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

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Date of decision: 08.04.2024

+ W.P.(C) 3713/2019 & CM APPLs. 17059/2019, 24430/2020, 8881/2021, 14268/2021, 26327/2021, 40275/2021, 37776/2022, 37777/2022, 37839/2022, 17333/2024

ROUSE AVENUE BAR ASSOCIATION

.... Petitioner

versus

THE BAR COUNCIL OF DELHI & ANR

..... Respondents

+ W.P.(C) 11975/2019 & CM APPLs. 49042/2019, 2204/2020, 2205/2020, 37840/2022, 17490/2024 & 17326/2024

ROUSE AVENUE BAR ASSOCIATION

.... Petitioner

versus

THE BAR COUNCIL OF DELHI & ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Munawwar Naseem, Mr. Siddharth, Mr. Indra Chand, Mr. Mukesh Kumar, Mr. Yajuvender Kumar & Mr. Manoj Kumar, Advocates.

For the Respondents: Mr. Ramesh Gupta, Senior Advocate with Mr. Ajay Kumar Agarwal, Mr. Rajesh Mishra, Mr. Ajayinder Sangwan, Mr. Naresh Gupta, Mr. O. P. Faizi, Ms. Pooja Bansal & Mr. Vijay Bishnoi, Advocates/Bar Council of Delhi.

Mr. Surya Parkash Khatri, Chairman Bar Council of Delhi.



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Mr. Pankaj Kumar & Mr. Sarwan Kumar in CM (M)
14268/2021 alongwith Lalit Sharma, applicant.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The question that arises for consideration is as to whether the fundamental right guaranteed by Article 19(1) (c) of the Constitution of India to form an Association also includes the right to be recognised by a State Bar Council or by the Court for the purposes of availing benefits that flow from such recognition, either as a Court annexed Bar Association or as a recognised Bar Association under the Advocates Welfare Fund Act, 2001 (hereinafter referred to as the *Advocates Welfare Fund Act*).

2. This question has arisen in the context of the Rouse Avenue District Court Complex which was a newly set up Court complex, inaugurated on 08.04.2019. Virtually a race had started by some Advocates enrolled with the Bar Council of Delhi to set up Bar Associations comprising of advocates enrolled in Delhi as the Court annexed Advocates Association for the Rouse Avenue District Court Complex.



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“7. Functions of Bar Council of India.— 1[(1)] *The functions of the Bar Council of India shall be—*

(a) *****

(d) *to safeguard the rights, privileges and interests of advocates;*

(2) *The Bar Council of India may constitute one or more funds in the prescribed manner for the purpose of—*

(a) *giving financial assistance to organise welfare schemes for indigent, disabled or other advocates;*

(b) *giving legal aid or advice in accordance with the rules made in this behalf.*

(c) *establishing law libraries.*

*****”

6. Section 3(1) of the Advocates Welfare Fund Act, 2001 (hereinafter referred to as the *Advocates Welfare Fund Act*) stipulates that the appropriate Government shall constitute a fund to be called the “*Advocates’ Welfare Fund*”.

7. Section 16 of the Advocates Welfare Fund Act reads as under:

“16. Recognition by a State Bar Council of any association of advocates.—(1) Any association of advocates known by any name which is registered as an association before the date of commencement of this Act may, before the date to be notified by a State Bar Council in this behalf, apply for recognition to the State Bar Council in such form as may be prescribed.



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(2) Any association of advocates known by any name which is registered as an association on or after the date of commencement of this Act may, within three months from the date of its registration as an association, apply for recognition to the State Bar Council in such form as may be prescribed.

(3) Every application for recognition under sub-section (1) or sub-section (2) shall be accompanied by,—

- (a) a copy of the rules or bye-laws of the association;
- (b) names and addresses of office bearers of the association;
- (c) a list of members of the association containing the name, address, age, enrolment number and date of enrolment with the State Bar Council and the ordinary place of practice of each member.

(4) The State Bar Council may, after such enquiry as it deems necessary, recognise the association and issue a certificate of recognition in such form as may be prescribed.

(5) The decision of the State Bar Council on any matter regarding recognition of an association under sub-section (4) shall be final.

Explanation.—In this section, “registered” means registered or deemed to be registered under the Societies Registration Act, 1860 (21 of 1860) or any other law for the time being in force.”

8. In terms of Section 16 of the Advocates Welfare Fund Act, an Association of Advocates, to claim benefits under the said Act, has to apply to the State Bar Council for recognition. An application for recognition has to be accompanied by a copy of rules and bye laws of



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the association, names and addresses of its office bearers and a list of its members along with their details.

9. In terms of Section 16(4) of the Advocates Welfare Fund Act, the State Bar Council may after such enquiry as it deems necessary recognise the association and issue certificate of recognition to such an association. In terms of Section 16(5) of the Advocates Welfare Fund Act, the decision of the State Bar Council on any matter regarding recognition of an association is final.

10. Section 18(1) and (2) of the Advocates Welfare Fund Act reads as under:

“18. Membership in Fund.—(1) Every advocate practising, before the commencement of this Act, in any court, tribunal or other authority in a State and being a member of a State Bar Association or a State Advocates’ Association in that State, shall apply, within six months of the commencement of this Act, to the Trustee Committee for admission as a member of the Fund, in such form as may be prescribed.

(2) *Every person,—*

(a) *admitted as an advocate on the roll of a State Bar Council, after the commencement of this Act;*

(b) *practising in any court, tribunal or other authority in a State and being a member of a State Bar Association or a State Advocates’ Association in that State,*

shall apply, within six months of his enrolment as an advocate, to the Trustee Committee, for admission as a member of the Fund in such form as may be prescribed.



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(3) ***** ***** *****”

11. Section 18 (1) and (2) of the Advocates Welfare Fund Act mandates every advocate practising before or after the commencement of the Act to apply for admission as a member of the Fund. One of the prerequisites for becoming a member of the Fund is membership of a State Bar Association or a State Advocates’ Association.

12. Section 26 of the Advocates Welfare Fund Act provides for Printing and distribution of Advocates’ welfare Fund Stamps by the State Bar Council and reads as under:

“26. Printing and distribution of Advocates’ Welfare Fund Stamps by State Bar Council.— (1) The appropriate Government shall, on a request made by the State Bar Council in this behalf, cause to be printed and distributed Advocates’ Welfare Fund Stamps of the value of five rupees or such other value, which may be prescribed, inscribing therein “Advocates’ Welfare Fund Stamp”, in such design as may be prescribed.

(2) Every stamp referred to in sub-section (1) shall be of the size 2.54 c.m. by 5.08 c.m. and sold to the advocates.

(3) The custody of the stamps shall be with the State Bar Council.

(4) The State Bar Council shall control the distribution and sale of the stamps through the State Bar Associations and the State Advocates’ Associations.

(5) The State Bar Council, the State Bar Associations and the State Advocates’ Associations shall keep proper accounts of the stamps in such form and manner as may be prescribed.



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(6) The State Bar Associations and State Advocates' Associations shall purchase the stamps from the State Bar Council after paying the value thereof as reduced by ten per cent. of such value towards incidental expenses."

13. The sale of welfare stamps is to be controlled and distributed by the State Bar Council through the State Bar Association and the State Advocates' Association.

14. Section 27 of the Advocates Welfare Fund Act mandates every advocate to affix the welfare stamp on the vakalatnama and reads as under:

"27. Vakalatnama to bear stamps.—(1) Every advocate shall affix stamp of a value of—

- (a) five rupees on every Vakalatnama filed by him in a District Court or a court subordinate to the District Court;*
- (b) ten rupees on every Vakalatnama filed by him in a tribunal or other authority or a High Court or the Supreme Court:*

Provided that the appropriate Government may prescribe the value of the stamps not exceeding twenty-five rupees to be affixed under this sub-section:

Provided further that the appropriate Government may prescribe different value of the stamps to be affixed on every Vakalatnama to be filed in a District Court, or a court subordinate to the District Court or a tribunal or other authority or a High Court or the Supreme Court.

(2) The value of the stamp shall neither be the cost in a case nor be collected in any event from the client.

(3) Any contravention of the provisions of sub-section (1) or sub-section (2) by any advocate shall disentitle him either in whole



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or in part to the benefits of the Fund and the Trustee Committee shall report such contravention to the State Bar Council for appropriate action.

(4) Every stamp affixed on every Vakalatnama filed before a District Court or a court subordinate to the District Court or a tribunal or other authority or a High Court or the Supreme Court shall be cancelled in such manner as may be prescribed.”

15. An Advocates Welfare Fund has been constituted under Section 3 of the Advocates Welfare Fund Act for the State of Delhi, under which various welfare schemes are being implemented through the recognised State Bar Associations and the State Advocates' Associations.

16. Further, there are various facilities, benefits and privileges that are provided to members by the Court annexed and recognised Bar Associations like use of Bar libraries, reserved eating spaces, entry to and parking of vehicles in Court Complexes through stickers issued by the recognised Bar Association and even allotment of chambers or table spaces in court complexes.

17. A coordinate bench of this court in *P.K. Dash versus Bar Council of Delhi 2016 SCC OnLine Del 3493* held as under:

“43. Given this position of Advocates in Courts in India, and the importance of their role in judicial decision making, their conduct in respect of matters not regulated by law may appear, on the façade, beyond the pale of what may be described as “public functions”. Yet, that is not the case. Bar Associations-like the



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respondents, apart from the statutory bodies such as Bar Councils, also occupy a pivotal role in Court administration and functioning. This can be gathered from the fact that Court procedure is framed after consultation with such Bar Associations, important policy and administrative decisions such as rules to allot chambers, use of common spaces, allotment of commercial spaces, their identification (all meant for the use of the litigant public and members of the Bar) earmarking of parking lots, policies and rules for designation of senior counsel under the Advocates Act, are taken, more often than not, with the consultation and inputs from these Bar Associations, in view of their representative nature. Any dispute within such association invariably has repercussions in court functioning. Conflicts with members of the public, interface with the local administration and police authorities routinely - for security of court, court precincts, chambers, etc. need active participation by Bar Associations. Often, individual grievances of members of the Bar in court premises require intervention and deft handling on the part these Associations, in the absence of which Court proceedings would be disrupted. Above all, elections of Bar Associations quite often lead to large-scale requests for adjournments, and litigants have to pay the price. Intervention through court policies requiring discipline in canvassing for votes and what is permissible in the form of leaflets and pamphlets, use of speakers, etc, by the Bar Associations, if left unregulated would also seriously undermine court functioning. These show that Bar Associations' activities have a predominantly public character, and can, in many instances, affect court functioning. As a result, it is held that the nature of relief sought in these proceedings is intrinsically connected with public functioning of the court and affect them. Consequently the present proceedings are maintainable under Article 226 of the Constitution of India.

(underlining supplied)

18. Apart from benefits that may entail to members of Court Annexed/recognised Bar Associations, these associations are also the birth place of leaders of the Bar, who comprise the Executive Committees of such Bar Associations.



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19. In the instant case, disputes have arisen because there are several Bar Associations which are vying for being recognized as the Court Annexed/Recognised Bar Association for the newly formed Rouse Avenue District Court Complex as also the recognised Bar Association under the Advocates Welfare Fund Act.

20. The four associations that are before us are (1) the *Rouse Avenue Bar Association* which was registered as a society on 22.02.2019; (2) *Delhi Rouse Avenue Court Bar Association* which was registered as a society on 12.07.2019; (3) *Rouse Avenue District Court Bar Association* registered as a society on 27.08.2020 and (4) *Central Delhi Court Bar Association* registered as a society on 11.03.2021.

21. In the Counter Affidavit filed by the Bar Council of Delhi, it is stated that Bar Associations were formed, in the year 2006 for Rohini Court Complex, in 2008 for Dwarka Court complex and 2010 for the Saket Court Complex by and under the aegis of the Bar Council of Delhi.

22. Further, it is contended on behalf of the Bar Council of Delhi, that keeping in view the fact that there was litigation and dispute between several advocates with regard to formation of the Court annexed Bar Association for the newly formed Rouse Avenue District



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Court Complex and also as per the past practise where the Bar Council of Delhi had formed Bar Associations for newly set up District Court Complexes and then conducted elections and handed over the management to the elected Executive Committee, a Resolution was passed by the Bar Council of Delhi on 15.03.2019 to form an Association i.e. the *Central Delhi Court Bar Association*. Said association was registered as a society on 11.03.2021 with seven desirous persons who were all members of the Bar Council of Delhi.

23. In WP (C) 3713/2019, filed by *Rouse Avenue Bar Association*, the following relief has been claimed:

A. Pass an appropriate writ, direction or order thereby setting aside impugned decision/reply dated 03/04/2019 issued by the Respondent No. 1 through its Hony. Secretary,

B. Pass an appropriate writ, direction or order thereby directing the Respondents to issue Advocate Welfare Stamps/ Tickets to the Rouse Avenue Bar Association on appropriate payment,

C. Pass an appropriate writ, direction or order thereby directing the Respondents to accord appropriate recognition to the Rouse Avenue Bar Association,

D. Pass an appropriate writ, direction or order thereby directing the Respondents from desisting from circulating any derogatory material against the Rouse Avenue Bar Association and its executive body through any means i.e. Print, Electronics or any other means,



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E. Pass an appropriate writ, direction or order thereby restraining the Respondents from forming any Bar Association at Rouse Avenue Courts Complex, DDU Marg, New Delhi 110002”.

24. By the impugned Resolution dated 03.04.2019, the application of the petitioner seeking recognition under Section 16 read with Section 26 of the Advocates Welfare Fund Act was declined and Petitioner was informed that they could not be issued any welfare fund stamps and that the Bar Council of Delhi had decided to constitute a Bar Association in the Rouse Avenue District Court Complex.

25. *WP (C) 11975/2019* was filed by the *Rouse Avenue Bar Association* impugning the recognition granted by the Bar Council of Delhi to the *Delhi Rouse Avenue Court Bar Association* under the Advocates Welfare Fund Act and issuance of Advocates Welfare Stamps to them. Petitioner prayed as under:

“A. Pass an appropriate writ, direction or order thereby setting aside impugned decision dated 17/09/2019 and letter dated 19/10/2019 issued by the Respondent No. 1,

B. Pass an appropriate writ, direction or order thereby directing Respondent No. 3 to remove its sign board immediately from Rouse Avenue Courts Complex, DDU Marg, New Delhi 110002,

C. Pass an appropriate writ, direction or order thereby restraining Respondent No. 3 from doing any act incidental to its operation as a recognized bar in Rouse Avenue Courts Complex, DDU Marg, New Delhi 110002.”



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26. During the pendency of these petitions, on 22.01.2020, a statement was made on behalf of the Petitioner *Rouse Avenue Bar Association* and the *Delhi Rouse Avenue Court Bar Association* that a new Association by the name of *Rouse Avenue Court Bar Association* was sought to be formed. This statement was reiterated on 05.02.2020.

27. As per the Petitioner (*Rouse Avenue Bar Association*), the *Rouse Avenue Bar Association* and the *Delhi Rouse Avenue Court Bar Association* subsequently came together and formed the *Rouse Avenue District Court Bar Association*. It is contended that there was no formal merger of the two Associations but the members decided to form the third Association i.e. the *Rouse Avenue District Court Bar Association* and now it is only this Association that is seeking recognition as the Court annexed Bar Association and the recognised Bar Association under the Advocates Welfare Fund Act.

28. It is an admitted position that both *Rouse Avenue Bar Association* and *Delhi Rouse Avenue Court Bar Association* are no longer continuing or seeking to be the Court annexed Bar Association or the recognised Association under the Advocates Welfare Fund Act for the Rouse Avenue District Court Complex and recognition has now been sought in the name of *Rouse Avenue District Court Bar Association* by the desirous persons who had constituted those two associations.



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29. It is stated that an application has also been filed with the Bar Council of Delhi to transfer/extend the recognition earlier granted to the *Delhi Rouse Avenue Court Bar Association* in the name of *Rouse Avenue District Court Bar Association*.

30. As per the Bar Council of Delhi, in view of the complaint received from several members, recognition of the *Delhi Rouse Avenue Court Bar Association* under the Advocates Welfare Fund Act has been cancelled by Resolution dated 20.11.2020.

31. Mr. Ramesh Gupta, learned senior counsel appearing for the Bar Council of Delhi submits that in view of various infractions noticed in the manner in which the members have been enrolled by the three associations, application for grant of recognition under the Advocates Welfare Fund Act has been declined.

32. Mr. Ramesh Gupta, learned senior counsel appearing for the Bar Council of Delhi submits that under orders of this Court, said three Bar Associations were directed to handover all their original record of membership to the Bar Council of Delhi.

33. He submits that the membership forms in original of the (1) *Rouse Avenue Bar Association*, (2) *Delhi Rouse Avenue Court Bar Association* and (3) *Rouse Avenue District Court Bar Association* that



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have been furnished to the Bar Council of Delhi and there are several infractions noticed in the enrolment of members.

34. The original forms of membership of all the three associations have been produced in Court before us by the Bar Council of Delhi.

35. Perusal of the forms shows glaring infractions of law. In the case of *Rouse Avenue Bar Association* and the *Rouse Avenue District Court Bar Association*, the respective Memorandum of Associations require the applicants to have the application form proposed and seconded by two Members of the Association.

36. Majority of the forms are blank. They only contain the name and address of the applicants. They are not even signed by the applicants. The declaration is also unsigned. The columns with regard to proposer and seconder are blank. There is no name or signature. In some cases the payment for subscribing to the membership has been made by issuance of cheque of a third party.

37. In the case of *Delhi Rouse Avenue Court Bar Association*, the form for applying for membership does not even have a column for a proposer or seconder for becoming a Member.

38. Further, as noticed hereinabove, it is an admitted case that parties (i.e. the desirous persons) have decided not to pursue the *Delhi*



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Rouse Avenue Court Bar Association as the recognized Association for the Rouse Avenue District Court Complex and it is third Association i.e. *The Rouse Avenue District Court Bar Association* which is proposed by them to be the recognized Bar Association for the Rouse Avenue District Court Complex.

39. However, from perusal of the original Forms that have been produced of the *Rouse Avenue District Court Bar Association*, we find that the list of members of the said Association cannot be accepted to be valid for the reason that the Forms are not signed by the applicant; no declaration signed; there is no proposer or seconder as required by the Memorandum of Association and even payment in most cases has been made by third parties and not by the applicants.

40. We may note that there is no challenge by the Petitioners and the desirous persons of the said three Associations to the above infractions in the membership. The only explanation is that the membership drive was undertaken during the pandemic and as such they accepted the forms and confirmations over email.

41. Such an explanation cannot be accepted. The forms have been produced in physical form. They contain the name and address of the Applicant, but no signatures or declaration of the applicant or of the proposer or seconder as mandated by the Memorandum and even



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payments have been made by a third party. There is no logical explanation for the urgency to form such an association by circumventing the law except to steal a march over others in forming a Court annexed Bar Association.

42. Further, in terms of Section 16(4) of the Advocates Welfare Fund Act, the Bar Council of Delhi was empowered to conduct such enquiry as it deemed necessary for the purpose of recognition and in terms of Section 16(5) of the Advocates Welfare Fund Act, the decision of the State Bar Council on any matter regarding recognition is final.

43. Clearly, in view of the infraction noticed in mostly all the application forms for membership of the three associations i.e. the (1) *Rouse Avenue Bar Association*, (2) *Delhi Rouse Avenue Court Bar Association* and (3) *Rouse Avenue District Court Bar Association*, membership of said association cannot be accepted to be valid for the purposes of recognition as a Court annexed Bar Association or as a recognised Bar Association under the Advocates Welfare Fund Act.

44. Accordingly, in view of the above, we are of the view that none of the three Associations can be accepted as the Court annexed/recognized Bar Association of the Rouse Avenue District Court Complex. Consequently, the decision of the Bar Council of



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Delhi in refusing to grant recognition to the *Rouse Avenue Bar Association* and the *Rouse Avenue District Court Bar Association* and cancelling the recognition of the *Delhi Rouse Avenue Court Bar Association* cannot be faulted.

45. It may however be noticed that the cancellation of recognition earlier granted to the *Delhi Rouse Avenue Court Bar Association* has not been challenged. In fact, *Rouse Avenue Bar Association* in W.P. (C) 11975/2019 has challenged the grant of recognition to the *Delhi Rouse Avenue Court Bar Association*. For all practical purposes the relief sought in W.P. (C) 11975/2019 has been granted by the Bar Council of Delhi. Further, as noticed hereinabove, no recognition is now being sought for the *Delhi Rouse Avenue Court Bar Association*

46. Coming to the fourth Association formed in terms of the resolution of the Bar Council of Delhi i.e. *Central Delhi Court Bar Association*.

47. As noticed above, Bar Associations were formed, in the year 2006 for Rohini Court Complex, in 2008 for Dwarka Court complex and 2010 for the Saket Court Complex by the Bar Council of Delhi. The elections were conducted under the aegis of the Bar Council of Delhi and then the management handed over to the newly elected Executive Committee.



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48. Further, it is contended on behalf of the Bar Council of Delhi that the Bar Association (Constitution, Recognition & Conduct of Election) Rules, 2019 (hereinafter referred to as the Bar Association Constitution Rules) framed by the Bar Council of Delhi and duly approved by the Bar Council of India in its meeting held on 11.08.2019 empowers the Bar Council of Delhi to Constitute Bar Associations and regulate the elections of the Bar Associations.

49. Rules 3 of the Bar Association Constitution Rules reads as under:

“3. REGISTRATION OF BAR ASSOCIATION

- a. There shall be only one Bar Association in one Court Complex that includes Delhi High Court and all District Court, Forums, Tribunals, Tehsil, Taxation, Revenue Authority or any other court or authority existing within the jurisdiction of Delhi.*
- b. The Bar Association already recognized and registered with Bar Council of Delhi need not apply under these rules.*
- c. In case of establishment of a new Court in Delhi, for formation of Bar Association, the Adhoc Committee of Bar Council of Delhi shall initiate the process for constitution and conduct of elections of Bar Association and shall take all steps in this regards, as per these Rules. The Committee may consult the concerned District Judge/Judge Incharge.”*

50. In terms of Rule 3(c) of the Bar Association Constitution Rules, in case of establishment of a new Court in Delhi, an Adhoc



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Committee of Bar Council of Delhi is to initiate the process for constitution and conduct of election of Bar Association.

51. We are informed by the learned counsel for the petitioner that said rules were challenged in *W.P. (C) 10363/2021* titled *Lalit Sharma & Ors versus Union of India & Ors*. A Full Bench of this Court by judgment dated 19.03.2024 has disposed of the said petition, directing that elections to all District Court Bar Associations, Delhi High Court Bar Association and all Bar Associations annexed with the Tribunals in Delhi be held on one same day. The date of the election as fixed by the Full Bench is 19.10.2024.

52. It is submitted that though there is a reference in the judgment to the challenge to the said Rules, however, the judgment does not deal with the said challenge, because of which, an application seeking review has been filed before the Full Bench on 05.04.2024 and the said application is yet to be listed.

53. Be that as it may, the *Central Delhi Court Bar Association* has been constituted by the Bar Council of Delhi in line with the past practise where Bar Council of Delhi had constituted Bar Associations for the then newly set up District Court Complexes i.e. 2006 for Rohini Court Complex, 2008 for Dwarka Court complex and 2010 for the Saket Court Complex.



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54. Learned counsel for the Petitioner contends that there is an issue as to validity of the membership of the *Central Delhi Court Bar Association* in as much as payments for the subscription for members appear to have made by third parties.

55. Mr. Ramesh Gupta, learned senior counsel appearing for the Bar Council of Delhi disputes the same and submits that the payment for subscription by members have been given by the individual members by payment through individual pay order. He however, with a view to put a quietus to the dispute submits that the said Association shall refund the subscription amount received from the members and a fresh membership drive be directed to be conducted for enrolling members. He further submits that after the elections are held the management shall be handed over to the newly elected Executive Committee and none of the seven desirous persons shall claim seniority for any benefits based on their membership.

56. For the purposes of record, we may note that all the four Associations have been registered as societies under the Societies Registration Act 1860, with the minimum mandatory number of seven Advocates subscribing to the Memorandum of Association.

57. Insofar as the fundamental right of all citizens to form an Association as enshrined in Article 19 (1) (c) of the Constitution is



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concerned, there can be no dispute with the propositions that such Associations can be formed. In the present case since all the Associations have been formed with the minimum mandatory number of desirous persons having subscribed to the Memorandum and Articles of Association and have been registered as Societies, this Court is not commenting on the validity of the formation of the said Associations. However, merely because an Association has been validly formed does not *ipso facto* entail recognition as a Court annexed Association or as a recognized Association under the Advocates Welfare Fund Act.

58. Serious infraction of rules is found in respect of the members enrolled after the formation of the three Associations i.e. (1) *Rouse Avenue Bar Association*, (2) *Delhi Rouse Avenue Court Bar Association* and (3) *Rouse Avenue District Court Bar Association*. Since the infraction noticed is fundamental to the enrolment of members, said Associations cannot be accepted as the Court Annexed/recognised Bar Associations.

59. On the other hand, with regard to the Association formed in terms of the resolution of the Bar Council of Delhi i.e. *The Central Delhi Court Bar Association*, the infraction alleged is that the payment was allegedly made by third parties for enrolling members. Though this is disputed on behalf of the Bar Council of Delhi,



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however, it is conceded that fresh members be enrolled in the said Association.

60. On the one hand, is an association formed by some private individuals that was formed even before the Rouse Avenue District Court Complex was inaugurated by this Court on 08.04.2019 and which is replete with infraction of rules in enrolling members and on the other hand, is a Bar Association constituted in terms of a resolution passed by the Bar Council of Delhi. The balance naturally tilts in favour of the Bar Association constituted by the Bar Council of Delhi i.e. the *Central Delhi Court Bar Association*.

61. Accordingly, we are inclined to accept the *Central Delhi Court Bar Association* as the Court Annexed recognised Bar Association for the Rouse Avenue District Court Complex. This, we hold is *dehors* the power of the Bar Council of Delhi to constitute a Bar Association under the Bar Association (Constitution, Recognition & Conduct of Election) Rules, 2019.

62. As noticed above, the *Central Delhi Court Bar Association* was registered as a Society with seven desirous persons who were the sitting members of the Bar Council of Delhi subscribing to its Memorandum and Articles of Association. We are informed that on the demise of one of the seven desirous persons i.e. Mr. Jagdev, Mr.



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Rajesh Mishra, Advocate, who was later co-opted as a Member of the Bar Council of Delhi, was made the seventh Member of the said Association.

63. Reference may also be had to the Judgment dated 19.03.2024, of the Full bench in *Lalit Sharma (supra)* wherein the full bench has held that the elections of the Executive Committees of all the Bar Associations should be held on the same day i.e. 19th October, 2024. The election for the Court Annexed Bar Association for the Rouse Avenue District Court Complex was left out because of the pendency of these petitions.

64. The Full Bench has *inter alia* directed as under:

“35. Keeping in view the aforesaid, paragraph 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, 19th October, 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.



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- 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 concerned Registrar of the High Court 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 (supra) 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 concerned Principal District 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*



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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 (supra) on or before 31st 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 31st July of the year of the election.

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

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

11.16 Only bonafide 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 bonafide 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 Bonafide advocates if they have not cleared the



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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 31st 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 31st 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 16th August of the year of the Election. Objections shall be invited till 1st September and the final list shall be displayed by the 15th September."

65. In view of the above, we direct as under:

- i) That the *Central Delhi Court Bar Association* shall be the recognized Court annexed Bar Association for the Rouse Avenue District Court Complex;
- ii) the Membership of the *Central Delhi Court Bar Association* as on date shall be comprising of the six surviving desirous persons who had signed the Memorandum of Association and Mr. Rajesh Mishra, Advocate who was later made a Member of the said Association in place of Late Mr. Jagdev;



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iii) an Adhoc Committee is hereby constituted for the management of the *Central Delhi Court Bar Association* comprising of

- (a) *Vice President of the Delhi High Court Bar Association*
- (b) *Senior Vice President of the Delhi Bar Association*
- (c) *Vice President of the New Delhi Bar Association*
- (d) *Senior Vice President of the Shahdara Bar Association*
- (e) *Vice President of the Rohini Bar Association*
- (f) *Vice President of the Dwarka Court Bar Association*
- (g) *Vice President of the Saket Bar Association*

iv) In case the Senior Vice President/Vice President, as the case may be, of any of the aforesaid Bar Associations is either not available or declines, for any reason, to become a Member of the Adhoc Committee, then the Vice President/Additional Secretary/Joint Secretary, as the case may, be of the said Association shall be a Member in place of the said Senior Vice President/Vice President.



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- v) The senior most member of the Adhoc Committee in term of his/her date of enrolment as per Section 17 of the Advocates Act shall be the Chairperson of the Adhoc Committee.
- vi) In the first meeting of the Adhoc Committee, the Committee, from amongst its members, shall nominate two authorized signatories to the bank account of the *Central Delhi Court Bar Association* whose names shall be then substituted in the existing bank account.
- vii) The Adhoc committee shall open the membership of the Association to those Advocates who fulfil the eligibility conditions for membership.
- viii) The first phase of membership drive shall be kept open till 31.05.2024. For the first phase of membership drive till 31.05.2024, the requirement of a proposer and seconder shall be dispensed with. However, the applicants shall have to comply with all the other requirements and eligibility conditions for membership as per the Articles and Memorandum of Association.
- ix) The inter-se seniority of all applicants whose applications are received till the end of the working hours of



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31.05.2024 shall be determined as per his/her date of enrolment in terms of Section 17 of the Advocates Act.

- x) None of the seven present members (desirous persons) shall claim seniority based on their membership. Their seniority shall also be considered in accordance with the date of enrolment as per Section 17 of the Advocates Act.
- xi) The seniority of the members whose applications are received after 31.05.2024 shall be determined as per the date of the receipt of the valid application form.
- xii) Subscription for membership shall be paid by the concerned Advocate from his/her own bank account, or his own electronic payment platform. Cash deposit of subscription shall not be accepted.
- xiii) The Adhoc Committee shall ensure compliance of all the directions issued by the Full Bench by its judgment dated 19.03.2024 in *Lalit Sharma (supra)* with regard to the conduct of elections and the eligibility criteria for the said election.
- xiv) The Adhoc committee shall refund all the money received from the Advocates who had earlier applied for



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becoming a member of the *Central Delhi Court Bar Association*, after due verification.

- xv) An Advocate desirous of becoming a member shall have to submit a fresh application form and the earlier form submitted and payments made shall not be considered valid.
- xvi) We are informed that the membership fee prescribed by the Memorandum of Association is Rs. 1000/- and there is an annual fee of Rs 500/- besides a subscription fee of Rs 1200/- per month and above depending on the standing at the Bar. The fee appears to be on a higher side as compared to other Bar Associations. We accordingly direct that for the moment only the admission fee of Rs 1000/- shall be payable for becoming a member and there shall be no monthly subscription till the elections are held. Thereafter the elected body shall determine and stipulate a reasonable amount per month as subscription to be paid for the said Association, which shall be payable by the members.
- xvii) Bar Council of Delhi has volunteered that its Secretary Col. Arun Sharma (Retd.), who is on the pay-roll of the



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Bar Council of Delhi, shall provide the secretarial support to the said Adhoc Committee till the first elections are held of the Association. Said offer is accepted. Accordingly, Col. Arun Sharma (Retd.), Secretary Bar Council of Delhi shall be the Secretary of the Adhoc Committee.

- xviii) The first meeting of the Adhoc Committee shall be held on Friday the 26th April, 2024 at 4.30 pm in the Office of the Bar Council of Delhi at 1-F, Lawyers Chambers, High Court of Delhi, Sher Shah Road, New Delhi.
- xix) The original record submitted by the (1) *Rouse Avenue Bar Association*, (2) *Delhi Rouse Avenue Court Bar Association* & (3) *Rouse Avenue District Court Bar Association* with the Bar Council of Delhi shall be digitized and then returned to the respective Associations. A Digital copy of the said scanned record shall be filed by the Bar Council of Delhi in this Court within a period of four weeks from today.
- xx) Mr. Surya Prakash Khatri, Chairman of the Bar Council of Delhi, fairly states that with a view to put a quietus to the disputes and in the interest of the Bar, the Show



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Cause Notices dated 23.02.2021 issued to Mr. Arun Sharma (president) and Mr. Siddharth (secretary) of the *Rouse Avenue District Court Bar Association* shall not be pressed and the proceedings initiated thereon be deemed to have been closed. This Court appreciates the gesture shown by Mr. Surya Prakash Khatri Chairman Bar Council of Delhi in the interest of the Bar.

- xxi) Since a new Bar Association is being formed, any condition mandating a minimum qualifying membership period for contesting the election for any post or casting a vote shall not be applicable for the purposes of the first election to be held on 19.10.2024. However, the cut-off date of 31st July fixed by the Full Bench in *Lalit Sharma (Supra)* shall be adhered to.

66. It is clarified that the challenge raised by Mr. Lalit Sharma to the Bar Association (Constitution, Recognition & Conduct of Election) Rules, 2019, which is stated to be subject matter of the review application filed by him before the full bench in WP (C) 10363/2021, is left open.

67. This Court appreciates the assistance rendered by the Counsels appearing for the parties for resolution of the subject dispute.



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68. Copy of this order be forwarded to the members of the Adhoc Committee for necessary compliance. Copy of this Order be also forwarded to all the Court/Tribunal annexed Bar Associations for bringing it to the notice of its members.

69. The Writ petitions and all the pending applications are disposed of in the above terms.

70. Copy of the order be supplied *Dasti* to parties under the signatures of the Court Master.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

APRIL 08, 2024/sk