

AJAY SHANKAR SRIVASTAVA

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v.

BAR COUNCIL OF INDIA & ANR.

(Writ Petition (Civil) No. 82 of 2023)

APRIL 10, 2023

B

**[DR. DHANANJAYA Y CHANDRACHUD, CJI,
PAMIDIGHANTAM SRI NARASIMHA AND
J. B. PARDIWALA, JJ.]**

Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015 – Verification of certificates of practice and educational degrees – Petitioner challenged an office order dated 01.11.2022 of the Bar Council of India to all the State Bar Councils, the purport of which (according to the petitioner) was to interdict the process of verification of advocates who are enrolled with the State Bar Councils for scrutinizing the genuineness of their degrees and enrollments – Held: The Bar Council of India apprehends that many advocates who have not submitted their forms for verification are persons who are not qualified or are “in possession of fake degrees” – Therefore, the Bar Council of India is justified in asserting that such persons have to be identified and weeded out from the list of advocates enrolled with the Bar Councils – The due verification of advocates who are enrolled with the State Bar Councils, is of utmost importance to preserve the integrity of the administration of justice – According to Bar Council of India, the intent of the letter dated 01.11.2022 was not to direct the cessation of the process of verification, but only to ensure that the process of verification was not carried out merely on the basis of the certificates of practice issued by the State Bar Council without verifying the genuineness and validity of degree certificates – Having regard to the larger dimensions of the matter, a High Powered Committee should be constituted to monitor the process of verification – Such a High Powered Committee should be chaired by a former Judge of this Court and its members should consist of: (i) two Judges of the High Court; (ii) two senior advocates; and (iii) three members of the Bar Council of India.

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A **Issuing directions, the Court**

- HELD:** 1. The Bar Council of India apprehends that many advocates who have not submitted their forms for verification are persons who are not qualified or are “in possession of fake degrees”. The Bar Council of India has submitted and, with B justification, that this class of persons, without the possession of qualifications required for law practice, is known to enter upon the arena of courts for extraneous purposes, including the disruption of work. The Bar Council of India is justified in asserting that such persons have to be identified and weeded out from the list of advocates enrolled with the Bar Councils. [Para 9][509-E-F]
2. The due verification of advocates who are enrolled with the State Bar Councils, is of utmost importance to preserve the integrity of the administration of justice. Persons who profess to be lawyers, but do not either have the educational qualifications or degree certificates on the basis of which they could have lawfully granted entry to the Bar, pose a grave danger to the administration of justice to citizens. Hence, it is the duty of every genuine advocate of the country to ensure that they cooperate with the Bar Council of India which is seeking to ensure that the D certificates of practice are duly verified, together with the underlying educational degree certificates. Unless this exercise is carried out periodically, there is a danger that the administration of justice would be under a serious cloud. [Para 10][509-G-H; 510-A-B]
- F 3. The intent of the letter dated 1 November 2022 was not to direct the cessation of the process of verification, but only to ensure that the process of verification was not carried out merely on the basis of the certificates of practice issued by the State Bar Council without verifying the genuineness and validity of degree certificates. [Para 12][510-E]
- G 4. Having regard to the larger dimensions of this matter and the direct impact which the enrollment of fake degree holders and other persons who are not found to be in possession of the qualifications required for entry into the Bar have on the administration of justice, this Court accedes to the suggestion of H

the Bar Council of India that a High Powered Committee should be constituted by this Court to monitor the process of verification. In view of this Court, such a High Powered Committee should be chaired by a former Judge of this Court and its members should consist of: (i) two Judges of the High Court; (ii) two senior advocates; and (iii) three members of the Bar Council of India. The above suggestion has been accepted by the Bar Council of India. [Para 13][510-F-H] A

CIVIL ORIGINAL JURISDICTION: Writ Petition (Civil) No. 82 of 2023.

Under Article 32 of The Constitution of India C

Anand Nandan, Amit Pawan, Dhruv Shankar Misra, Mohd Faiz, Zubair, Aakarsh, Ms. Shubhangi, Akshat Srivastava, Advs. for the Petitioner.

Manan Kumar Mishra, Apurba Kumar Sharma, Sr. Advs., Ms. Radhika Gautam, Ms. Anjul Divedi, Advs. for the Respondents. D

The Judgment of the Court was delivered by

DR. DHANANJAYA Y CHANDRACHUD, CJI

1. The petitioner, who is a practising advocate, has invoked the jurisdiction of this Court to seek two distinct reliefs. The first of them is for challenging an office order dated 1 November 2022 of the Bar Council of India to all the State Bar Councils, the purport of which (according to the petitioner) was to interdict the process of verification of advocates who are enrolled with the State Bar Councils for scrutinizing the genuineness of their degrees and enrollments. The second issue deals with the method of co-opting members of the State Bar Councils to fill up casual vacancies. E F

2. We have heard Mr Anand Nandan, counsel appearing on behalf of the petitioner and Mr Manan Kumar Mishra, senior counsel, appearing on behalf of the Bar Council of India with Mr Apurba Kumar Sharma. G

3. In 2015, the Bar Council of India notified the Bar Council of India Certificate and Place of Practice (Verification) Rules 2015¹. The process of verification of the certificates and place of practice

¹ “2015 Rules” H

- A commenced with efforts by the State Bar Councils and the Bar Council of India.
4. The 2015 Rules were challenged before several High Courts, including the High Court of Delhi. A Transfer Petition was instituted before this Court by the Bar Council of India. The proceedings pending B before diverse High Courts were transferred to this Court in Transferred Case (Civil) No 126 of 2015.
5. The Bar Council of India constituted a High Powered Committee for monitoring the process of verification which was headed by a former Judge of the Supreme Court, two former Judges of the High C Courts and three members of the Bar Council of India.
6. The process of verification encountered difficulties as a result of the charges which were demanded by the Universities for verification of the educational certificates of the advocates. On 1 March 2017, a two-Judge Bench of this Court issued a direction to all the Universities not to D demand charges for verification of educational certificates.
7. The process of verification has consumed time as the number of advocates which stood at 16 lakh, at the material time, is estimated to be almost 25.70 lakh, at the present. The counter affidavit which has been filed by the Bar Council of India indicates the State-wise position E in regard to verification of enrolled advocates. The tabulated statement is produced below:

	S.No.	State	Total No. of Advocates enrolled	Total No. of forms Received Under verification	Total No. of forms Received Under declaration	Total forms received	Number of degrees sent to Universities for Verification	Number of report received back from University after Verification	Detail of fake degree/fake advocates, if any, after verification	Data received on
F			1	2	3	4	5	6	7	8
	1	Andhra Pradesh	63394	28323	9053	37376	27347	17174	14	18.11.2022
G	2	Delhi	146556	32195	12204	44399	86850	67780	117	26.11.2022
	3	Gujarat	113110	31479	7385	38264	21550	8942	0	23.11.2022
	4	Himachal Pradesh	11426	3548	4194	3548	6903	6903	0	29.11.2022
H	5	Jharkhand	32768	16670	618	17288	19019	10253	2	25.11.2022
	6	Karnataka	110125	49073	7578	56651	43886	18500	0	19.11.2022
	7	Kerala	62776	21910	5878	0	24494	20001	0	15.11.2022
	8	Maharashtra & Goa	220450	67944	22550	90494	69605	51000	7	29.11.2022
	9	Odisha	59198	29152	6781	35933	25857	1757	0	15.12.2022
	10	Punjab & Haryana	130662	41719	2250	43969	39690	21950	0	09.12.2022

11	Rajasthan	97730	47475	2015	49490	45377	37330	0	14.11.2022
12	Tamil Nadu	122591	38230	21756	59986	38007	28773	0	14.11.2022
13	Tripura	1801	660	18	678	639	594	0	09.12.2022
14	Uttar Pradesh	414568	157347	55747	213094	137608	67913	0	02.12.2022
15	Uttarakhand	19499	8011	3313	11324	8011	5343	0	11.11.2022
16	West Bengal	75353	26004	6800	32804	23435	9000	0	29.11.2022
17	Assam, Nagaland etc.	38307	21495	4365	25860	7309	8	0	23.11.2022
18	Bihar	134227	49851	4938	54789	12313	849	2	06.11.2022
19	Chattisgarh	31825	12600	1099	13699	11761	10713	0	11.11.2022
20	Madhya Pradesh	122082	47937	17206	65143	27591	8245	0	05.01.2023
21	Manipur	778	649	649	649	649	11	0	15.11.2022
22	Telangana	46847	22547	2912	25459	17557	10116	2	23.11.2022
23	Meghalaya	1347	268	428	1571	0	0	0	21.12.2022
24	Jammu & Kashmir	Information has not been received							
	Total	2057420	755087	199737	922468	695458	403155	144	

8. The above statement indicates that out of 20.57 lakh advocates, about 7.55 lakh forms were received for the purpose of verification. Senior advocates and advocates-on-record were only required to issue a declaration and, accordingly, 1.99 lakh declarations have been received. The total number of forms received is, thus, 9.22 lakhs, as indicated in the above table.

9. The above table indicates that a majority of advocates enrolled with the State Bar Councils have not submitted their verification forms. The Bar Council of India apprehends that many advocates who have not submitted their forms for verification are persons who are not qualified or are “in possession of fake degrees”. The Bar Council of India has submitted and, with justification, that this class of persons, without the possession of qualifications required for law practice, is known to enter upon the arena of courts for extraneous purposes, including the disruption of work. The Bar Council of India is justified in asserting that such persons have to be identified and weeded out from the list of advocates enrolled with the Bar Councils.

10. The due verification of advocates who are enrolled with the State Bar Councils, is of utmost importance to preserve the integrity of the administration of justice. Persons who profess to be lawyers, but do not either have the educational qualifications or degree certificates on the basis of which they could have lawfully granted entry to the Bar, pose a grave danger to the administration of justice to citizens. Hence, it is the duty of every genuine advocate of the country to ensure that they

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- A cooperate with the Bar Council of India which is seeking to ensure that the certificates of practice are duly verified, together with the underlying educational degree certificates. Unless this exercise is carried out periodically, there is a danger that the administration of justice would be under a serious cloud. The written submission which has been placed on the record by the Bar Council of India indicates that several such persons have been elected to State Bar Councils and some persons have thereafter occupied judicial office in the district judiciary as well.

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- C 11. The communication which was issued by the Bar Council of India on 1 November 2022 took exception to the fact that the Bar Council of the State of Uttar Pradesh had started the process of verification in a hurried manner without verifying the genuineness and validity of the educational certificates and degrees of advocates. The letter adverts to the fact that certificates of practice were being issued by the State Bar Council. Hence, all State Bar Councils were directed not to proceed with the process of verification till further orders. However, it was clarified
- D that the State Bar Councils which are verifying the genuineness and validity of degree certificates shall continue to do so.

- E 12. Mr Manan Kumar Mishra, Senior Counsel and the Chairperson of the Bar Council of India, has clarified, during the course of the submission, that the intent of the letter dated 1 November 2022 was not to direct the cessation of the process of verification, but only to ensure that the process of verification was not carried out merely on the basis of the certificates of practice issued by the State Bar Council without verifying the genuineness and validity of degree certificates.

- F 13. Having regard to the larger dimensions of this matter and the direct impact which the enrollment of fake degree holders and other persons who are not found to be in possession of the qualifications required for entry into the Bar have on the administration of justice, we accede to the suggestion of the Bar Council of India that a High Powered Committee should be constituted by this Court to monitor the process of verification.
- G In our view, such a High Powered Committee should be chaired by a former Judge of this Court and its members should consist of: (i) two Judges of the High Court; (ii) two senior advocates; and (iii) three members of the Bar Council of India. The above suggestion has been accepted by the Bar Council of India.

14. We accordingly direct that the Committee shall consist of the following persons: A

- (i) Mr Justice Deepak Gupta, former Judge of the Supreme Court;
- (ii) Mr Justice Arun Tandon, former Judge of the High Court of Judicature at Allahabad; B
- (iii) Mr Justice Rajendra Menon, former Chief Justice of the High Court of Delhi;
- (iv) Mr Rakesh Dwivedi, Senior Advocate; and C
- (v) Mr Maninder Singh, Senior Advocate.

The Bar Council of India shall be at liberty to nominate three members. The Secretary to the Bar Council of India shall be the nodal officer to facilitate all logistical assistance to be rendered to the members of the Committee. The honorarium payable to the members of the Committee shall be fixed by the Chairperson in consultation with the Bar Council of India. D

15. The Committee constituted by this Court is empowered to monitor the process of verification. The Committee would be at liberty to issue necessary guidelines and directions to ensure that the process of verification of advocates is duly carried out. The process of verification shall encompass both the educational degree certificates and the certificates of enrollment of the advocates concerned. All State Bar Councils shall comply with the directions of the Committee and report compliance. E F

16. All Universities and Examination Boards shall verify the genuineness of the educational certificates without charging any fee for the purpose of verification. The requisitions made by the Bar Councils shall be carried out without undue delay and the reports of the verification shall be submitted expeditiously. G

17. We request the Committee to commence work at its early convenience by convening the first meeting on a mutually convenient date and time. A status report shall be submitted before this Court by 31 August 2023 on the process which is being carried out. H

A 18. We clarify that the present order for constituting the Committee in order to effectuate the process of verification shall not be in and of itself construed as a direction for extending the existing terms of the Bar Councils.

Ankit Gyan
(Assisted by : Mahendra Yadav, LCRA)

Directions issued.