

AMIT SACHAN & ANR.

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v.

BAR COUNCIL OF UTTAR PRADESH, LUCKNOW & ORS.

(Special Leave Petition (Civil) Nos. 15349-15350 of 2021)

SEPTEMBER 24, 2021

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[M. R. SHAH AND A. S. BOPANNA, JJ.]

Advocates – Election of members of the Bar Association – Role to be played by the members of the Bar in the administration of justice delivery system – On facts, in election of Awadh Bar Association scheduled to be held on 14.08.2021, the candidates/ advocates alongwith their supporters entered into the voting arena and indulged in tearing ballot papers and in pushing female lawyers and misbehaving with them – One lawyer was seriously injured and his hand got fractured in the incident – Another lawyer suffered heart attack – High Court took suo moto cognizance and issued various directions including to hold fresh elections on 25.09.2021 – Held: The directions as issued by High Court cannot be faulted in the peculiar facts and circumstances of the case, which were issued to maintain the purity of the election of the Bar Association – No member of the Bar can be permitted to misbehave in the premises of the High Court – The manner in which the lawyers acted and misbehaved on 14.08.2021 in the premises of the High Court, where the election of the Bar Association was going on, cannot be tolerated and accepted and is deprecated – Office bearers of the Bar Association are to be elected by the genuine voters and the advocates genuinely / regularly practicing in the High Court and/or the Court concerned, and outsiders not regularly practicing in that court cannot be permitted to hijack the system by permitting them to take part in the election process of electing members of the Bar Association – Ethics.

EXTRA ORDINARY APPELLATE JURISDICTION: Special G
Leave Petition (Civil) Nos. 15349-15350 of 2021.

From the Judgment and Orders dated 24.08.2021 and 27.08.2021 of the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow in (PIL Civil) No.18055 of 2021.

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A R. Balasubramanian, Sr. Adv., V. N. Subramaniam, Ms. Anzu K. Varkey, Jyotiresh Pandey, Girish Tiwari, Sarvesh Kr. Pandey, Pankaj Shukla, Satish Solanki, Ms. Jaswanthi A., Advs. for the Petitioners.

Asim Chandra, Surya Mani Singh Royekwar, Farrukh Rasheed, Advs. for the Respondents.

B The following Order of the Court was passed :

O R D E R

1. Feeling aggrieved and dissatisfied with the impugned orders dated 24.08.2021 and 27.08.2021 passed by the Division Bench of the

C Lucknow Bench of the High Court of Judicature at Allahabad passed in P.I.L. Civil No.18055 of 2021 by which the High Court has directed in paragraph 24 as under:-

“(I) The U.P. Bar Council shall issue necessary circular or order implementing the principle of ‘one Bar one Vote’.

D (II) The U.P. Bar Council shall direct all the registered Bar Associations to put on their website/notice board the names of members who have casted their vote in last three years i.e., 2018, 2019 and 2020.

E (III) The Central Bar Association, Lucknow Bar Association, State Public Services Tribunal Bar Association, Central Administrative Tribunal Bar Association and Armed Forces Tribunal Bar Association are directed to put on their website/ notice board the list of members who have casted their vote in last three elections i.e., 2018, 2019 and 2020.

F (IV) The Elders’ Committee, Awadh Bar Association shall formulate ‘code of conduct’ for elections keeping in view the recommendations and directions issued today.

G (V) Canvassing by distribution of visiting cards/cards, pamphlets or poster should be prohibited in the elections of the Awadh Bar Association. Distribution of lunch packets, refreshment, etc. should not be allowed either before or during the election and all those who are found distributing such things should be debarred from contesting elections. Hosting or arranging dinner parties for canvassing for elections should be prohibited.

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(VI) Senior Registrar or any other Officer deputed by him in consultation with the Elders' Committee shall debar such Members of Awadh Bar Association from participating the ensuing election who may be found having indulged in misbehaviour and disrupting the process of election on 14.8.2021 while the polling was in process, after due verification of the complaints received and perusal of video clipping and such other evidence as may be available." A

The petitioners – advocates reported to be practicing lawyers and contesting the election of the Awadh Bar Association, 2021 have preferred the present special leave petitions. B

2. It is the case on behalf of the petitioners that by the impugned order, the High Court has declared the election of the Awadh Bar Association scheduled to be held on 14.08.2021, however, without appreciating the difficulties that it will be very difficult to bring back the nearly 4,500 members again for voting in this pandemic situation. It is submitted that as far as the earlier election is concerned, only the polling was got cancelled by the Returning Officer. C

2.1 It is the case on behalf of the petitioners that in the election, which was held on 14.08.2021 out of 4,500 members, **3,614** members directly cast their votes and the remaining members, who were to cast their votes were only **1,219** members. It is submitted therefore that the High Court is not at all justified in declaring fresh elections. D

3. Having heard the learned counsel appearing on behalf of the petitioners and the impugned orders passed by the High Court, it appears that in the election of Awadh Bar Association held on 14.08.2021 held in the premises of the High Court of Lucknow, unruly, indecent and rustic behavior and breach of protocol by some of the lawyers lead to ultimately cancellation of the election which had caused the security issues in the premises of the High Court and the Officers and Police were compelled to intervene to maintain the decorum. Therefore, the High Court rightly took the suo moto cognizance of the incident occurred on 14.08.2021 in the premises of the High Court. E

3.1 As can be seen from the impugned orders that in the election of Awadh Bar Association scheduled to be held on 14.08.2021, the candidates/advocates alongwith their supporters entered into the voting arena and indulged in tearing ballot papers and in pushing female lawyers F

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- A and misbehaving with them. Even one lawyer was seriously injured and his hand got fractured in the incident. One lawyer suffered heart attack, therefore, the High Court rightly took suo moto cognizance and issued various directions including to hold fresh elections on 25.09.2021. The directions as issued by the High Court in paragraph 24 cannot be faulted in the peculiar facts and circumstances of the case, which seems to be issued to maintain the purity of the election of the Bar Association.
- B 3.2 Having noted the importance of the Bar and the role to be played by the members of the Bar in the administration of justice delivery system, this Court in the case of **R. Muthukrishnan Vs. Registrar General, High Court of Judicature at Madras, (2019) 16 SCC 407** has observed in paragraphs 16 to 19 as under:-
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 - D “**16.** The legal profession cannot be equated with any other traditional professions. It is not commercial in nature and is a noble one considering the nature of duties to be performed and its impact on the society. The independence of the Bar and autonomy of the Bar Council has been ensured statutorily in order to preserve the very democracy itself and to ensure that judiciary remains strong. Where the Bar has not performed the duty independently and has become a sycophant that ultimately results in the denigrating of the judicial system and judiciary itself. There cannot be existence of a strong judicial system without an independent Bar.
 - E **17.** It cannot be gainsaid that lawyers have contributed in the struggle for independence of the nation. They have helped in the framing of the Constitution of India and have helped the courts in evolving jurisprudence by doing hard labour and research work. The nobility of the legal system is to be ensured at all costs so that the Constitution remains vibrant and to expand its interpretation so as to meet new challenges.
 - F **18.** It is basically the lawyers who bring the cause to the Court are supposed to protect the rights of individuals of equality and freedom as constitutionally envisaged and to ensure the country is governed by the rule of law. Considering the significance of the Bar in maintaining the rule of law, right to be treated equally and enforcement of various other fundamental rights, and to ensure that various institutions work within their parameters, its
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independence becomes imperative and cannot be compromised. The lawyers are supposed to be fearless and independent in the protection of rights of litigants. What lawyers are supposed to protect, is the legal system and procedure of law of deciding the cases. A

19. Role of the Bar in the legal system is significant. The Bar is supposed to be the spokesperson for the judiciary as Judges do not speak. People listen to the great lawyers and people are inspired by their thoughts. They are remembered and quoted with reverence. It is the duty of the Bar to protect honest Judges and not to ruin their reputation and at the same time to ensure that corrupt Judges are not spared. However, lawyers cannot go to the streets or go on strike except when democracy itself is in danger and the entire judicial system is at stake. In order to improve the system, they have to take recourse to the legally available methods by lodging complaint against corrupt Judges to the appropriate administrative authorities and not to level such allegation in the public. Corruption is intolerable in the judiciary.” B

3.3 It is further observed in paragraph 31 that there is no room for taking out the procession in the court premises or slogan raising in the courts. This Court has very heavily criticized the misbehave of the advocates in the premises of the High Court of Madras resulting into requisitioning of CISF to maintain safety and majesty of the Court and rule of law. In paragraph 31, it is observed as under:- E

“**31.** There is no room for taking out the procession in the court premises, slogan raising in the courts, use of loudspeakers, use of intemperate language with the Judges or to create any kind of disturbance in the peaceful, respectful and dignified functioning of the court. Its sanctity is not less than that of a holy place reserved for noble souls. We are shocked to note that the instances of abject misbehaviour of the advocates in the premises of the High Court of Madras resulting into requisitioning of CISF to maintain safety and majesty of the Court and rule of law. It has been observed by this Court in *Mahipal Singh Rana* [*Mahipal Singh Rana v. State of U.P.*, (2016) 8 SCC 335 : (2016) 4 SCC (Civ) 1 : (2016) 3 SCC (Cri) 476 : (2016) 2 SCC (L&S) 390] that the Bar Council has failed to discharge its duties on the disciplinary side. In our opinion, in case such state of affairs continues and the Bar F

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- A Council fails to discharge duties the Court shall have to supervise its functioning and to pass appropriate permissible orders. Independence of the Bar and the Bench both are supreme, there has to be balance inter se.”
4. Any member of the Bar cannot be permitted to misbehave in
- B the premises of the High Court. The manner in which the lawyers acted and misbehaved on 14.08.2021 in the premises of the High Court, where the election of the Awadh Bar Association was going on, cannot be tolerated and accepted and has to be deprecated.
- 4.1 Being a member of the legal profession, which always is being
- C considered as a noble profession, what message the lawyers, who misbehaved will give to the public at large. Office bearers of the Bar Association are to be elected by the genuine voters and the advocates genuinely/regularly practicing in the High Court and/or the Court concerned, and outsiders not regularly practicing in that court cannot be permitted to hijack the system by permitting them to take part in the election process of electing members of the Bar Association. As the matter is subjudice before the High Court, we refrain from making further observations on the conduct of the advocates, who misbehaved and that too as stated in the impugned order that even the female lawyers were pushed and some of the candidates alongwith their supporters even
- D E misbehaved with them.
5. We see no reason at all to interfere with the impugned orders, which as such is in furtherance of maintaining the purity of the election of the members of the Bar Association. The special leave petitions are accordingly stand dismissed.