**25. The conclusions which I have arrived at may be summed up briefly as follows:**

(1) Having regard to the important functions which the legislatures have to perform in democratic countries, it has always been recognised to be a matter of first importance that elections should be concluded as early as possible according to time schedule and all controversial matters and all disputes arising out of elections should be postponed till after the elections are over, so that the election proceedings may not be unduly retarded or protracted.

(2) In conformity with this principle, the scheme of the election law in this country as well as in England is that no significance

<sup>6</sup> (1952) 1 SCC 94.



*should be attached to anything which does not affect the “election”; and if any irregularities are committed while it is in progress and they belong to the category or class which, under the law by which elections are governed, would have the effect of vitiating the “election” and enable the person affected to call it in question, they should be brought up before a Special Tribunal by means of an election petition and not be made the subject of a dispute before any court while the election is in progress.*

26. It will be useful at this stage to refer to the decision of the Privy Council in *Theberge v. Laudry* [*Theberge v. Laudry*, (1876) 2 AC 102 (PC)]. The petitioner in that case having been declared duly elected a member to represent an electoral district in the Legislative Assembly of the Province of Quebec, his election was afterwards, on petition, declared null and void by judgment of the superior court, under the *Quebec Controverted Elections Act, 1875*, and himself declared guilty of corrupt practices, both personally and by his agents. Thereupon, he applied for special leave to appeal to Her Majesty in Council, but it was refused on the ground that the fair construction of the Act of 1875 and the Act of 1872 which preceded it providing among other things that the judgment of the superior court “shall not be susceptible of appeal” was that it was the intention of the legislature to create a tribunal for the purpose of trying election petitions in a manner which should make its decision final for all purposes, and should not annex to it the incident of its judgment being reviewed by the Crown under its prerogative.

27. In delivering the judgment of the Privy Council, Lord Cairns observed as follows: (*Theberge case* [*Theberge v. Laudry*, (1876) 2 AC 102 (PC)], AC p. 106)

“... These two Acts of Parliament, the Acts of 1872 and 1875, are Acts peculiar in their character. They are not Acts constituting or providing for the decision of mere ordinary civil rights; they are Acts creating an entirely new, and up to that time unknown, jurisdiction in a particular court ... for the purpose of taking out, with its own consent, of the Legislative Assembly, and vesting in that Court, that very peculiar jurisdiction which, up to that time, had existed in the Legislative Assembly of deciding election petitions, and determining the status of those who claimed to be members of the Legislative Assembly. A jurisdiction of that kind is extremely special, and one of the obvious incidents or consequences of such a jurisdiction must be that the jurisdiction, by whomsoever it is to be exercised, should be exercised in a way that should as soon as possible become conclusive, and enable the



*constitution of the Legislative Assembly to be distinctly and speedily known.”*

28. After dealing with certain other matters, the Lord Chancellor proceeded to make the following further observations: (*Theberge case [Theberge v. Laury, (1876) 2 AC 102 (PC)], AC pp. 107-08*)

*“Now, the subject-matter, as has been said, of the legislation is extremely peculiar. It concerns the rights and privileges of the electors and of the Legislative Assembly to which they elect members. Those rights and privileges have always in every colony, following the example of the mother country, been jealously maintained and guarded by the Legislative Assembly. Above all, they have been looked upon as rights and privileges which pertain to the Legislative Assembly, in complete independence of the Crown, so far as they properly exist. And it would be a result somewhat surprising, and hardly in consonance with the general scheme of the legislation, if, with regard to rights and privileges of this kind, it were to be found that in the last resort the determination of them no longer belonged to the Legislative Assembly, no longer belonged to the Superior Court which the Legislative Assembly had put in its place, but belonged to the Crown in Council, with the advice of the advisers of the Crown at home, to be determined without reference either to the judgment of the Legislative Assembly, or of that Court which the Legislative Assembly had substituted in its place.”*

29. The points which emerge from this decision may be stated as follows:

**(1) The right to vote or stand as a candidate for election is not a civil right but is a creature of statute or special law and must be subject to the limitations imposed by it.**

**(2) Strictly speaking, it is the sole right of the legislature to examine and determine all matters relating to the election of its own members, and if the legislature takes it out of its own hands and vests in a Special Tribunal an entirely new and unknown jurisdiction, that special jurisdiction should be exercised in accordance with the law which creates it.**

xxx xxx xxx”

(Emphasis Supplied)

34. On similar lines is the judgment of the Supreme Court in the case of ***Mohinder Singh Gill and Another Versus Chief Election Commissioner,***



*New Delhi and Others*<sup>7</sup>, wherein, it has been held as follows:

“xxx xxx xxx

*26. The heart of the matter is contained in the conclusions summarised by the Court thus:*

*“(1) Having regard to the important functions which the legislatures have to perform in democratic countries, it has always been recognised to be a matter of first importance that elections should be concluded as early as possible according to time schedule and all controversial matters and all disputes arising out of elections should be postponed till after the elections are over, so that the election proceedings may not be unduly retarded or protracted.*

*(2) In conformity with this principle, the scheme of the election law in this country as well as in England is that no significance should be attached to anything which does not affect the ‘election’; and, if any irregularities are committed while it is in progress and they belong to the category or class which, under the law by which elections are governed, would have the effect of vitiating the ‘election’ and enable the person affected to call it in question, they should be brought up before a special tribunal by means of an election petition and not be made the subject of a dispute before any court while the election is in progress.”*

*After elaborately setting out the history in England and in India of election legislation vis-a-vis dispute-resolution, Fazl Ali, J. stated:*

*“If the language used in Article 329(b) is considered against this historical background, it should not be difficult to see why the framers of the Constitution framed that provision in its present form and chose the language which had been consistently used in certain earlier legislative provisions and which had stood the test of time.”*

*Likewise the Court discussed the connotation of the expression “election” in Article 329 and observed:*

*“That word has by long usage in connection with the process of selection or proper representatives in domestic institutions, acquired both a wide and a narrow meaning. In the narrow sense, it is used to mean the final selection of a candidate which may embrace the result of the poll when there is polling or a*

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<sup>7</sup> (1978) 1 SCC 405.



*particular candidate being returned unopposed when there is no poll. In the wide sense, the word is used to connote the entire process culminating in a candidate being declared elected .... it seems to me that the word 'election' has been used in Part XV of the Constitution in the wide sense, that is to say, to connote the entire procedure to be gone through to return a candidate to the legislature ..... That the word "election" bears this wide meaning whenever we talk of elections in a democratic country, is borne out by the fact that in most of the books on the subject and in several cases dealing with the matter, one of the questions mooted is, when the election begins?"*

*The rainbow of operations, covered by the compendious expression "election", thus commences from the initial notification and culminates in the declaration of the return of a candidate. The paramount policy of the Constitution-framers in declaring that no election shall be called in question except the way it is provided for in Article 329(b) and the Representation of the People Act, 1951, compels us to read, as Fazl Ali, J. did in Ponnuswami the Constitution and the Act together as an integral scheme. The reason for postponement of election litigation to the post-election stage is that elections shall not unduly be protracted or obstructed. The speed and promptitude in getting due representation for the electors in the legislative bodies is the real reason suggested in the course of judgment.*

*27. Thus far everything is clear. No litigative enterprise in the High Court or other court should be allowed to hold up the on-going electoral process because the parliamentary representative for the constituency should be chosen promptly. Article 329 therefore covers "electoral matters". One interesting argument, urged without success in Ponnuswami elicited a reasoning from the Court which has some bearing on the question in the present appeal. That argument was that if nomination was part of election a dispute as to the validity of the nomination was a dispute relating to election and could be called in question, only after the whole election was over, before the Election Tribunal. This meant that the Returning Officer could have no jurisdiction to decide the validity of a nomination, although Section 36 of the Act conferred on him that jurisdiction. The learned Judge dismissed this argument as without merit, despite the great dialectical ingenuity in the submission. In this connection the learned Judge observed:*

*"Under Section 36 of the Representation of the People Act, 1951, it is the duty of the Returning Officer to scrutinize the nomination papers to ensure that they comply with the*



*requirements of the Act and decide all objections which may be made to any nomination. It is clear that unless this duty is discharged properly, any number of candidates may stand for election without complying with the provisions of the Act and a great deal of confusion may ensue. In discharging the statutory duty imposed on him, the Returning Officer does not call in question any election. Scrutiny of nomination papers is only a stage, though an important stage, in the election process. It is one of the essential duties to be performed before the election can be completed, and anything done towards the completion of the election proceeding can by no stretch of reasoning be described as questioning the election. The fallacy of the argument lies in treating a single step taken in furtherance of an election as equivalent to election. The decision of this appeal however turns not on the construction of the single word 'election', but on the construction of the compendious expression — 'no election shall be called in question' in its context and setting, with due regard to the scheme of Part XV of the Constitution and the Representation of the People Act, 1951. Evidently, the argument has no bearing on this method of approach to the question posed in this appeal, which appears to me to be the only correct method."*

*28. What emerges from this perspicacious reasoning, if we may say so with great respect, is that any decision sought and rendered will not amount to "calling in question" an election if it subserves the progress of the election and facilitates the completion of the election. We should not slur over the quite essential observation "Anything done towards the completion of the election proceeding can by no stretch of reasoning be described as questioning the election." Likewise, it is fallacious to treat "a single step taken in furtherance of an election" as equivalent to election.*

*29. Thus, there are two types of decisions, two types of challenges. The first relates to proceedings which interfere with the progress of the election. The second accelerates the completion of the election and acts in furtherance of an election. So, the short question before us, in the light of the illumination derived from Ponnuswami is as to whether the order for re-poll of the Chief Election Commissioner is "anything done towards the completion of the election proceeding" and whether the proceedings before the High Court facilitated the election process or halted its progress. The question immediately arises as to whether the relief sought in the writ petition by the present appellant amounted to calling in question the election. This, in turn, revolves round the point as to whether the cancellation of the poll and the reordering of*



fresh poll is “part of election” and challenging it is “calling it in question”.

30. The plenary bar of Article 329(b) rests on two principles: (1) The peremptory urgency of prompt engineering of the whole election process without intermediate interruptions by way of legal proceedings challenging the steps and stages in between the commencement and the conclusion. (2) The provision of a special jurisdiction which can be invoked by an aggrieved party at the end of the election excludes other form, the right and remedy being creatures of statutes and controlled by the Constitution. Durga Shankar Mehta has affirmed this position and supplemented it by holding that, once the Election Tribunal has decided, the prohibition is extinguished and the Supreme Court's overall power to interfere under Article 136 springs into action. In Hari Vishnu this Court upheld the rule in Ponnuswami excluding any proceeding, including one under Article 226, during the on-going process of election, understood in the comprehensive sense of notification down to declaration. Beyond the declaration comes the election petition, but beyond the decision of the Tribunal the ban of Article 329(b) does not bind.

31. If “election” bears the larger connotation, if “calling in question” possesses a semantic sweep in plain English, if policy and principle are tool for interpretation of statutes, language permitting, the conclusion is irresistible, even though the argument contra may have emotional impact and ingenious appeal, that the catch-all jurisdiction under Article 226 cannot consider the correctness, legality or otherwise of the direction for cancellation integrated with re-poll. For, the prima facie purpose of such a re-poll was to restore a detailed poll process and to complete it through the salvatory effort of a re-poll. Whether, in fact or law, the order is validly made within his powers or violative of natural justice can be examined later by the appointed instrumentality viz. the Election Tribunal. That aspect will be explained presently. We proceed on the footing that re-poll in one polling station or in many polling stations, for good reasons, is lawful. This shows that re-poll in many or all segments, all pervasive or isolated, can be lawful. We are not considering whether the act was bad for other reasons. We are concerned only to say that if the regular poll, for some reasons, has failed to reach the goal of choosing by plurality the returned candidate and to achieve this object a fresh poll (not a new election) is needed, it may still be a step in the election. The deliverance of Dunkirk is part of the strategy of counter-attack. Wise or valid, is another matter.



32. On the assumption, but leaving the question of the validity of the direction for re-poll open for determination by the Election Tribunal, we hold that a writ petition challenging the cancellation coupled with re-poll amounts to calling in question a step in “election” and is therefore barred by Article 329(b). If no re-poll had been directed the legal perspective would have been very different. The mere cancellation would have then thwarted the course of the election and different considerations would have come into play. We need not chase a hypothetical case.

xxx xxx xxx”

(Emphasis Supplied)

35. This Court in the case of *Arghya Kumar Nath Versus Prof. D.S. Rawat & Ors.*<sup>8</sup>, has clarified that the results of elections of bodies such as Bar Associations, which are governed by their own Bye-Laws, Rules and Regulations, can ordinarily not be challenged by invoking writ jurisdiction, which lies primarily for enforcement of public/statutory duties. Thus, it has been held as follows:

“xxx xxx xxx

13. This Court is also of the opinion that the power of judicial review conferred under Article 226 of the Constitution is designed to prevent cases of abuse of power and neglect of duty by public authorities. A writ lies where performance of a public or statutory duty is involved. Writs can also be issued against private authorities discharging public functions, provided the decision sought to be challenged or enforced is in discharge of a public function.

14. Consequently, elections of bar association/society/trade union/college union is a matter of internal management, which does not entitle the aggrieved party to a public remedy like a writ petition under Article 226 of the Constitution.

xxx xxx xxx”

(Emphasis Supplied)

36. To similar effect is the judgment in the case of *Rajghor Ranjhan Jayantilal Versus Election Scrutiny Committee of Bombay Bar*

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<sup>8</sup> 2014 SCC OnLine Del 4622.



*Association and another*<sup>9</sup>, wherein, it has once again been held that the election results of Bar Associations cannot be challenged by way of a writ petition and that the appropriate remedy would be to file a civil suit. The relevant extracts from the said judgment, read as under:

“xxx xxx xxx”

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 an Association of Persons (AOP), having its byelaws 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.

xxx xxx xxx”

(Emphasis Supplied)

37. The aforesaid view was reiterated in the case of *Abhijeet Appasaheb Bacche-Patil and Others Versus Bar Council of Maharashtra and Goa*

<sup>9</sup> 2024 SCC OnLine Bom 1118.



*through its Chairman and Another*<sup>10</sup>, by holding that election disputes of Bar Associations are essentially of a private nature and involve disputed questions of facts. Therefore, a civil suit, as opposed to writ petition, is the more appropriate remedy for adjudication of such disputes. The relevant portion of the said judgment, reads as under:

“xxx xxx xxx

8. We may observe that the bar associations are either societies registered under the Societies Registration Act, 1860, or trusts, they are governed by their own bye-laws or rules. Certainly, there is no deep or pervasive control of the Government or even of the Bar Council on the bar associations. They are governed by a managing committee which is elected by its members. There is hence, neither any control nor any interference of the Government in the functions of the bar association, much less on their elections or day to day functioning. The managing committee looks after the welfare of its members. The Bar Associations, in the interest of its members, day-in and day-out issue circulars, notices, notifications, etc. If all such activities, actions and decisions of the bar association are to be held to be subject, to the judicial review of the High Court under Article 226 of the Constitution of India, by reaching to a conclusion that the bar association is a “State” within the meaning of Article 12 of the Constitution, in our opinion, this would certainly lead to a chaotic situation. The State of Maharashtra has 36 districts, each district has number of talukas and each taluka is likely to have a bar association, which would be governed by their own rules and regulations. If we accept petitioner's contention that the petition be entertained, in such event “any dispute whatsoever” between the members and the bar associations, the High Court would be required to exercise its power of judicial review by entertaining writ petitions under Article 226 of the Constitution and adjudicate such disputes.

9. In our opinion, if we entertain writ petitions on such causes, things would not stop only at the bar associations formed by advocates, as the same logic would be required to be applied to associations of other professional bodies like the associations of Doctors, Chartered Accountant, Engineers to name a few, which also discharge duties towards its members and citizens. Thus, it is a proposition too wide that a writ petition under Article 226 of the Constitution, be held to be maintainable, in regard to any inter

<sup>10</sup> 2025 SCC OnLine Bom 1514.



se dispute between the petitioner and respondent no. 2- Bar Association. We may also observe that invariably such dispute would also involve disputed questions of facts, which in any event cannot be gone into in any adjudication under Article 226 of the Constitution.

xxx xxx xxx”

(Emphasis Supplied)

38. Similarly, in the case of *Secretary Alipore Bar Association Versus Subir Sengupta and Others*<sup>11</sup>, it has been ruled that election disputes of Bar Associations, which are essentially private in character, cannot be raised by way of petitions under Article 226. Any party aggrieved by the result of an election would be well advised to approach the common law forum of competent Civil Court. Thus, the said judgment holds as under:

“xxx xxx xxx

19. Regard being had to our discussion Supra we feel constrained to hold here that the Alipore Bar Association being not a state “other authority” or “agency or instrumentality” of the state within the meaning of Article 12 and “authority or person” discharging public function within the meaning of Article 226, writ against Alipore Bar Association that too in the matter of election to the Bar Association is not maintainable. In other words Alipore Bar Association is not amenable to the writ jurisdiction of this Court. We would like to clarify here that a Bar Association can be made party in a writ petition along with other statutory authority/authorities discharging statutory/sovereign function for the limited purpose that the order passed under writ jurisdiction shall be binding on that Bar Association. If we follow the matter of the Bar Association as emphasis laid in different decisions by Hon'ble Supreme Court and different High Court as discussed supra, in the same corollary can we say that the employees association of different court including High Court are amenable to the writ jurisdiction of the High Court only because the members of such association are indispensable for delivery of justice.

xxx xxx xxx

22. Having held that the writ petition under Article 226 against the Bar Association is not maintainable, saving the exception discussed

<sup>11</sup> 2024 SCC OnLine Cal 3597.



*supra*, we do not propose to embark on discussion regarding merit of the case. The appeal is, therefore, allowed and the impugned order is set aside. The writ petition having held to be not maintainable all the orders passed in the writ petition and the interim order passed in this appeal become non-est in the eye of law. The election having been held as per schedule in the notice dated 27.02.2024, the result of the election be published by the Election Officer forthwith.

*23. Any party aggrieved by result of the election or any party desirous of raising an “election dispute”, if so advised, may move the common law forum i.e. the competent Civil Court for redressal of his/their grievance within the time limited by law.*

xxx xxx xxx”

(Emphasis Supplied)

39. Likewise, the Supreme Court in the case of *Boddula Krishnaiah and Another Versus State Election Commissioner, A.P. and Others*<sup>12</sup>, held as follows:

“xxx xxx xxx

*11. Thus, it would be clear that once an election process has been set in motion, though the High Court may entertain or may have already entertained a writ petition, it would not be justified in interfering with the election process giving direction to the election officer to stall the proceedings or to conduct the election process afresh, in particular when election has already been held in which the voters were allegedly prevented from exercising their franchise. As seen, that dispute is covered by an election dispute and remedy is thus available at law for redressal.*

*12. Under these circumstances, we hold that the order passed by the High Court is not correct in law in giving direction not to declare the result of the election or to conduct fresh poll for 20 persons, though the writ petition is maintainable. The High Court, pending writ petition, would not be justified in issuing direction to stall the election process. It is made clear that though we have held that the respondents are not entitled to the relief by interim order, this order does not preclude any candidate including defeated candidate from canvassing the correctness of the election. They are free, as held earlier, to seek remedy by way of an election petition as provided in the Act and the Rules.*

xxx xxx xxx”

(Emphasis Supplied)

<sup>12</sup> (1996) 3 SCC 416.



40. On similar lines is the judgment in the case of *Shiv Saran Upadhyay and another Versus Bar Council of U.P. and others*<sup>13</sup>, wherein, it has been held that a writ petition under Article 226 of the Constitution is not the appropriate remedy for challenging an election, though in exceptional and extraordinary circumstances, the High Court may entertain such writ petitions. It was further held that an election dispute *per se* relating to a society consisting of members of the Bar, did not involve any public interest, or any violation of fundamental or statutory/legal right. Thus, it was held as follows:

“xxx xxx xxx

16. From the conspectus of judicial pronouncements referred hereinabove, it is evident that a writ petition under Article 226 of the Constitution is not the appropriate remedy for challenging an election, though in exceptional and extra ordinary circumstances, the High Court may entertain such writ petitions. The question to be considered, herein, is as to whether in the facts of the present case, the instant writ petition filed under Article 226 of the Constitution should be entertained and is maintainable or not.

17. From the pleadings in the writ petition specially from paragraphs 12 to 21 as also from the arguments advanced by the learned Counsel for petitioners it is evident that the ground of challenge raised by the petitioners for assailing the writ petition are purely factual one, for which it is necessary that evidence be adduced by the rival parties to establish their claim.

18. The summary proceedings in writ jurisdiction are not appropriate proceedings for such an adjudication considering the factual nature of the dispute raised by the petitioners. A regular proceedings, where evidence can be adduced by the parties; the same can be assessed depending upon their admissibility, reliability and sufficiency and findings of fact can be recorded based thereon, are more appropriate for adjudication of such disputes. Considering the nature of the allegations oral evidence will also be required to be led involving examination of witnesses and cross-examination thereof. In paragraph 19 of the writ petition, the petitioners have

<sup>13</sup> 2015 SCC OnLine All 8770.



referred to some video recording of the Chairman of Elders Committee. The veracity of such recording, the admission, if any, contained therein and the explanation which may be offered for the same, will have to be scrutinized and examined in detail which will require leading of oral evidence i.e., examination of witnesses and cross-examination, forensic examination of CD. which is alleged to have been prepared by the petitioners, or some other persons, keeping in mind the law on the said subject.

19. In paragraph 13 of the writ petition bald, vague averments have been made that about 200 Election Officers were appointed out of which many of them were strangers and many of them were not members, without giving any specific detail in respect of this allegation. Such allegations cannot form the basis for any adjudication under Article 226 of the Constitution.

20. In paragraph 20 of the writ petition, it has been alleged that only 2200 votes were cast and remaining votes were fake. The writ petition does not disclose the total number of votes cast in the election in question. It is not possible in summary proceedings to decide whether the alleged remaining votes were fake or not. Similarly other allegations are also required to be proved by adducing evidence with equal opportunity to the rival parties to lead evidence in rebuttal and defend themselves. These factual issues are not such as could be decided by this Court under Article 226 of the Constitution merely on exchange of affidavits.

21. The petition at hand is not a public interest litigation. It is not as if members of the Bar in general have approached this Court alleging large scale malpractice in the election or participation of outsiders therein. The dispute herein is being raised by two persons who claim to be aggrieved persons. These persons have to establish their case based on evidence. It is not a case involving apparent violation of fundamental or statutory/legal right. It is an election dispute per-se relating to a society consisting of members of the Bar, raised by two persons alleged to be aggrieved.

22. No doubt the Bar Association is a Court annexed association and therefore, it does not stand on the same footing as any other society. In a given situation, this Court will not be found wanting in interfering even in respect to an election dispute relating to such Bar Association if exceptional and extra ordinary circumstances exist. Unfortunately in the present case the petitioners have not been able to make out an exceptional and extra-ordinary case warranting interference by this Court moreso in view of factual dispute involved.

23. As far as constitution of Elders Committee is concerned, the



*petitioner never approached this Court raising such grievance. They participated in the election held by the said Committee without any demurr. However, certain other members approached this Court by means of Writ Petition No. 4744 (MS) of 2015 wherein this Court has already given them liberty to approach the State Bar Council which shall look into the matter and take a decision. Consequences shall follow as per law. Moreover as per the Division Bench decision relied upon by the petitioners themselves which has been passed in Civil Misc. Writ Petition No. 61100 of 2011 it has been held that the Bar Council does not have any authority to interfere in the elections of Bar Association and to stop the Elders Committee for taking steps for holding the elections. In these circumstances this contention by itself cannot form a ground for interference by this Court once the elections have already been held.*

*24. The Central Bar Association indisputably is a society registered under the provisions of the Act, 1860 which provides a mechanism and forum for resolution of disputes pertaining to elections to the Committee of Management of the society and the continuance of its office bearers. Section 25 of the said Act as amended by State of U.P. reads as under:*

*“25(1) The Prescribed Authority may, on a reference made to it by the Registrar or by a least one-fourth of the members of a society registered in Uttar Pradesh, hear and decide in a summary manner any doubt or dispute in respect of the election or continuance in office of an office-bearer of such society, and may pass such orders in respect thereof as it deems fit:*

*[Provided that the election of an office-bearer shall be set aside where the prescribed authority is satisfied—*

*(a) that any corrupt practice has been committed by such officebearer; or*

*(b) that the nomination of an candidate has been improperly rejected; or*

*(c) that the result of the election in so far it concerns such office bearer has been materially affected by the improper acceptance of any nomination or by the improper reception, refusal or rejection of any vote or the reception of any vote which is void or by any non-compliance with the provisions of any rules of the society.*

*Explanation I.—A person shall be deemed to have committed a corrupt practice who, directly or indirectly, by himself or by any other person—*

*(i) induces, or attempts to induce, by fraud, intentional*



*misrepresentation, coercion or threat of injury, any elector to give or to refrain from giving a vote in favour of any candidate or any person to stand or not to stand as, or to withdraw or not to withdraw from being a candidate at the election;*

*(ii) with a view to inducing any elector to give or to refrain from giving a vote in favour of any candidate, or to inducing any person to stand or not to stand as, or to withdraw or not to withdraw from being, a candidate at the election, offers or gives any money, or valuable consideration, or any place or employment, or holds out any promise of individual advantage or profit to any person;*

*(iii) abets (within the meaning of the Penal Code, 1860) the doing of any of the acts specified in clauses (i) and (ii);*

*(iv) induces or attempts to induce a candidate or elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure;*

*(v) Canvasses on grounds of cast, community, sect or religion;*

*(vi) commits such other practice as the State Government may prescribe to be a corrupt practice;*

*Explanation II.—A promise of individual advantage or profit to a persons includes a promise for the benefit of the person himself, or of any one in which he is interested.*

*Explanation III.—The State Government may prescribe the procedure for hearing and decision of doubts or disputes in respect of such elections and make provision in respect of any other matter relating to such elections for which insufficient provision exists in this Act or in the rules of the society.]”*

xxx xxx xxx

**27. Assuming for a moment that the remedy available under section 25(1) of the Act, 1860 is not an efficacious remedy for some reason, the petitioners can very well resort to regular proceedings before the Civil Court which is most suited for resolution of such dispute. Reference may be made in this regard to para 26 of the Division Bench Judgment rendered in Civil Misc. Writ Petition No. 61100 of 2011 wherein also the Court observed that the election can be challenged either under section 25 of the Act 1860 or in the Civil Court for redressal of their grievance.**

**28. There are catena of decisions on this issue as regards the availability of remedy before the Civil Court for challenging such elections where disputed questions of fact are involved where**



summary proceedings under section 25 of the Act, 1860 is not an efficacious remedy. This judgment need not be burdened with reference to such pronouncements. Moreso, as, there is a direct decision of the Supreme Court in the case of Nagri Pracharini Sabha v. Vth Additional District and Sessions Judge, Varanasi, [1991 Supp (2) SCC 36.] on this issue, wherein some of the respondents and others before the Supreme Court instituted a suit in a Civil Court challenging the election of Managing Committee and other office bearers of a society registered under the Societies Registration Act and asked for rendition of accounts. A preliminary objection as to the maintainability of the civil suit grounded on sections 23 and 25 of the Act was raised. The Courts below held that suit was not barred. Dismissing the appeal, the Supreme Court has held as under:

“2. A litigant having a grievance of a civil nature has, independently of an statute, a right to institute a suit in the Civil Court unless its cognizance is either expressly or impliedly barred. The position is well settled that exclusion of jurisdiction of the Civil Court is not to be readily inferred and such exclusion must be either express or implied.”

“3 .....

4. what is really in dispute is the application of the rule to the facts of the case. To ascertain whether the suit would be barred, the effect of the provisions of sections 23 and 25 of the Registration Act with the U.P. Amendments has to be consumed.”

.....

We are of the view that provisions of section 23 are confined to audit and have nothing to do with the relief of rendition of accounts. No more is necessary to be said about that relief. Section 25 deals with disputes regarding challenge to the election of office bearers. The maintainability of dispute within the purview of that section is hedged with conditions and unless such requirement is fulfilled, a statutory dispute would not be maintainable. The present action in the Civil Court is by some of the members who perhaps would not satisfy the requirements laid down in section 25. It cannot be contended that section 25 having provided the pre-conditions or the satisfaction of which a dispute within the purview of that section would be maintainable before the Registrar takes away the right of members of the society to claim relief otherwise outside the purview of section 25 on the basis of their right to seek remedy for their grievance. It is not the contention of Mr. Mukhoty that the relief claimed is not one which would come within the ambit of section 9 of the Code of Civil Procedure. That being so,



*we are of the view that the bar of section 25 is not applicable to the facts of the case. Therefore, the conclusion reached in the Courts below is correct and the suit is maintainable.”*

29. *The aforesaid decision virtually clinches the issue and leaves no room for doubt that the petitioners herein, have a statutory remedy for challenging the election in question as prescribed under section 25(1) of the Act 1860 and also before the Civil Court by means of regular civil proceedings to be initiated by filing a Regular Civil Suit. Even this Court is of the view that it is the latter remedy which is more appropriate in the facts and circumstances of the case but it is for the petitioners, who are the dominus litis to choose the forum to seek redressal of their grievance. The petitioners have inter-alia prayed for issuance of a writ in the nature of certiorari for quashing the election proceedings of Central Bar Association, Lucknow conducted by the Elders Committee on 2.9.2015. A writ of certiorari is issued for correcting apparent error of judicial or quasi judicial bodies or Tribunal or even any other person or authority exercising functions involving decision of a lis or determination of rights of the parties. Reference may be made in this regard to the decision of Supreme Court in the case of Dwarikanath v. Income-tax Officer, [AIR 1966 SC 81.] T.C. Bassa v. T. Nagappa, [AIR 1954 SC 440.] and Udit Narain Singh v. Additional Members, Board of Revenue. [AIR 1963 SC 786.] The society registered under the Societies Registration Act, 1860 is not a statutory body. It is a private body which is registered in accordance with an own Act 1860. Election proceedings of such a society are neither judicial nor quasi judicial proceedings. They do not involve the exercise of judicial or quasi judicial power by any authority nor decision of any lis between the parties or adjudication of their rights per-se. It is doubtful if writ of certiorari or a writ in the nature of certiorari could be issued under Article 226 of the Constitution for quashing the election proceedings of a society, even if, it is a Court annexed body. The appropriate relief/remedy in such a case is to seek a declaration in respect to the election proceedings. Even assuming such a writ could be issued, considering the nature of the dispute involved, this writ petition is not maintainable.*

30. *In view of above discussions, this Court does not find any valid ground nor any extra-ordinary circumstances to entertain this writ petition in exercise of its extra-ordinary discretionary power under Article 226 of the Constitution of India. The writ petition in the facts of the present case is not maintainable and the same is accordingly dismissed only for this reason, leaving it open for the petitioners to avail such remedy as they may choose in the light of what has been stated hereinabove. It is made clear that this Court has not adjudicated the merits of the controversy and the dismissal of this writ*



*petition shall not prejudice the petitioners herein, in any manner whatsoever, while availing the remedy as aforesaid.*

*xxx xxx xxx”*

*(Emphasis Supplied)*

41. Accordingly, a pure election dispute challenging the result of an election, on the basis of disputed questions of facts, is purely a private dispute, which ought to be raised by way of an Election Petition, if the rules provide for the same, or, alternatively by filing a civil suit. The present petition, being in the nature of an election dispute, whereby, the petitioners are seeking to agitate a purely private cause/interest, i.e., to assert a right to be elected as an office bearer of the NDBA, is not maintainable. Thus, consistent with the established position of law, challenges to the conduct of an election are appropriately addressed in an Election Petition or a civil suit, and not through a writ petition.

42. It is also the case of the petitioners that Bar Associations perform public function under the Advocates Act, 1961, and are therefore, amenable to the writ jurisdiction under Article 226 of the Constitution of India. It is contended that election process of the Bar Association involves matters of public interest, as it governs the representation of Advocates, who are officers of the Court and are integral to the administration of justice. Reliance is also placed on the judgment in the case of ***Board of Control For Cricket in India Versus Cricket Association of Bihar and Others***<sup>14</sup>, to contend that Supreme Court has held that a private body discharging public functions is subject to writ jurisdiction. Reliance is also made on the judgment in the case of ***P.K. Dash, Advocate Versus Bar Council of Delhi***

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<sup>14</sup> (2015) 3 SCC 251.



& Ors.<sup>15</sup>, to submit that Supreme Court has held that activities of the Bar Associations have a predominantly public character, and can, in many instances, affect Court functioning.

43. As regards the aforesaid judgments relied upon by the petitioners, though, there is no quarrel with the propositions as laid down in the said judgments, however, the said judgments do not have any applicability to the facts and circumstances of the present case.

44. No doubt, the disputes pertaining to Bar Associations can have a public character and be amenable to writ jurisdiction in certain circumstances. As held by the Supreme Court in the case of *Supreme Court Bar Association and Others Versus B.D. Kaushik*<sup>16</sup>, Court annexed Bar Associations comprise primarily of members practicing in the said Court, and have an important role in regulating their conduct, and thereby ensuring proper assistance to the Court. Such Associations, therefore, inevitably have an important role in the administration of justice. Thus, disputes pertaining to the aforesaid aspects of a Bar Association's functioning, namely, rules governing its constitution and membership, its role in regulating the conduct of its members or decisions pertaining to infrastructure afforded to it by the Court itself, such as the library or canteen for its members, may have a public character. However, a pure election dispute challenging the results of an election does not have any public character and is a purely private dispute.

45. Likewise, the judgment in the case of *P.K. Dash (supra)*, while reiterating that functions discharged by Bar Associations can have a public

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<sup>15</sup> 2016 SCC OnLine Del 3493.

<sup>16</sup> (2011) 13 SCC 774.



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character and affect Court functioning, unequivocally justified the exercise of writ jurisdiction on the basis of the nature of the reliefs sought in the said case, which according to the Court were, “*intrinsically connected with the public functioning of the Court*”. It is to be noted that the reliefs sought in the case of **P.K. Dash (supra)** were, firstly, incorporation of the *One Bar One Vote* principle in relation to every Bar in Delhi, and secondly, restriction of allotment of chamber to one Advocate in one Court complex only. These issues, according to the Court, had an impact upon the efficient functioning of the Bar Associations and growth of the Bar, and thereby, upon the administration of justice. Thus, this Court exercised its writ jurisdiction in the case of **P.K. Dash (supra)**, in view of the nature of the reliefs sought, and directed incorporation of two rules, one pertaining to conduct of their elections; and second, pertaining to allotment of chambers, both of which have wider ramifications for the functioning of the Bar and therefore, the justice delivery system.

46. Thus, the aforesaid judgments as relied upon by the petitioners do not assist and aid their case in any manner. The election process of NDBA or the results declared thereof, are not connected to the functions of any State, government or authority under the law, and further, the same are not intrinsically connected with the public functioning of the Court. The elections of the NDBA are purely elections of individual lawyers/members of NDBA, wherein, these individual lawyers/members contested as well as cast their votes. The result was also declared by the RO, who is also an individual private person and member of the NDBA. Thus, the election process of the NDBA and challenge thereto, in the facts and circumstances of the present case, cannot be said to have any public character.



47. Thus, the various issues raised in the writ petition constitute disputed questions of facts, which require examination of oral and documentary evidence, and cannot be decided in writ proceedings. Moreover, as discussed, the challenge herein to the NDBA Election does not have any public character.

48. Confronted with the aforesaid legal position and the objections raised by the respondents in this regard, the petitioners at a later stage, for the purposes of the present writ petition, waived all their previous contentions, electing to proceed solely on the grounds of non-compliance of the mandate of the judgment of the full bench of this Court in the case of **Lalit Sharma (supra)**, and contention related to the scanning of the proximity cards.

49. As per the petitioners, it was a mandate by this Court in the full bench judgment of **Lalit Sharma (supra)** that for casting of votes, the requirement was not only confined to ‘holding’ of proximity cards, but that the ‘scanning’ of proximity cards was also mandatory. It is submitted that against two thousand thirty four (2034) votes which were cast, only one thousand eight hundred fifty (1850) proximity cards were scanned. Written complaints were given by the petitioners to the RO and the Observer, on the same day, but no action was taken with regard thereto.

50. The petitioners contended that all proximity cards were not scanned, and that voters without digital verification of proximity cards and without their biometrics having been scanned and verified, were allowed to enter the polling area and cast their votes. Thus, it was sought to be contended that the petitioners have raised no disputed questions of facts that require adjudication in the present writ petition, and that the challenge by the petitioners is confined to the aspect of deliberate non-compliance with the



directions of the full bench of this Court in *Lalit Sharma (supra)*. Consequently, it is sought to be contended that the present writ petition would be maintainable, as this Court can certainly adjudicate regarding compliance of the mandatory directions passed by full bench of this Court.

51. In this regard, the petitioners have contended that the RO and the Election Commissioners were discharging a public function to ensure compliance of the judgment and various orders passed by the full bench of this Court. Therefore, it was not open to the RO to disobey the order of this Court and allow voting to continue despite scanners being made dysfunctional. Further, the election could not have been continued beyond the stipulated time of the election, which again is an anomaly on the part of the RO.

52. As regards the scrutiny of proximity cards, the RO, in her counter affidavit, has stated as follows:

“xxx xxx xxx

vii. I thus adopted multiple layer verification process by following a process of physical verification of proximity cards apart from Scanning of the card by the scanning agency, in as much as a Returning Officer it was my responsibility to ensure fair conduct of election. I accordingly, thus ensured the same by adding a process of manual physical verification of each and every voter and ensured that no one without a valid proximity card, could enter the voting area. Such process further added to the mandatory condition of voting only by Proximity card holders.

viii. Once the voter moved inside the reception area where the detailed verification of voters was carried by me and my team with list of proximity cards/voter list segregated / arranged alphabetically. An adjacent counter was there where another team of returning officers was sitting with a copy of the declaration forms of all the eligible voters.

ix. After reaching the said area, every voter was counter checked with the Hard copy of list of Proximity card issuers/holders once again and a copy of their respective declaration form was provided



to them. After receiving the copy of Declaration Forms, the Voter proceeded to another counter where his declaration form was drawn and tallied with the proximity cards and upon finding the same in order, his name was marked in alphabetical list on the next counter.

x. At that point of time, the red sticker which was pasted on the proximity card was removed from the proximity card and pasted on the respective declaration form and the declaration form was handed over to the voter to proceed for casting his/her vote.

xi. There were Eight (8) voting booths, each equipped with Electronic Voting Machines covered under a cordoned off area. I and my team members were present along with the person/operator from the company outside the EVM booths. At that place, the voter was required to deposit the declaration form and enter the polling booth to cast his/her vote. There were two extra booths available in case of heavy traffic of voters and/or any kind of malfunction in any of the machines at any point of time, to ensure smooth casting of votes without any hindrances.

xii. Before casting votes, outside the EVM Booth, blue ink mark was put on the finger of the voter to ensure that he/she does not enter the polling area after casting the vote.

xiii. After casting votes, the voters were immediately asked to leave the voting area from the exit gate.

xiv. It is pertinent to mention here that there was only one entry point and one exit point for all purposes.

xxx xxx xxx

10. The voters only with valid proximity cards with their names appearing in the voters list alone were allowed to vote in the elections so conducted on 21.03.2025. Thus, the compliance to the guidelines has been strict in conducting the present elections and there were no bogus voters who had voted on the election day as alleged, which is baseless and without any material to prove the said allegation. It is pertinent to mention here that there were no specific directions / instructions as to the process.

11. That assuming, without admitting, the error, if at all any, in the scanning machines and computer systems, in failing to register scans, still could not have allowed non-proximity card holders to vote.

xxx xxx xxx”

(Emphasis Supplied)

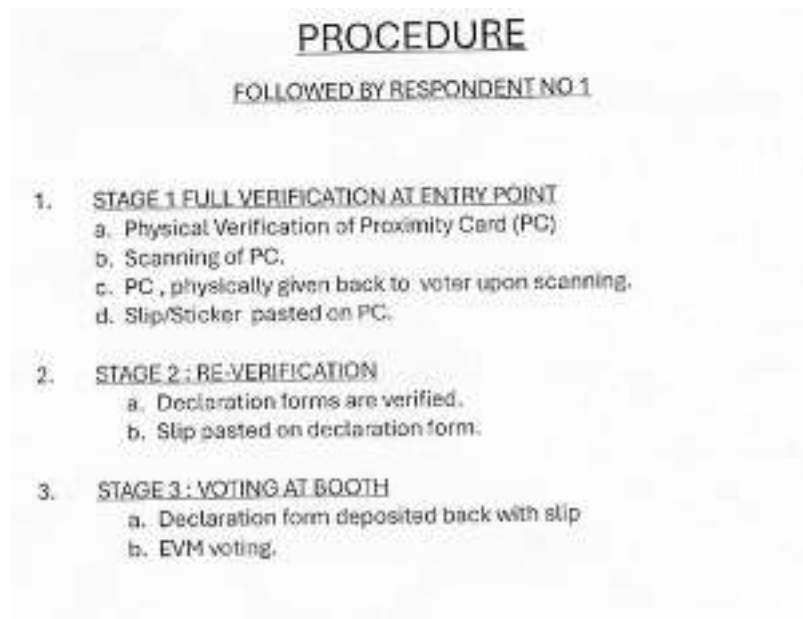
53. It is evident from the aforesaid affidavit that the RO has taken a firm



and definitive stand that voting in the NDBA Election was restricted solely to those with valid proximity cards. The voters with valid proximity cards, with their names appearing in the voters' list alone, were allowed to cast their votes in the election. Further, the RO and her team also counter checked each voter for possessing valid proximity card, and a copy of their respective declaration form was provided to them. It was only after due verification that the voters were allowed to proceed for casting their votes.

54. It has also come to the fore that before voters could enter the voting booths to cast their votes, they were required to deposit the declaration forms. Copy of the said declaration forms were in safe custody of the RO, which were deposited before this Court during the course of hearing. Thus, as per the clear deposition of the RO, no person without proximity cards could enter the voting area or cast their votes, on account of the multi-layer verification process adopted by the RO and her team.

55. The step-wise procedure as adopted by the RO and brought before this Court, is reproduced as under:





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- I. TOTAL PROXIMITY CARD ISSUED : 2284
- II. TOTAL DECLARATION FORMS (2284) OF ALL SUCH PROXIMITY CARD ISSUERS KEPT AT STAGE 2 FOR VERIFICATION .
- III. VOTE CASTED 2034 .
- IV. ALL VOTERS CARRIED PC AS CHECKED AT ENTRY POINT 1
- V. DECLARATION FORMS OF ALL 2034 VOTERS WHO CASTED VOTE DULY ENDORSED AND PRESERVED IN SEALED COVER AND FILED .
- VI. PROXIMITY CARD SCANNER NOT TO BE A CONCLUSIVE PROOF .

56. Accordingly, there is nothing before this Court to suggest that any unauthorized persons, without valid proximity cards, cast their votes in the NDBA Election, or that there was any bogus voting.

57. Another issue raised by the petitioners is with regard to extension of polling time. Concerning this issue, the RO has categorically stated that the time for polling was from 9:00 AM to 5:00 PM. There was no extension of polling time and all voters present at the polling station before closing time, were allowed to cast their vote. Further, no objection in that regard was raised by anyone at any stage. Since there was no extension of the polling time, as such, no permission was required from the Registrar of this Court.

58. The Court is satisfied with the aforesaid explanation given by the RO, and accepts the same. Thus, no anomaly is found in the procedure followed by the RO in that regard.

59. This Court also notes the stand on behalf of the Delhi High Court, represented through the Registrar, as demonstrated in the counter affidavit, relevant portions of which, are extracted as below:

“xxx xxx xxx

*3. It is submitted that in terms of the directions passed by the Full Bench of this Hon'ble Court in Writ Petition (C) No. 10363/2021 titled "Lalit Sharma and ors. vs. Union of India and Ors.", election of the Executive Committees of all the District Court Bar Associations, Delhi High Court Bar Association and all the Bar Associations annexed*



with Tribunals in Delhi were held on 21.03.2025 and as per para 35(11.6) of the judgment dated 19.03.2024 in the said matter, casting of votes was permitted only to holders of identity/proximity card.

4. Vide the said judgment in Lalit Sharma (supra), the Registry of the Delhi High Court was directed to prepare ID/Proximity Cards, and the role of the answering Respondent in the process of conduct of elections was limited to this. Relevant paragraphs of the said judgment are reproduced hereunder:

"30. However, this Court is in agreement with paragraph 10 of the Committee's report dated 22<sup>nd</sup> September 2023 (reproduced in paragraph 5 of this judgment) that it is imperative to prepare and issue ID/Proximity Cards and RFID to all the members of all the Bar Associations in Delhi. This exercise will not only address the security concerns with regard to entry to Court premises but will also ensure free and fair elections. This way an individual practicing lawyer will carry an ID/Proximity Card clearly mentioning the Bar Association, where he primarily practices and intends to vote. The said ID/Proximity Cards shall be prepared by the Registry of the Delhi High Court under the aegis and supervision of the Audit as well as Security and Disaster Management Committee of this Court. This would ensure that only one uniform card is issued to all the lawyers practicing in Delhi High Court and District Courts and Tribunals and would do away with the need for multiple ID/Proximity Cards.

31. The exercise of holding a uniform election on one day for all the Bar Associations should be held only after the exercise of preparing proper ID/Proximity Cards and RFID for all lawyers is completed, so as to ensure that the elections are conducted in a fair and transparent manner. Consequently, this Court accepts the recommendation contained in paragraph 10 of the Committee's report dated 22nd September 2023 (reproduced in paragraph 5 hereinabove) and directs the Registry to issue ID/Proximity Cards and RFID to all the members of the Bar Associations in Delhi within six months."

(Emphasis added)

5. The proximity cards for eligible advocates were prepared after 04 (four) levels of scrutiny under the aegis of "Committee to conduct Audit of Existing Rules and Measures: (i) To make Recommendations regarding Security and Disaster Management of Delhi High Court and all the District Courts; (ii) To propose Draft Rules; (iii) to examine Existing Rules on the Issues and Suggest Amendments "(Security Committee) of this Hon'ble Court by M/s. SEC Communications Pvt. Ltd. (vendor appointed by PWD) and given to



respective Election Committees for onward distribution to concerned advocates.

6. It is further submitted that "Committee to conduct Audit of Existing Rules and Measures: (i) To make Recommendations regarding Security and Disaster Management of Delhi High and all the District Courts; (ii) To propose Draft Rules; (iii) to examine Existing Rules on the Issues and Suggest Amendments", in its meeting dated 09.01.2025 decided and directed as under:

"It is submitted that the necessary arrangements for elections, procurement of EVMs/ballot papers (as per their past practice) and space for setting up card readers machines and other arrangements are also to be made by the Election Commissioners/Returning Officers, well in time...."

A copy of the said Minutes of Meeting dated 09.01.2025 of the Security Committee is annexed herewith and marked as ANNEXURE-A.

7. It is thus submitted that role of the Delhi High Court was limited to provision/issuance of proximity cards only and the elections were conducted by the respective Election Commissioner/Returning Officer of Bar Association as per their past practice. It is pertinent to mention that out of 2645 applications submitted on the "edba.in" portal, a total of 2283 applications in respect of advocates of NDBA (New Delhi Bar Association) were approved by the Delhi High Court at Level- 4 after scrutiny at respective levels of verification. Total 2283 proximity cards prepared by the vendor were delivered to the Chairperson, Election Committee, NDBA for distribution to concerned advocates. A screenshot from the "edba.in" portal showing the total number of applications approved for issuance of proximity cards after four levels of scrutiny is annexed herewith and marked as ANNEXURE-B.

8. The aforesaid stand of the answering Respondent was also recorded by this Hon'ble Court in its Order dated 25.03.2025 passed in the captioned matter. Relevant part of the said Order is reproduced hereunder for ready reference:

"25. Learned counsel appearing for respondent no. 4 i.e., Registrar General of this Court, submits that the role of the Delhi High Court in the present case, was only to the extent of issuing the proximity cards. She submits that after the issuance of the proximity cards, this Court does not have any role in the matter."

xxx xxx xxx"

(Emphasis Supplied)



60. Further, in its Note of Submissions dated 28<sup>th</sup> August, 2025, the Registrar of this Court, on the role of this Court in the election process, has stated as follows:

“xxx xxx xxx

2. It is submitted that the elections were conducted by the respective Election Commissioner/Returning Officer of Bar Association as per their past practice and the role of Delhi High Court was limited to provision/issuance of proximity cards only. In terms of the directions passed by the Full Bench of this Hon'ble Court in Writ Petition (C) No. 10363/2021 titled "Lalit Sharma and ors. vs. Union of India and Ors.", election of the Executive Committees of all the District Court Bar Associations, Delhi High Court Bar Association and all the Bar Associations annexed with Tribunals in Delhi were held on 21.03.2025 and as per para 35(11.6) of the judgment dated 19.03.2024 in the said matter, casting of votes was permitted only to holders of identity/proximity cards. Vide the said judgment in Lalit Sharma (supra) (para 30), the Registry of the Delhi High Court was directed to prepare ID/Proximity Cards, and the role of the answering Respondent in the process of conduct of elections was limited to this.

xxx xxx xxx”

(Emphasis Supplied)

61. Thus, as per the clear stand of Registrar of this Court, casting of votes in the elections of the Bar Associations of various District Courts was permitted only to holders of proximity cards. Further, the role of this Court in the process of conduct of election was limited to preparation of proximity cards.

62. This brings the Court to the issue raised by the petitioners that the election process in the present case violated the mandate of full bench of this Court in the case of **Lalit Sharma (supra)**, in that, individuals were allowed to vote without scanning of proximity cards, since the scanning machines were dysfunctional for some time. It is the case of the petitioners that scanning of proximity cards was mandatory, and in absence thereof, the



categorical directions of this Court have been violated.

63. On this aspect, this Court has already noted the stand of the RO that even assuming that the scanning machine was dysfunctional for some time, only persons with valid proximity cards were allowed to vote after a multi-layer scrutiny process.

64. It would be relevant at this stage to refer to the judgment of full bench of this Court in the case of *Lalit Sharma (supra)*. Relevant extracts on the aspect of the issues involved in the present case, are reproduced as under:

“xxx xxx xxx

30. However, this Court is in agreement with Para 10 of the Committee's report dated 22-9-2023 (reproduced in Para 5 of this judgment) that it is imperative to prepare and issue ID/proximity cards and RFID to all the members of all the Bar Associations in Delhi. This exercise will not only address the security concerns with regard to entry to court premises but will also ensure free and fair elections. This way an individual practising lawyer will carry an ID/proximity card clearly mentioning the Bar Association, where he primarily practices and intends to vote. The said ID/proximity cards shall be prepared by the Registry of the Delhi High Court under the aegis and supervision of the audit as well as Security and Disaster Management Committee of this Court. This would ensure that only one uniform card is issued to all the lawyers practising in Delhi High Court and District Courts and Tribunals and would do away with the need for multiple ID/proximity cards.

31. The exercise of holding a uniform election on one day for all the Bar Associations should be held only after the exercise of preparing proper ID/proximity cards and RFID for all lawyers is completed, so as to ensure that the elections are conducted in a fair and transparent manner. Consequently, this Court accepts the recommendation contained in Para 10 of the Committee's report dated 22-9-2023 (reproduced in Para 5 hereinabove) and directs the Registry to issue ID/proximity cards and RFID to all the members of the Bar Associations in Delhi within six months.

xxx xxx xxx

35. Keeping in view the aforesaid, Para 11 of the Committee's report is modified and shall read as under:



*“11.1. The term of the Executive Committee of all the Bar Associations shall be two years.*

*11.2. The election of the Executive Committee of all Bar Associations shall be held on one day.*

*11.3. Since the term of the Executive Committee of the various Bar Associations is not uniform, the first same day election of all Bar Associations shall be held on Saturday, 19-10-2024.*

*11.4. Thereafter, the election be held on the Friday, immediately preceding the Dussehra vacation of every alternate year. In case said Friday is a court holiday in any court then the election would be held on the next working Friday of all courts.*

***11.5. The advocate at the time of issuance of the identity card/proximity card shall specify his/her choice of the Bar Association, where he/she intends to cast the vote.***

***11.6. Casting of votes during the respective Bar Association elections shall be permitted only to the holders of the identity card/proximity card.***

***11.7. The casting of vote shall be only through the identity card/proximity card to regulate the ‘one bar one vote’ principle.***

***11.8. The Identity card/Proximity card would operate for casting vote in the election of only one Bar Association at a time.***

*11.9. The advocate may change his/her option to vote in a Bar Association election at any time. The request to change the option must be certified by the Bar Association to which the advocate wishes to change his/her option and must reach the Registrar of the High Court concerned by 31st July of the year of the election.*

*11.10. Any request received later than 31st July of the year of the election shall be considered for the next election.*

*11.11. All the Bar Associations shall commence the process of the holding of elections and nominate the respective Election Committees in terms of the judgment in P.K. Dash case [P.K. Dash v. Bar Council of Delhi, 2016 SCC OnLine Del 3493] by the 31st July of the year of the election. The Constitution of the Election Committee and the schedule of election shall be communicated to the Principal District concerned and Sessions Judge in the case of the District Court or the Registrar General in the case of the Delhi High Court by the 31st July of the year of the election. This Election Committee will only take decisions to ensure that elections are conducted on time and in a fair and transparent manner. This Committee will not exercise any other administrative function and will not be deemed to have superseded the Executive Committee of the Bar Association.*

***11.12. Every advocate shall file the declaration form as stipulated by the judgment in P.K. Dash case [P.K. Dash v. Bar Council of***



**Delhi, 2016 SCC OnLine Del 3493] on or before 31<sup>st</sup> July of the year of the election.**

11.13. The eligibility of the advocate to cast his/her vote in the election shall be considered as on 31<sup>st</sup> July of the year of the election.

11.14. Only those eligible advocates who are not in arrears of their subscription as on 31<sup>st</sup> July of the year of the election shall be entered in the voters list.

11.15. Subscription shall be paid by the advocate concerned from his/her own bank account, or his own electronic payment platform. Cash deposit of subscription shall not be accepted.

11.16. Only bona fide practising advocates shall be permitted to cast their vote and shall be entered in the voters list.

11.17. The following advocates would be considered bona fide advocates:

(i) All designated Senior Advocates.

(ii) All advocates who have a standing of over 25 years.

(iii) Former judicial officers.

(iv) Advocates who have at least 12 appearances before courts including Supreme Court, Tribunals and Arbitration Tribunals in a span of a year.

(v) Partner or an associate of a registered law firm.

However, none of the aforesaid advocates would be considered bona fide advocates if they have not cleared the All India Bar Examination in the event the said condition had been stipulated prior to their enrolment.

11.18. Advocates claiming voting rights on the basis of appearances shall furnish the copies of the order sheets containing their names either as a lead counsel or as an assisting counsel on or before 31<sup>st</sup> July of the year of the election.

11.19. Advocates claiming voting rights on the basis of being a partner or an associate of a law firm shall furnish, prior to 31<sup>st</sup> July of the year of the election, a certificate from the equity partner of the law firm along with proof of payment of professional remuneration for at least six months.

11.20. Tentative list of eligible voters shall be displayed on the respective court's website by the 16<sup>th</sup> August of the year of the election. Objections shall be invited till 1<sup>st</sup> September and the final list shall be displayed by the 15<sup>th</sup> September.”

xxx xxx xxx”

(Emphasis Supplied)

65. At this juncture, it is pertinent to note that by order dated 28<sup>th</sup> May,



2024 in *Lalit Sharma writ*<sup>17</sup>, this Court had dispensed the direction for capturing the biometric of advocates/registered clerks for the issuance of proximity cards in terms of the directions issued in *Lalit Sharma (supra)*. However, by a subsequent order dated 21<sup>st</sup> November, 2025, in *Lalit Sharma writ*, the full bench of this Court has issued notice in an application seeking re-call of the aforesaid order dated 28<sup>th</sup> May, 2024. Thus, the issue with respect to capturing of biometric data of advocates/registered clerks, is *sub-judice* before this Court.

66. Considering the directions issued in the *Lalit Sharma (supra)*, as reproduced hereinabove, it is manifest that the proximity cards were issued as proof of identity to ensure compliance with the mandate of *One Bar One Vote*. The casting of votes during the respective Bar Association elections was permitted only to holders of the proximity card.

67. As noted in the preceding paragraphs, the counter affidavit filed by the RO states in detail the process followed by the RO and her team, to verify the eligibility of voters, including, physical verification of proximity cards. The RO has categorically stated on oath that only those voters carrying proximity cards were allowed to enter the voting area and the polling area. Physical verification of the proximity cards was done at the time of entering the voting area, and thereafter, before entering the polling area as well, in consonance with the directions issued in *Lalit Sharma (supra)* that only voters with valid proximity cards were entitled to vote.

68. In this regard, it may also be noted that the RO had issued Guidelines for voters, whereby, it was made clear that proximity card was mandatory to

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<sup>17</sup> 2024 SCC OnLine Del 4152.

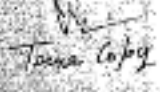


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cast vote and for identification purposes, and that no voter shall be permitted to enter inside the polling area without their proximity card. The Guidelines dated 20<sup>th</sup> March, 2025, issued by the RO in this regard, is reproduced hereunder:

“xxx xxx xxx”

|  <b>NEW DELHI BAR ASSOCIATION</b><br><b>ELECTION COMMITTEE 2024-2025</b><br>Ref. No. <u>NDBA/2025/7490</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | ANNEXURE P-5<br>195 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| <b>RETURNING OFFICER:</b><br>SANTOSH MISHRA<br>9811333992<br>ARON<br>MANU BHATTASAR<br>981244323<br>SANJAY BHATTASAR<br>981047323<br>IMRAN AZEEM<br>9812348606<br>PREM LATA CHATURVEDI<br>9812214550<br>SHARDEE KANT SHARMA<br>9812451810<br>SHAILKUNDRA GUPTA<br>9812149115<br>GIRISH SHARMA<br>9812152351<br>SANDEEP SHARMA<br>981230440<br>RAJESH KALSI<br>9812432853<br>KANAKA KALSI<br>9812308878<br>SURENDRA NATH SHARMA<br>9812304435<br>S. ROHIT KUMAR<br>981113374<br>LAKSHMI CHAND<br>9812308878<br>PRASHANT GOYAL<br>981274289<br>MADHUR DHARMAN<br>9812308878<br>RAIPAL S. HANWAT<br>9812308878<br>ARON<br>ARON<br>ARON<br>9812308878<br>GURANDEEP KUMAR<br>981231582<br>YOGESH BASTIA<br>9812308878<br>NISHANT KATHE<br>9812308878<br>SUSHANT KATHE<br>9812308878<br>DEVIKANT KATHE<br>9812308878<br>SPANNA SHARMA<br>9812308878<br>ANASHTHIA<br>9812308878<br>HASIM ALAM<br>9812308878<br>SURENT KUMAR<br>9812308878<br>TIKESH KUMAR<br>9812308878<br>LITIKA KUMAR<br>9812308878<br>ANU SHARMA<br>9812308878 | <p style="text-align: right;">20<sup>th</sup> March, 2025</p> <p style="text-align: center;"><b>NDBA ELECTION 2025 GUIDELINES<br/>FOR VOTERS</b></p> <p>This is to inform all voters that in accordance with the guidelines established for the NDBA Elections 2025 dated 21.03.2025.</p> <ol style="list-style-type: none"> <li><b>Proximity card is mandatory:</b> No voters shall be permitted to enter inside the polling area without their proximity card. Proximity card is mandatory to cast vote and for identification purpose. No other proof of identification shall be accepted for this purpose.</li> <li><b>Electronic Devices:</b> Mobile phones, cameras, tablets, and other electronic devices must not be brought into the polling area to ensure the privacy of the voting process.</li> <li><b>Explosives and Hazardous Materials:</b> Any form of explosive or dangerous materials is strictly prohibited. This includes fireworks, fireworks-like substances, and any other items posing a risk to public safety.</li> <li><b>Other Prohibited Items:</b> In addition to the above, weapons, sharp objects, and any other items that could potentially disrupt the voting process or endanger public safety will not be permitted.</li> </ol> <p>We kindly request all voters to cooperate with the authorities and follow the security procedures in place. Any violation of these rules may result in penalties, including disqualification from voting and potential legal consequences.</p> <p>Your participation in a peaceful, fair, and secure election process is vital. Thank you for your understanding and cooperation.</p> <p style="text-align: right;"> <br/> <b>SANTOSH MISHRA</b><br/>         ADVOCATE<br/>         RETURNING OFFICER<br/>         (NDBA ELECTION 2025)       </p> <p style="text-align: center;"> <br/>         Tanya Garg       </p> |                     |

xxx xxx xxx”



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69. It bears mentioning that in its letter to the outgoing President of the NDBA by the Chairperson of the NDBA Committee, 2024-25, i.e., the Principal District & Sessions Judge, Patiala House Courts, it is stated that the NDBA Committee had observed that the “... *Proximity Card is an Identity Proof of an Advocate/Voter for NDBA Election in itself*”. The said letter dated 13<sup>th</sup> February, 2025, is reproduced as under:

“xxx xxx xxx

OFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE  
NEW DELHI DISTRICT, PATIALA HOUSE COURTS, NEW DELHI

No. 4326 Election Comm./Genl./PHC/2025 Dated, New Delhi. 12/2/25

To  
Sh. Jagdeep Vats, President,  
New Delhi Bar Association (NDBA),  
New Delhi.

Sub: Regarding Final List of Voter's NDBA Election -2024-25.

Sir,

1. With reference to your letter No. NDBA/2025/7329 dated 06.02.2025, it is informed that total 2284 numbers of Proximity Cards have been approved by this office at level -II and total 2253 numbers of Proximity Cards have been received in this office till 10.02.2025. Further, 31 numbers of Proximity Cards are yet to be received.

2. A List available with this office of advocates/members of forthcoming NDBA Election of 2253 numbers of those whose proximity cards have been received, is being forwarded herewith for your information and necessary action in alphabetical order.

3. Remaining list of 31 numbers of Proximity Cards will be provided as and when received from the Hon'ble High Court of Delhi, New Delhi.

4. The Committee has observed that the Proximity Card is an Identity Proof of an Advocate/Voter for NDBA Election in itself.

Thanking you,

Yours sincerely,  
  
(Balwant Rai Hansot)  
District Judge-05/Chairperson/  
Committee for NDBA Election 2024-25  
New Delhi District, Patiala House Courts  
New Delhi.

(Akshay Anand)  
Advocate/Members/Committee for NDBA Election 2024-25  
New Delhi District, Patiala House Courts  
New Delhi.

(Neera Shrivastava)  
Advocate/Members/Committee for NDBA Election 2024-25  
New Delhi District, Patiala House Courts  
New Delhi.

xxx xxx xxx”

70. It is important to note that in its Notice dated 17<sup>th</sup> March, 2025, the



NDBA Election Committee, 2024-25 stipulated that only members carrying their proximity cards would be allowed to cast their votes, as proximity card is the only acceptable proof of identity for casting votes. The said Notice is reproduced as under:

“xxx xxx xxx



xxx xxx xxx”

71. It is significant to note that in the Minutes of Meeting held by the Registrar on 17<sup>th</sup> March, 2025, it is stated clearly that in case of any dispute or technical glitch, the respective election officers shall take their own call. Relevant portion of the said Minutes of Meeting, is extracted as below:

“xxx xxx xxx

**In view of the above, the vendor is directed to ensure that one time entry is granted through proximity card and under no circumstance multiple entries be allowed to voting area. It is further directed that**



**in case of any dispute or technical glitch, the respective Election Officers shall take their own call.**

xxx xxx xxx”

(Emphasis Supplied)

72. It is also worth noting that on the aspect of the allegations of dysfunction of the scanning machines during the NDBA Election, in its Reply under the Right to Information Act, 2005 this Court answered as follows:

“xxx xxx xxx

**HIGH COURT OF DELHI- NEW DELHI**

No. JPL/RTI/4211/2025  
Dated: 14.11.2025

To: The Public Information Officer,  
Delhi High Court,  
New Delhi.

From: Mr. Shivam Verma,  
Chamber No. 165,  
Patil House Courts,  
New Delhi-110001.

Sub: Your application dated 07.11.2025 received on 13.11.2025 (registered under Dy. No. 1995/2025 dated 14.11.2025) seeking information under Right to Information Act, 2005 and this Court's letter No. 20145-46/RTI/DHC/1995/2025 dated 14.11.2025.

With reference to your captioned application, seeking information under Right to Information Act, the information asked for insofar as it relates to this Court is furnished as under:-

| Q. No. | Information sought                                                                                                                                                                                                                                                | Reply                                                                                   |
|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| a.     | In the elections of various Bar Associations held on 21.03.2025, M/s SEC Communications Pvt. Ltd. was given the task of installing and performing the scanning of proximity cards. Which authority has awarded the said work to M/s SEC Communications Pvt. Ltd.? | M/s. SEC Communications Pvt. Ltd. (vendor) was appointed by PWD, Govt. of NCT of Delhi. |



- b. How many votes were polled in each of the eight Bar associations including DHCBA where elections were held on 21.03.2025?
- c. How many proximity cards were scanned for the purpose of voting in each of the eight Bar Associations including DHCBA where elections were held on 21.03.2025?

As per the judgment dated 19.03.2024, the role of this Court in election process of Bar Associations was limited to provide proximity cards to eligible advocates. Hence, no such information qua number of votes polled and number of proximity cards scanned is available with this Court.

### HIGH COURT OF DELHI: NEW DELHI

No. RTI/DHC/1995/2025

Date:

From:

The Public Information Officer,  
Delhi High Court,  
New Delhi.

✓

Mr. Shivam Verma,  
Chamber No. 165,  
Patiala House Courts,  
New Delhi-110001.

Sub: Your application dated 07.11.2025 received on 13.11.2025 (registered under Dy. No. 1995/2025 dated 14.11.2025) seeking information under Right to Information Act, 2005 and this Court's letter No. 20145-46/RTI/DHC/1995/2025 dated 14.11.2025.

With reference to your captioned application, seeking information under Right to Information Act, the information asked for insofar as it relates to this Court is furnished as under:-

| Q. No. | Information sought                                                                                                                                                                                                                                                | Reply                                                                                                                                                                                                                                                                                        |
|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a.     | In the elections of various Bar Associations held on 21.03.2025, M/s SEC Communications Pvt. Ltd. was given the task of installing and performing the scanning of proximity cards. Which authority has awarded the said work to M/s SEC Communications Pvt. Ltd.? | M/s. SEC Communications Pvt. Ltd. (vendor) was appointed by PWD, Govt. of NCT of Delhi.                                                                                                                                                                                                      |
| b.     | How many votes were polled in each of the eight Bar associations including DHCBA where elections were held on 21.03.2025?                                                                                                                                         | As per the judgment dated 19.03.2024, the role of this Court in election process of Bar Associations was limited to provide proximity cards to eligible advocates. Hence, no such information qua number of votes polled and number of proximity cards scanned is available with this Court. |
| c.     | How many proximity cards were scanned for the purpose of voting in each of the eight Bar Associations including DHCBA where elections were held on 21.03.2025?                                                                                                    |                                                                                                                                                                                                                                                                                              |



|    |                                                                                                                                                                                                                                                         |                                                                                                                                      |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| d. | Whether any complaint was received to the Registrar, Delhi High Court on 21.03.2025 during the election from any of the eight Bar Associations where elections were held regarding any malfunctioning of machines used for scanning of proximity cards? | No complaint regarding any malfunctioning of machines used for scanning of proximity cards was received in this Court on 21.03.2025. |
| e. | If answer to query (d) is yes, please provide detail of such complaint and action taken.                                                                                                                                                                |                                                                                                                                      |

Your instant application seeking information under RTI Act, 2005 stands replied. No further correspondence in the matter will be entertained in the RTI Cell, Delhi High Court.

In terms of Section 19 of the Right to Information Act 2005, in case you are not satisfied with the information given above, you are at liberty to file an appeal in form 'F' as prescribed in the Delhi High Court (Right to Information) Rules 2006, to the Appellate Authority i.e. Registrar (IT), Third Floor, Administrative Block, Delhi High Court, New Delhi, within thirty days of the receipt of this order.

The Delhi High Court (Right to Information) Rules 2006 are available on the website [delhihighcourt.nic.in](http://delhihighcourt.nic.in) of this Court.

(MANOJ KUMAR)  
PUBLIC INFORMATION OFFICER-II

xxx xxx xxx”

73. Thus, it has come to the fore that no complaint regarding any malfunctioning of machines used for scanning of proximity cards was received in this Court.

74. Considering the aforesaid discussion, it is established that as per the mandate of full bench of this Court in the case of *Lalit Sharma (supra)*, the voters were required to hold/have in their possession, valid proximity cards. As long as the proximity cards are duly verified, including, physical verification, the mandate, as given in *Lalit Sharma (supra)*, is satisfied.

75. Accordingly, on the basis of the pleadings and documents on record,



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no case is made out for interference by this Court. Consequently, no merit is found in the present writ petition. However, the petitioners are granted liberty to raise various issues pertaining to the election process of NDBA, by way of filing a civil suit, if so advised. If such a civil suit is filed by the petitioners, the same shall be considered and decided on its own merits, without being influenced by the observations and findings in the present case.

76. The record, as submitted by the RO, shall be duly kept and preserved in the safe custody of the Registrar of this Court, to be provided to the concerned authority at appropriate stage, as and when requisitioned.

77. Noting the aforesaid, the present writ petition is dismissed. The pending applications are also accordingly, disposed of.

**MINI PUSHKARNA  
(JUDGE)**

**JANUARY 5, 2026**  
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