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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 746/2022, CM APPL. 2102/2022 & CM APPL. 18229/2022**

ALOK KUMAR PANDEY

.....Petitioner

Through: Mr. Vivek Sood, Sr. Adv. with Mr.
Naivaidya Parashar, Ms. Medhavi and
Ms. Sanskruti Jain, Advs.

versus

BAR COUNCIL OF INDIA & ORS.

.....Respondents

Through: Mr. Siddharth Luthra, Sr. Adv. with
Mr. Vishwa Aman Kandwal and Mr.
Amit Kumar Srivastava, Advs. for R-
3.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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04.05.2026

1. The petitioner, an advocate, was exonerated by the Bar Council of Delhi (BCD) in a professional misconduct complaint filed by Respondent No.3 *vide* order dated 25.11.2011. The complainant challenged this order before the Bar Council of India (BCI). During the pendency of the revision proceedings before the BCI, the petitioner discovered that Mr. Ved Prakash Sharma, who was a member of the BCD when it exonerated the petitioner, was also a member of the BCI Committee hearing the revision. The petitioner objected to Mr. Sharma's participation in the proceedings dated 28.05.2021, 29.08.2021 and 07.11.2021. Mr. Sharma subsequently recused himself on 14.02.2022.



2. The petitioner raises a fundamental objection that the same member who was part of the decision-making process at the original stage before the BCD should not be a part of the proceedings at the appellate/revisional stage before the BCI.

3. Mr. Siddharth Luthra, learned senior counsel appearing for the respondents tries to point out that the nature of the order dated 28.05.2021, 29.08.2021 and 07.11.2021 do not decide the *lis* on merit. He submits that all three orders are procedural in nature and no prejudice is caused to the petitioner by the participation of Mr. Sharma in these procedural proceedings.

4. The Court, however, is of the considered opinion that the proceedings dated 28.05.2021, 29.08.2021 and 07.11.2021 stood vitiated merely on the account of the participation of Mr. Sharma in the disciplinary proceedings against the petitioner. The foundational principle of natural justice, *nemo judex in causa sua* (no one shall be a judge in his own cause), as held by the Supreme Court in ***Manak Lal v. Dr. Prem Chand***¹, extends not only to cases of actual bias but also to situations giving rise to a reasonable apprehension of bias. Applying this test to the present case, the petitioner could reasonably apprehend bias as Mr. Sharma was part of the original BCD decision dated 25.11.2011.

5. The Supreme Court in ***State of Uttar Pradesh v. Mohammad Nooh***² held that if an inferior court or tribunal acts contrary to the rules of natural justice, the superior court may issue certiorari to correct the error, even if the impugned orders are procedural in nature. Therefore, the contention that the

¹1957 SCR 575

²AIR 1958 SC 86



orders were merely procedural is rejected. Mr. Sharma's subsequent recusal cannot cure the illegality already occasioned by his prior participation. Accordingly, all three orders stand set aside.

6. The matter will have to be placed anterior to the proceedings dated 28.05.2021. The BCI shall hence conduct the disciplinary proceedings/revision hearing afresh in accordance with law, ensuring that no member who has previously participated in the proceedings at the original stage before the BCD forms part of the adjudicatory body at the revisional stage before the BCI.

7. Petition stands disposed of.

8. The BCI, however, shall be at liberty to conduct the disciplinary proceedings/appeal/hearing in accordance with law.

9. So far as the construction of the record etc. as has been pointed out by Mr. Sharma is concerned, the disciplinary authority of the BCI shall be at liberty to carry out necessary exercise in that regard afresh.

10. Proceedings before BCI be expedited, keeping in mind the fact that the complainant is a senior citizen.

11. All rights and contentions are left open.

PURUSHAINDRA KUMAR KAURAV, J

MAY 4, 2026/P