



**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CWP-9591-2025 (O&M)
Date of Decision: 08.09.2025

Sandeep Kumar and others Petitioners

Versus

Bar Council of Punjab and Haryana and others Respondents

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA**

PRESENT: Dr. Menaka Guruswamy, Senior Advocate (through VC) with
Mr. Naveen Kumar, Advocate (through VC),
Mr. Lokinder Singh, Advocate,
Mr. Nipun Arora, Advocate and
Mr. Aditya Bansal, Advocate for the petitioners.

Mr. B.S. Rana, Advocate with
Mr. Nayandeep Rana, Advocate,
for respondent – Bar Council of Punjab and Haryana.

Mr. Prateek Sodhi, Advocate,
for respondent No.3 – Bar Council of India.

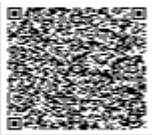
None for respondents No.4 to 7 and 9.

Mr. HPS Ishar, Advocate for respondent Nos.8, 10 & 11.

Mr. Naveen Kumar Singhal, Advocate for the intervenor.

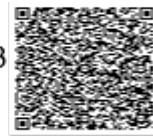
GURVINDER SINGH GILL, J.

1. The petitioners, who are Advocates, enrolled as members of District Bar Association of Rohtak(herein-after referred to as DBA), invoke writ jurisdiction under Article 226 and 227 of Constitution of India of this Court, with the following prayers:



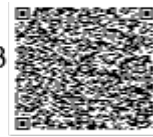
- (i) quashing of the entire electoral process of DBA Rohtak pertaining to election for the year 2056-26 and all consequent proceedings/orders thereon;
 - (ii) quashing of the Bar Associations (Constitution and Registrations) Rules, 2015 (herein-after referred to as 2015 Rules), being *ultra-vires*;
 - (iii) quashing of the impugned disciplinary proceedings against the petitioner No.2 including the order dated 13.3.2025 Annexure P-40) vide which his license has been suspended for a period of 5 years;
 - (iv) issuance of a direction to the respondents to hold the Electoral Process of District Bar Association, Rohtak afresh only after finalizing the voters list through the Election Committee to be nominated by the General House of District Bar Association Rohtak in a specially convened meeting of General House to be held under the observation of observer nominated by the Hon’ble High Court.
2. It is averred that petitioner No.2 – Arvind Kumar, Advocate was elected as President of District Bar Association, Rohtak during the year 2023-2024, whereas petitioner No.1 – Sandeep Kumar, Advocate was Vice President and petitioner No.3 was General Secretary. Respondent no.1, Bar Council of Punjab and Haryana(herein-after referred to as “BC-P&H)” vide letter dated 16.11.2024(Annexure P-2) announced the schedule for the next election to be conducted on 28.2.2025 as under:

1	Filing of affidavits in terms of Rule 6(b)(i) of __ (Affidavit by those Advocates who happen to be members of more than one Bar Associations as regards their option to vote in that particular District/Sub-Division Bar Association)	Upto 10.1.2025
2	Clearance of dues by members (in terms of Rule 6(b)(i) i.e from the bank account of such member	Upto 10.1.2025
3	● Sending lists of eligible voters by DBA to Bar Council Pb & Hr ● Nomination of Returning Officers/ Election Committee by Bar	On or before



	Association with intimation to Bar Council. ● Bar Association/ Returning Officer Election Committee to put up list of eligible voters on Notice Board and also to circulate the same through 'WhatsApp'.	17.1.2025
4	Bar Council to send said list to Returning Officer / Election Committee of such Bar Association.	Upto 24.1.2025
5	Such Voter list to be put up on Notice Board of Bar Association inviting objections	27.1.2025
6	Last date for receiving objections against voter list	On or before 1.2.2025
7	Objections, as received to be decided by Bar Council.	On or before 7.2.2025
8	Bar Association to get accounts audited and put up the same on notice board.	On or before 7.2.2025
9	Polling Day	28.2.2025

3. It is averred that although pursuant to the aforesaid schedule, a meeting of DBA was convened on 3.1.2025 and a list of 21 members comprising Election Committee was conveyed vide letter dated 3.1.2025(P-4) but the then General Secretary (respondent no.8) who was a contestant for post of President wrote letters separately to BC-P&H, contrary to wishes of General House. Subsequently DBA sent another list of 23 members of Election Committee on 4.1.2025 by including two more members but respondent no. 1 BC-P&H, vide letter dated 16.1.2025, illegally constituted an Election Committee of its own choice without following the mandate of the General House. It is further averred that names of several members were deleted from the voter's list without any reason and that the electoral process was



not conducted strictly as per the schedule framed by BC-P&H .

4. Apart from aforesaid challenge to electoral process, the petitioners also challenge the *vires* of the Bar Associations (Constitution and Registration) Rules, 2015 on the following grounds:

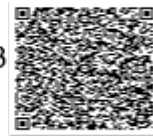
- i) that the respondent Bar Council is not authorized to abrogate the Rules and Bye-laws of the District Bar Associations and any rule authorizing the same is *ultra-vires* since the same amounts to unwarranted interference in affairs of Bar Associations. The Bar Associations, being registered under The Haryana Registration and Regulation of Societies Act, 2012 have to follow the provisions of the said enactment and rules framed thereunder whereas the impugned Rules of 2015 are in conflict with the same;
- ii) that the impugned rules give unbridled and over-reaching powers to Chairman of Bar Council which are prone to misuse and abuse as has been the case in the present matter.
- iii) that the Bar Council is not competent to frame rule 11(e) and decide about the jurisdiction of civil court;
- iv) that the members of Bar Council have their own personal political interests in the affairs of Bar Associations due to which there is tendency to foster groupism in Bar Associations and hence the members of Bar Council are not competent to adjudicate Election Petitions;
- v) that the over-regulation and control on Bar Associations through the impugned rules proves that the impugned rules are prone to malicious abuse and misuse to settle scores with political adversaries;
- vi) that rule 6(B)(ii) is *ultravires* as the same vests unfettered power in the Bar Council to meddle in internal affairs of Bar Associations and under the garb of the said rule, the Bar Council and its Chairman has acquired power to interfere in the electoral process by removing returning officer



appointed by the General House of Bar Association;

- vii) that rule 6(B)(iii) is *ultravires* as the same vests unbridled and uncontrolled power on respondent Bar Council to fix political adversaries of its members as has been done in the matter of Bar Association Rohtak where licence of one of the contestant for post of President i.e petitioner no.2 was suspended after nomination process and the other contestant supported by Bar Council member concerned was declared elected by playing havoc with the electoral process;
- viii) that rule 9 is *ultra-vires* since it vests power in the respondent Bar Council to vest administration of Bar Association in an Adhoc Committee nominated by the Bar Council on failure of Bar Association to hold elections in extended time but the said power is most likely to be abused and misused for furthering political interests of members of Bar Council rather than for collective good of the members of Bar Association;
- ix) that rule 11 is *ultravires* since the respondent State Bar Council and its Chairman has taken unto themselves adjudicatory role by constituting election tribunal when no such provision for such adjudicatory role of respondent Bar Council exists under the scheme of Advocates Act, 1961 and that a tribunal can be constituted only as per mandate of Article 323-B of the Constitution of India by the Parliament of India or State Legislatures.

5. The grievance, adversely affecting petitioner no.2 is order dated 13.3.2025(Annexure P-40) passed by Disciplinary Committee of respondent no.1, vide which the license of petitioner No.2 has been suspended. It is averred that the petitioner no.2 was illegally ousted from the contest by suspending his licence on a ground which otherwise would be equally applicable to his opponent Sh. Deepak Hooda since in all the communications issued in connection with suspension of work by the DBA Rohtak, Sh. Deepak Hooda was equal signatory but his candidature enjoyed



open support from the erstwhile Chairman of respondent Bar Council and hence the petitioner no.2 was illegally ousted from contest just to ensure that Sh. Deepak Hooda is declared as elected president of DBA Rohtak.

6. Respondent No.1 – Bar Council of Punjab and Haryana, in its reply has asserted that petitioner No.2 claimed himself to be President of ‘All Haryana Bar Association’ and had called a strike, which continued from 2.9.2024 to 3.10.2024 i.e. for a period of 1 month and 2 days during the course of which the judicial work in the District Courts was paralyzed and was also badly affected in various other districts in the State of Haryana as well. Paragraph No.2(b) of preliminary objections is reproduced hereinunder:

“2(b) That petitioner no.2 on 21.09.2024 sent a letter dated 21.09.2024 on the *whatsapp* of the then Chairman, Bar council of Punjab & Haryana in that letter it was stated that a meeting of all Presidents & executive members of state of Haryana was held on the said day at District Bar Association Rohtak wherein it was decided that all the Bar Associations will jointly request Bar Council of Punjab and Haryana to take a decision of work suspension across the Courts of Haryana, Punjab, Chandigarh and the Hon'ble High Court to show solidarity in support of Rohtak Bar. The letter dated 21.09.2024 was duly signed with seal by Arvind Kumar Sheoran, President District Bar Association Rohtak along with some other office bearers of Bar Associations situated in Haryana.”

7. Respondent No.1 in its reply has, however, stated that the Bar Council of Punjab & Haryana did not take any action on the call for strike made by President, District Bar Association, Rohtak as the letter did not even



mention anything regarding resolving the issue pertaining Advocate Sumit Kumar. However, the strike is stated to have continued in District Rohtak till 3.10.2024. On merits all the material averments have been denied.

8. On the other hand, respondent No.3 – Bar Council of India has taken a stand that respondent No.3 is a statutory body deriving its powers and duties under the Advocates Act, 1961 and has been bestowed with the authority to hear and decide appeals arising out of any order passed by the Disciplinary Committee of State Bar Council and infact an appeal filed by petitioner No.2 i.e. appeal bearing No.34/2025 assailing order dated 13.3.2025 is already pending adjudication before the Bar Council of India.
9. The private respondents no. 8, 10 and 11, in their reply have denied all the material averments made by the petitioners and while raising issues as regards maintainability of writ petition, have prayed for dismissal of the same.
10. Primarily, the following three grievances of petitioners can be discerned from the pleadings:
 - (i) *that the Bar Associations (Constitution and Registrations) Rules, 2015 do not have any legal sanctity and being ultra-vires, deserve to be quashed;*
 - (ii) *that electoral process pertaining to election of office bearers of DBA Rohtak for the years 2056-26 was unfair and various illegalities were committed so as to favour the opposing candidates;*
 - (iii) *that order dated 13.3.2025 (Annexure P-40), passed by*



Disciplinary committee of Bar Council of Punjab and Haryana, vide which license of petitioner no.2 has been suspended for a period of 5 years, is a malicious order and deserves to be quashed;

11. **Vires of 2015 Rules :**

We have heard the learned counsel for the parties. The petitioners, though primarily aggrieved by suspension of license of petitioner no.2 for five years and not having been successful on election, have also laid a perfunctory attack on the vires of the Bar Associations (Constitution and Registration) Rules, 2015. It deserves to be mentioned that the aforesaid rules came to be framed pursuant to directions issued by a Division Bench of this Court in LPA-1427-2014 titled Mohinder Singh Chauhan Versus Bar Council of Punjab & Haryana and another, decided on 1.9.2014. The relevant extract from aforesaid judgment dated 1.9.2014 is reproduced herein-under:

- “3.We have impressed upon them that let the Bar Council address the aforesaid and other related issues and enact appropriate Rules which can be applied uniformly to all the Sub Divisional or District level Bar Associations. The Bar Council would also consult the Office-bearers of District Bar Associations to give effect to its decision uniformly in both the States. Sh. Gupta, assures that given at least two weeks’ time, the Bar Council shall formulate a policy and, if need be, shall amend the existing Rules.
4. While ironing out the above noticed anomalous situation prevailing due to conflicting bye-laws framed by various Bar Associations, the Bar Council shall also take notice of other anomalies which are affecting the purity, fairness, transparency and democratic values in the annual elections of Bar Associations. The Bar Council must ensure that comprehensive policy decision with appropriate statutory back-up, to be formulated henceforth by it, is given effect by all the Bar Associations without any exception, failing which the Bar Council should invoke its other statutory powers under the Act.
5. We thus dispose of this appeal, on the assurance given on behalf of the Bar



Council of Punjab & Haryana, that the issue(s) raked up in this appeal or that keep on arising otherwise, shall be adequately addressed by them and necessary steps shall be taken to introduce a uniform pattern of eligibility conditions for contesting, voting and/or the tenure of Executive Members/office-bearers of Bar Associations at district or sub division levels.”

12. As is apparent, the reason which weighed with this Court while disposing off the aforesaid LPA was to ensure that adequate steps are taken for framing rules so as to usher in some kind of uniformity and fairness in matters pertaining to the membership of Bar Associations and conduct of elections. The aim and object of the Rules as is stated in Rules is as under:

"Aims and Objects:-

- i) To bring the uniformity, Transparency relating to the elections of the Office Bearers of the All Bar Associations comes within the jurisdiction of the Bar Council of Punjab and Haryana.
- ii) To avoid the complicity bye laws framed by various Bar Associations which are affecting Purity, Fairness and Democratic value in the annual elections of the Bar Association."

13. The vires of Bar Associations (Constitution and Registrations) Rules, 2015 came to challenged before a Division Bench of this Court in Rakesh Punia vs. Bar Council of India 2017(2) SCT 634. The question posed before the Bench, as is stated in para 2 of the judgement is extracted herein-under:

- “2. The question raised in the present petitions is whether the Bar Association (Constitution and Registration) Rules, 2015 (for short "the 2015 Rules") are ultra vires being beyond the Rule making powers of the State Bar Council under the Advocates Act, 1961 (for short "the 1961 Act") ? And further whether the said Rules are violative of the rights of the petitioners as guaranteed under Article 19(1)(c) of the Constitution?”



14. The Division, upon considering all the relevant issues held as under:

- “42. Based on the aforesaid considerations, we are satisfied that the State Bar Council is empowered in terms of the above referred provisions to frame rules which have as their object to bring about uniformity and transparency in matters relating to the elections of the Bar Associations, within its jurisdiction. In fact framing of such Rules may be considered an inevitable necessity to effectuate the broad legislative scheme evidenced by the Acts and Rules referred to above wherein the Bar Associations recognized by the State Bar Council have been assigned a Central role as also in view of the role and importance of the Bar Associations in the administration of justice and the imperative noticed and stressed even by Hon'ble the Supreme Court to ensure that the Associations are truly the representatives of the Advocates practicing in the Courts. Accordingly we do not find any merit in the argument of the petitioner that the Rules are ultra vires being beyond the Rule making power of the State Bar Council.
47. We also find no merit in the argument of the Ld. Counsel for the petitioners that the 2015 Rules are invalid as proper procedure was not followed. In view of the proceedings of the Bar Council of Punjab and Haryana and the communications referred to by the Ld. Counsel for the Bar Council, we find that the statutory pre-requisites for the validity of the Rules were complied with. The draft Rules after being framed by the Rules Drafting Committee, were considered by the Bar Council of Punjab and Haryana, which sent the same for approval to the Bar Council of India. The General House of the Bar Council of India approved the same in its meeting held on 2.5.2015.
48. Thus, there is no merit in the present set of petitions and the same are dismissed.
49. It is clarified that in the present set of petitions, we have only addressed the question of the competence of the State Bar Council to frame rules for regulating the elections of the Bar Associations and have held that the regulation of elections to the Bar Associations through framing of such Rules intended to achieve fairness and transparency in the election process is not ultra vires the provisions of the 1961 Act. It is also not violative of the fundamental rights under Article [19\(1\)\(c\)](#) of the Constitution. We have not gone into the validity of individual provisions of the 2015 Rules as no argument was addressed regarding any individual provision. So this decision should not be construed as having opined on and affirmed the



validity of each and every provision of the 2015 Rules.”

15. As noticed above , the constitutional validity of the Rules has been upheld although each of the rule was not individually examined. It may here be mentioned that Rule 11(e) as of now stands repealed. The vires of the Rules, particularly of Rule 6, 9 and 11 is now sought to be challenged on the ground that the same vests unbridled powers on Bar Council to interfere in the matters of Bar Associations and infact leaves much room for misuse of powers by the members of Bar Council to further their political interests.
16. Before proceeding to examine the aforesaid contentions regarding misuse of powers by members of Bar Council, it is imperative to refer to relevant provisions pertaining to functions of State Bar Councils. The Bar Council does exercise administrative powers as specifically vested under The Advocates Act 1961 Act. The functions of the State Bar Councils are defined in Section 6 of the 1961 Act, which as amended up to date reads as under:

"6. Functions of State Bar Councils-

- (1) The functions of a State Bar Council shall be-
- (a) to admit persons as advocates on its roll.
 - (b) to prepare and maintain such roll
 - (c) to entertain and determine cases of misconduct against advocates on its roll
 - (d) to safeguard the rights, privileges and interest of advocates on its roll
 - (dd) to promote the growth of Bar Associations for the purpose of effective implementations of the welfare schemes referred to in clause (a) of sub section (2) of this section and clause (a) of sub section (2) of section 7;
 - (e) to promote and support law reform
 - (ee) to conduct seminars and organize talks on legal topics by eminent jurists and publish journals and papers of legal interest.



- (eee) to organize legal aid to the poor in the prescribed manner
 - (f) to manage and invest the funds of the Bar Council
 - (g) to provide for the election of its members.
 - (gg) to visit and inspect Universities in accordance with the directions given under clause (I) of sub-section (1) of section 7;
 - (h) to perform all other functions conferred on it by or under this Act;
 - (i) to do all other things necessary for discharging the aforesaid functions
- (2) A State Bar Council may constitute one or more funds in the prescribed manner for the purpose of –
- (a) giving financial assistance to organize welfare schemes for the indigent, disabled or other advocates;
 - (b) giving legal aid or advice in accordance with the rules made in this behalf;
 - (c) Establishing law libraries.
- (3) A State Bar Council may receive any grants, donations, gifts or benefactions for all or any of the purposes specified in sub-section (2) which shall be credited to the appropriate fund or funds constituted under that sub-section.
17. The relevant rules under challenge particularly Rule, 6, 9 and 11 need to be examined in order to understand the purpose sought to be served by these rules and legality thereof. Rule 6, 9 and 11 read as under:

6. Admission of Members and Election of Bar Associations:

Every Bar Association, registered or unregistered under these Rules, shall maintain a website wherein there will be a special provision to seek membership of the Bar Association. It would provide details of performance, application to become member and details of the bank account where admission/subscription fee can be deposited. Any person duly enrolled as an advocate with the Bar Council of Punjab and Haryana wishing to become a member can apply online on providing his/her enrollment certificate and furnish reference of 2 (Two) members of that Bar Association knowing him and also submit required admission/ subscription fees in the account of the Bar Association so provided. The Bar Association, within one week of receiving such application, may raise objections after verification from disclosed members failing which membership of such applicant will be deemed to be approved and on decision of the objections, such person would be deemed to be a member from the date of application or in alternate, the Bar



Association may seek written application accompanied with account payees cheque in relation to admission fees and follow the procedure above described. The Bar Council of Punjab and Haryana shall create an online portal wherein such desirous members can also post copy of their application for reference sake.

Any person enrolled as an Advocate with the Bar council of Punjab and Haryana, wishing to become a member of a Bar Association may apply in writing to the President/Secretary/authorized person of the Bar Association for admission on an application prescribed as per the constitution/bye-laws of the concerned Bar Association with a copy of the application to the Bar Council. Such an advocate will have to furnish an affidavit to the Bar Association with a copy to the Bar Council to the effect that he will remain in an active practice and will not do any other business/Service, or other profession as prohibited under the Advocates Act/Rules of Bar Council of India.

Any advocate enrolled with other State Bar Council shall not be entitled to vote in the election unless he/she gets his/her name transferred U/s 18 of the Act, before the finalization of the voter List. Under the Rules of Bar Council of India, every advocate is under an obligation to see that his/her name appears on the roll of the Bar Council within whose jurisdiction he/she ordinarily practices. Already enrolled member of the Bar Association before coming into force of these rules shall be asked to furnish an affidavit referred above within 60 days of the approval of these amended rules failing which they would cease to be a member/s of such Bar Association.

- A) Every bar Association will supply a copy of its constitution/by laws to the Bar Council of Punjab and Haryana, Chandigarh. The amendment in the existing constitution/bye-laws can be done by the Bar Association as per its own constitution/bye-laws.
- B) (i) There shall be election of every Bar Association by secret ballot for electing its office bearers every year on **3rd Week of December**, in case the **3rd Friday** falls on a holiday, the election will be held on next working day except Saturday or on some earlier date as to be decided by the General House, preferably on the 20th December of each year, if the said date happens to be a holiday then on the next working day. The Bar Council of Punjab and Haryana shall declare the said date in its general house meeting 60 days in advance. Every advocate can become member of one or more Bar Associations but he will have a right to cast his/her vote only at one Bar Association and for that he/she shall file an affidavit to this effect at every election that he/she intends to cast his/her vote in a particular Bar Association elections positively before **31st October** of each year. It will be the duty of the Bar Association to get the annual subscription from 1st January to 31st December of respective year cleared before finalizing the list of voters on or before **31st October** of every year and thereafter the Bar Association will send the list of eligible voters along with duly sworn affidavits and photocopy of subscription clearance proof within 7 days. Thereafter, The Bar Council of Punjab and Haryana shall within 7 days, circulate the so received list by way of notification to each particular Bar Association with a direction to its executive to put on its notice board within 7 days seeking objection within 5 days directly to the Bar Council of Punjab and Haryana online via email in the email id provided in the notification. Such notification would specify that the said list is available on the website of the Bar



Council of Punjab and Haryana in public domain so that any member can access the same. All the objections received shall be decided by a special Committee/ Committees of the Bar Council to be **appointed by the General House or duly authorised by Chairman** of the Bar Council well in advance before issuing the above notification specifying the area of operation and such committee shall decide the objections on or before **30th November** of each year. On completing the aforesaid procedure, the final lists of the respective Bar Association/s shall be put on the website of the Bar Council and or alterations can be made on any ground whatsoever and such lists shall be final for the purpose of conducting the elections. In case a particular Bar Association fails to make compliance well within time as mentioned above then the Bar Council or duly authorized Chairman will appoint Adhoc Committee who will take over the entire control of the Bar Association and will get the elections conducted under its supervision.

Note:- Provided that clearance of subscription shall be by way of RTGS or NEFT or IMPS or UPI or any other electronic mode of transfer of money or by account payees cheque from the account of member himself. In case of cheque, such cheques must be deposited immediately after the last date within 2 working days otherwise such subscription shall be deemed to be doubtful.

- ii) For conducting the annual elections, every Bar Association shall nominate returning Officer/ election Committee as per their own constitution / bye-laws and intimation of the same shall be sent to Bar Council of Punjab and Haryana on or before 7th November of each year. If any complaint is received by the Bar Council against appointment of such returning officer/ election Committee then the Chairman, Bar Council after seeking the comments from the Bar Association and hearing the parties may dismiss the objections if unsustainable or if reasonable grounds are made out then direct fresh general house meeting to be conducted of such Bar Association/s and direct the Bar Association to submit the list of names proposed in the General House for appointment of returning officer/election Committee. The Chairman Bar Council may, if so desired, send observer in General House of respective Bar Association for the purpose of electing/nominating of Returning Officer/Election Committee.
- iii) The accounts of the Bar Association of every year shall be duly audited and put on the notice board on or before 1st. December of each year along with the copy of sent to the Bar Council of Punjab and Haryana failing which, the Bar Council of Punjab and Haryana may disentitle the office bearers from further contesting the elections who are found negligent on this regard. The outgoing President and Secretary of the Bar Association shall be duty bound to hand over the entire record of the Bar Association i.e. resolution books, account books, cheque books, pass books, chamber records, membership register or any other record which is required to be maintained in due process to the newly elected body forthwith after election of every year failing which such president and secretary shall be disentitled to contest elections in the future. Every Bar Association, apart from physical record, would also keep digital record of every record and shall preserve the same by preparing a copy.
- iv) In each election an observer may be sent by the Chairman of the State



Bar Council, in case there is a request in writing by Returning Officer or candidate to supervise the election or otherwise.

9. Terms Of Office :

The office bearers of the Bar Association and Members of the Executive Committee shall hold the office till the completion of one year from the date of their election. However in extraordinary circumstances they may continue for a further period of one month with the prior approval of Bar Council, for reasons to be recorded. The office bearers of the Bar Association shall have to get the election completed within the extended time, failing which the administration of the Association will vest in a Adhoc Committee duly nominated by Bar Council, who will hold the elections at the earliest preferably within 1 month.

11. Role of the Bar Council

- a. In case of any dispute in connection with the Voter list in elections of the office bearers the matter will be taken up by the Bar Council suo-moto or on the basis of complaint filed by any effected member and the decision of the Bar Council will be final.
- b. That in order to resolve the above said dispute or to decide any dispute the Chairman of the Bar Council will constitute a committee of three members of the Bar Council whose decision will be final.
- c. In case any dispute arises after the declaration of the result the aggrieved party shall approach the Bar Council by way of Election Petition within 15 days of the declaration of the result accompanied by a fee of Rs. 5,000/-.
- d. After the receipt of the Election Petition the Chairman of the Bar Council shall constitute an Election Tribunal consisting of Three Elected Members of the Bar Council and the said Election Petition will be decided expeditiously preferably within 2 months. And the decision of the Tribunal shall be final.
- e. No Civil Court would have jurisdiction to entertain any dispute with the regard to the Election of the Bar Association. *(now repealed)*
- f. The Bar Council shall have the power to cancel the certificate of registration and recognition granted to any Bar Association under these Rules after providing an opportunity of being heard to the concerned parties.”

18. Since vires of the rules is under challenge, the guiding principles laid down by Hon’ble Apex Court need to be borne in mind. In *State of Tamil Nadu vs. P. Krishnamurthy and Ors. (2006) 4 SCC 517*, Hon’ble Supreme Court culled out the following principles while adjudging the validity of subordinate legislation, including regulations:

“15. There is a presumption in favour of constitutionality or validity of a subordinate legislation and the burden is upon him who attacks it to show that it is invalid. It is also well recognized that a subordinate



legislation can be challenged under any of the following grounds:

- (a) Lack of legislative competence to make the subordinate legislation.
- (b) Violation of fundamental rights guaranteed under the Constitution of India.
- (c) Violation of any provision of the Constitution of India.
- (d) Failure to conform to the statute under which it is made or exceeding the limits of authority conferred by the enabling Act.
- (e) Repugnancy to the laws of the land, that is, any enactment.
- (f) Manifest arbitrariness/unreasonableness (to an extent where the court might well say that the legislature never intended to give authority to make such rules.”

19. In its recent judgement in Naresh Chandra Agrawal vs. The Institute of Chartered Accountants of India & others 2024 AIR (SC) 1139, Hon’ble Supreme Court, while referring to P.Krishnamurthy’s case (supra) as well as to several other judgements summarized the principles with regard to challenge of vires of subordinate legislation as under:

“32. From reference to the precedents discussed above and taking an overall view of the instant matter, we proceed to distil and summarise the following legal principles that may be relevant in adjudicating cases where subordinate legislation are challenged on the ground of being ‘ultra vires’ the parent Act:

- (a) The doctrine of ultra vires envisages that a Rule making body must function within the purview of the Rule making authority, conferred on it by the parent Act. As the body making Rules or Regulations has no inherent power of its own to make rules, but derives such power only from the statute, it must necessarily function within the purview of the statute. Delegated legislation should not travel beyond the purview of the parent Act.
- (b) Ultra vires may arise in several ways; there may be simple excess of power over what is conferred by the parent Act; delegated legislation may be inconsistent with the provisions of the parent Act; there may be non-compliance with the procedural requirement as laid down in the parent Act. It is the function of the courts to keep all authorities within the confines of the law by supplying the doctrine of ultra vires.
- (c) If a rule is challenged as being ultra vires, on the ground that it exceeds the power conferred by the parent Act, the Court must, firstly, determine and consider the source of power which is relatable to the rule. Secondly, it must determine the meaning of the subordinate legislation itself and finally, it must decide whether the subordinate legislation is consistent with and within the scope of the power delegated.



- (d) Delegated rule-making power in statutes generally follows a standardized pattern. A broad section grants authority with phrases like 'to carry out the provisions' or 'to carry out the purposes.' Another subsection specifies areas for delegation, often using language like 'without prejudice to the generality of the foregoing power.' In determining if the impugned rule is intra vires/ultra vires the scope of delegated power, Courts have applied the 'generality vs enumeration' principle.
- (e) The "generality v. enumeration" principle lays down that, where a statute confers particular powers without prejudice to the generality of a general power already conferred, the particular powers are only illustrative of the general power, and do not in any way restrict the general power. In that sense, even if the impugned rule does not fall within the enumerated heads, that by itself will not determine if the rule is ultra vires/intra vires. It must be further examined if the impugned rule can be upheld by reference to the scope of the general power.
- (f) The delegated power to legislate by making rules 'for carrying out the purposes of the Act' is a general delegation, without laying down any guidelines as such. When such a power is given, it may be permissible to find out the object of the enactment and then see if the rules framed satisfy the Act of having been so framed as to fall within the scope of such general power confirmed.
- (g) However, it must be remembered that such power delegated by an enactment does not enable the authority, by rules/regulations, to extend the scope or general operation of the enactment but is strictly ancillary. It will authorize the provision of subsidiary means of carrying into effect what is enacted in the statute itself and will cover what is incidental to the execution of its specific provision. In that sense, the general power cannot be so exercised as to bring into existence substantive rights or obligations or disabilities not contemplated by the provisions of the Act itself.
- (h) If the rule making power is not expressed in such a usual general form but are specifically enumerated, then it shall have to be seen if the rules made are protected by the limits prescribed by the parent Act."

20. Reverting back, a perusal of Rule 6, 9 and 11 shows that the same are primarily to ensure that matters pertaining to membership and elections are administered fairly which was the very object of framing these rules. Defining the manner of conduct of elections and providing mechanism for resolution of disputes, if any, by way of framing specific rules furthers the cause of democratic process in conduct of elections. A well defined electoral process helps maintaining dignity of institution of judiciary as a whole of which the Bar is an integral part. Although bias on part of members of Bar Council is also alleged but it will not be out of place to mention that



members of the Bar Council of Punjab and Haryana are elected from amongst members of all the Bar Associations of Punjab and Haryana and are not confined to one particular State or district or sub-division. Under these circumstances it can not be said that the Rules foster any kind of biases or partisan politics.

21. The petitioners have not been able to show any violation of fundamental rights guaranteed under the Constitution of India or any manifest arbitrariness/unreasonableness in the rules or any non-conformity or repugnancy of the rules with any statute/law/enactment so as to hold the 2015 Rules as *ultra-vires* in any manner. The Division Bench, in Mohinder Singh Chauhan's case(supra), while noticing shortcomings in the earlier election processes, had directed framing of uniform rules to ensure purity, fairness, transparency and democratic values in the annual elections of Bar. The rules duly serve the purpose subservient to the observations made by this Court in Mohinder Singh's case(supra) pursuance whereunto these rules were made. Nothing to the contrary could be pointed out by learned counsel for the petitioner. Consequently, the rules are held to be *intra-vires*.

22. **Electoral process being unfair :**

As far as the second grievance that electoral process pertaining to election of office bearers of DBA Rohtak for the years 2056-26 was unfair is concerned, it is apposite to refer to Rule 11 of Bar Associations (Constitution and Registrations) Rules, 2015 , which is extracted herein-under:

“11. Role of the Bar Council

- a. In case of any dispute in connection with the Voter list in elections of the office bearers the matter will be taken up by the Bar Council suo-moto or on the basis of complaint filed by any effected member and the decision of the Bar Council will be final.



- b. That in order to resolve the above said dispute or to decide any dispute the Chairman of the Bar Council will constitute a committee of three members of the Bar Council whose decision will be final.
- c. *In case any dispute arises after the declaration of the result the aggrieved party shall approach the Bar Council by way of Election Petition within 15 days of the declaration of the result accompanied by a fee of Rs. 5,000/-.*
- d. After the receipt of the Election Petition the Chairman of the Bar Council shall constitute an Election Tribunal consisting of Three Elected Members of the Bar Council and the said Election Petition will be decided expeditiously preferably within 2 months. And the decision of the Tribunal shall be final.
- e. No Civil Court would have jurisdiction to entertain any dispute with the regard to the Election of the Bar Association. *(now repealed)*
- f. The Bar Council shall have the power to cancel the certificate of registration and recognition granted to any Bar Association under these Rules after providing an opportunity of being heard to the concerned parties.”

23. A perusal of Rule 11(c) shows that the petitioners had a remedy of filing an election petition for redressal of their grievances. Infact petitions by some other members were filed as has also been admitted by the petitioners. A perusal of fee-receipts(Annexure P-44) shows filing of election petitions by Sakshi Lamba, Jyoti Rana, Sudeep Kalkal and Sushila Deswal.

24. A division Bench of this Court in CWP 27933 of 2024, Ranjodh Singh Sarao vs. Bar Council of Punjab and Haryana & others, wherein also the election process had been challenged held as under:

“4. After hearing learned counsel for the rival parties and perusing the record made available to us, this Court is of the considered view that interference by judicial orders in the election process, after it has commenced, ought to be to the minimum. The object behind this concept is to allow completion of unhindered election process in a time bound manner to enable democratically elected body to govern the affairs before the term of previous elected body expires. Any irregularity or illegality in the can be dealt with in an election dispute under clause 11(d) of the Bar Associations (Constitution and Registration) Rules, 2015, framed by the Bar Council of Punjab and Haryana, Chandigarh which provides for remedy of Election Petition before the Bar Council.



5. This Court further finds that all the submissions and objections raised by learned counsel for the petitioner involve disputed which ought not to be gone into while exercising writ jurisdiction and should be left to the forum meant for the purpose, i.e. Bar Council, after conclusion of elections.
 6. Therefore, this Court declines to interfere at this stage in the election process and allows the same to be concluded, with liberty to the petitioner to avail the remedy of Election Petition before the Bar Council of Punjab and Haryana.”
25. The ratio of above referred judgement leaves no manner of doubt that such like disputes arising out of election process pertaining to election of Office Bearers of Bar Associations should ideally be left to be adjudicated/resolved by the Election Tribunal constituted in terms of Rule 11 of Bar Associations (Constitution and Registration) Rules, 2015. Since elections to office bearers of DBA Rohtak have already been conducted and result has been declared, any candidate or any member aggrieved by the same could approach the Bar Council Punjab and Haryana by way of filing an Election Petition. A grievance remedial procedure having been provided under the rules, this Court does not deem it appropriate to step in when the person aggrieved has chosen not avail the same without there being anything to justify such inaction.
26. **Suspension of licence of petitioner no.2 :**
- The main grievance of petitioner no.2 is against order dated 13.3.2025 (Annexure P-40), passed by Disciplinary committee of BC-P&H, vide which his license has been suspended for a period of 5 years. It is contended that the said order is a malicious order passed at the behest of his adversaries. Before proceeding to consider the aforesaid contention it is apposite to refer to the statutory redressal mechanism provided under the Advocates Act 1961, particularly against orders passed in disciplinary proceedings. Section



37 and 38 of the Advocates Act 1961 read as under:

“37. Appeal to the Bar Council of India.—

- (1) Any person aggrieved by an order of the disciplinary committee of a State Bar Council made under section 35 or the Advocate-General of the State may, within sixty days of the date of the communication of the order to him, prefer an appeal to the Bar Council of India.
- (2) Every such appeal shall be heard by the disciplinary committee of the Bar Council of India which may pass such order including an order varying the punishment awarded by the disciplinary committee of the State Bar Council thereon as it deems fit:

Provided that no order of the disciplinary committee of the State Bar Council shall be varied by the disciplinary committee of the Bar Council of India so as to prejudicially affect the person aggrieved without giving him reasonable opportunity of being heard.

- 38. Appeal to the Supreme Court.—**Any person aggrieved by an order made by the disciplinary committee of the Bar Council of India under section 36 or section 37 or the Attorney-General of India or the Advocate-General of the State concerned, as the case may be, may, within sixty days of the date on which the order is communicated to him, prefer an appeal to the Supreme Court and the Supreme Court may pass such order including an order varying the punishment awarded by the disciplinary committee of the Bar Council of India thereon as it deems fit:

Provided that no order of the disciplinary committee of the Bar Council of India shall be varied by the Supreme Court so as to prejudicially affect the person aggrieved without giving him a reasonable opportunity of being heard.

27. The High Court in exercise of its jurisdiction under Article 226 of the Constitution, in a given case, although may not entertain a writ petition *inter- alia* on the ground of availability of an alternative remedy, but the said rule cannot be said to be of universal application. Despite existence of an alternative remedy, a writ Court may exercise its discretionary jurisdiction of judicial review *inter alia* in cases where the Court or the tribunal lacks inherent jurisdiction or for enforcement of a fundamental right or if there has been a violation of a principle of natural justice or where vires of the act is in



question.

28. In the present case, not only an efficacious remedy by way of appeal is available but infact the petitioner is already availing of such remedy. The petitioner has already instituted an appeal against the suspension order dated 13.03.2025, which is pending before the statutory appellate authority i.e. Bar Council of India. Filing of the instant writ petition insofar as it relates to the same cause of action would hardly be justified in the absence of any other special reason. The petitioner no.2 through this collateral attack via writ jurisdiction while his statutory appeal is pending, is trying to avail two parallel remedies in the garb of constitutional violations. The same virtually amounts to abusing the legal process. As such, we do not find it to be a case fit for exercise of jurisdiction under Articles 226 and 227 of the Constitution of India so as to set aside order dated 13.03.2025 (Annexure P-40).
29. As a sequel of the discussion made above, we do not find any ground for issuance of any writ as is prayed for. The petition, as such, being sans merit is dismissed.

(GURVINDER SINGH GILL)
JUDGE

08.9.2025

Pankaj

(DEEPINDER SINGH NALWA)
JUDGE

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No