

**Court No. - 39**

**Case :-** WRIT - C No. - 25678 of 2023

**Petitioner :-** Onkar Bajpai And Another

**Respondent :-** The U.P. Bar Council And 2 Others

**Counsel for Petitioner :-** Saurabh Srivastava

**Counsel for Respondent :-** Ashok Kumar Tiwari, Vishnu Prakash Srivastava

**Hon'ble Saumitra Dayal Singh, J.**

**Hon'ble Rajendra Kumar-IV, J.**

1. Heard Sri Saurabh Srivastava, learned counsel for the petitioners; Sri Ashok Kumar Tiwari, learned counsel for Bar Council of Uttar Pradesh and Sri Vishnu Prakash Srivastava, learned counsel for respondent no.3.

2. Present writ petition has been filed by the petitioners who describe themselves as duly enrolled Advocates under the Rules of the Bar Council of Uttar Pradesh. They seek the following relief :

*"Issue a suitable writ, order or direction in the nature of mandamus commanding the respondent no.2 to comply the order dated 09.07.2023 passed by Vice-Chairman, the U.P. Bar Council having its office at 19, Maharashi Dayanand Marg, Praygaraj-211001, thereby the annual subscription of the petitioners may be accepted and their names may be added in the electoral list of Kanpur Bar Association."*

3. The communication dated 09.07.2023 issued by the Vice Chairman, Bar Council of Uttar Pradesh exercising the powers delegated on him reads as under :

**"आदेश**

श्री ओंकार बाजपेयी, एडवोकेट व श्री सुधीर बाजपेयी, एडवोकेट, कानपुर बार एसोसिएशन द्वारा पत्र दिनांकित 09.07.2023 प्रेषित कर अवगत कराया गया कि एल्डर्स कमेटी, कानपुर द्वारा बहाली के बाद भी कानपुर बार एसोसिएशन जिसका कार्यकाल समाप्त हो चुका है, के द्वारा प्रार्थी-गण का नाम वार्षिक चंदा जमा न होने के कारण मतदाता सूची में सम्मिलित नहीं किया गया है।

श्री ओंकार बाजपेयी, एडवोकेट व श्री सुधीर बाजपेयी, एडवोकेट, कानपुर बार एसोसिएशन द्वारा प्रेषित पत्र व समस्त तथ्यों से अवगत होते हुए चेयरमैन, एल्डर्स कमेटी, कानपुर बार एसोसिएशन, कानपुर को निर्देशित किया जाता है कि श्री ओंकार बाजपेयी, एडवोकेट व श्री सुधीर बाजपेयी, एडवोकेट, कानपुर बार एसोसिएशन का वार्षिक चंदा जमा कराते हुए उनका नाम मतदाता सूची में सम्मिलित करें।

दिनांक 09.07.2023

4. Submissions of learned counsel for the petitioners are, Section 6(1)(d) of the Advocates Act, 1961 (hereinafter referred to as the 'Act') clearly authorises the Bar Council of Uttar Pradesh to pass appropriate orders to safeguard the rights, privileges and interests of advocates. He has also referred to Rule 6 of the Rules framed under Section 15(2)(g) of the Act. For ready reference Section 6(1)(d) of the Act is quoted below :

**"6. Functions of State Bar Councils.-- (1) The functions of a State Bar Council shall be --**

(a) ...

(b) ...

(c) ...

(d) to safeguard the rights, privileges and interests of advocates on its roll;"

5. Rule 6 of the above Rules is in the following terms :

**"Rules Framed Under Section 15(2)(g).**

*Powers of the Chairman -*

1. ...

2. ...

3. ...

4. ...

5. ...

6. *Whenever immediate action is necessary to safeguard the rights, privileges and interests of the advocates, the Chairman shall take immediate action in the matter."*

6. Thus, it has been submitted, the Chairman of the Bar Council of Uttar Pradesh

had the power to issue such direction to the Bar Association of Kanpur Nagar.

7. On merits, it has been submitted, the petitioners are being victimised at the hands outgoing of Secretary of the Kanpur Bar Association. Earlier, a false FIR was lodged against the petitioners. Nothing came of it. Final report has already been submitted by the police upon due investigation. Solely on account of the civil dispute pending between the present petitioners and respondent no.3 due revival/renewal of membership of the petitioners is being repeatedly declined. Third, it has been submitted, at present, the Kanpur Bar Association is not functional. Though election has been conducted, however, the new Executive Council has not been sworn in. The Elder's Committee is still in place. It had agreed to grant benefit of renewal of membership to the petitioners. However, owing to the illegal conduct of the private respondent, that membership has been stalled.

8. On the other hand, respondent no.3 would contend, there is no power, authority or jurisdiction etc. in the Bar Council of Uttar Pradesh to issue any direction to any Bar Association to grant or refuse to grant membership to any person. The Bar Council exists as a parent body that grants licence to practice to any advocate. All its powers are to regulate the conduct of advocates enrolled by it. The Bar Associations are independent registered societies though Bar Council enjoys certain leverage with the Bar Associations to the extent it has provided model bye-laws etc. At the same time, in the context of a dispute, a person claimed to be a member of the Bar Association and other persons who may be opposed to it, the Bar Council has less to say.

9. On the other hand, Sri Ashok Kumar Tiwari, learned counsel for the Bar Council of Uttar Pradesh would submit, looking into the grievance of the petitioners and finding it to be genuine, the Bar Council has already issued direction. It can do nothing more.

10. Having heard learned counsel for the parties and having perused the record, whatever be the true facts with respect to the claim being made by the present petitioners, at present, the writ Court is neither the executing Court of the Bar

Council of Uttar Pradesh nor we find any statutory duty cast on the Bar Council to issue any direction to an independent Bar Association to revive/renew the registration or membership to any individual. The powers being referred to by learned counsel for the petitioners are clearly not powers vested in the Bar Council or its functionaries to compel any Bar Association to grant or refuse to grant membership by any Bar Association. Those powers are with respect to protecting the interests, rights and privileges of advocates generally, that is as a body of individuals.

11. Those powers are not vested in the Bar Council to adjudicate or determine individual rights of advocates. That power is confined to conduct disciplinary proceedings etc. In the context of individual rights claimed by the petitioners to be revived as a member of Kanpur Bar Association, we find no jurisdiction existing with the Bar Council of Uttar Pradesh to issue any binding direction to the Bar Association to grant such membership.

12. Seen in that context, direction issued by the Vice Chairman of the Bar Council of Uttar Pradesh is only an information/opinion. It may remain to be considered by the Kanpur Bar Association, on its own merit.

13. Leaving that course open to the petitioners to approach Kanpur Bar Association through its duly constituted functionaries and/or to seek other remedy as may be available to them, interference claimed under Article 226 of the Constitution of India is declined.

14. Present writ petition is accordingly **dismissed**.

**Order Date :- 28.8.2023**  
Abhilash

(Rajendra Kumar-IV, J.) (S. D. Singh, J.)