

SUPREME COURT OF INDIA

Supreme Court Bar Association

Vs.

B.D. Kaushik

C.A.No.3401 & 3402 of 2003

(Altamas Kabir and J.Chelameswar, JJ.)

20.07.2012

JUDGMENT

Altamas Kabir, J.

1. I.A.No.5 of 2012 has been filed on behalf of the Supreme Court Bar Association (SCBA) in Civil Appeal Nos.3401 and 3402 of 2003 which were disposed of by this Court on 7th May, 2012, with various directions. In fact, this application arises out of the said directions.

2. The aforesaid appeals had been filed on behalf of the Supreme Court Bar Association and its then Honorary Secretary, Mr. Ashok Arora, and Ms. Sunita B. Rao, Coordinator, Implementation Committee of the Supreme Court Bar Association, against an interim order passed by the Civil Judge on 5th April, 2003, on an application for injunction filed in Civil Suit Nos.100 and 101 of 2003. In the said appeals various questions were raised regarding the administration of the Supreme Court Bar Association. One of the questions raised was with regard to the amendment of Rule 18 of the SCBA Rules governing the eligibility of the members of the SCBA to contest the elections to be elected and to elect the Office Bearers of the Association. After an extensive hearing, the appeals were disposed of by a detailed judgment with various directions, on the basis of the principle of “One Bar One Vote” projected by the learned Advocates who appeared in the matter.

3. While disposing of the said appeals the Hon’ble Judges noticed that there were many Advocates, admitted as members of the SCBA, who did not practise regularly in the Supreme Court and were members of other Bar Associations and that the majority of them made their presence felt only during elections for the Office Bearers of the SCBA. This Court was, therefore, called upon to devise a mechanism by which those members of the SCBA who practised regularly in this Court could be identified as members who could be entitled to vote to elect the Office Bearers of the SCBA, and those who would not be entitled, while retaining their membership. After considering the matter at length, Their Lordships came to the conclusion that in order to identify those advocates who practiced

regularly in the Supreme Court, the criteria adopted by this Court for allotment of Chambers, as explained in *Vinay Balchandra Joshi Vs. Registrar General of Supreme Court of India*¹ should be adopted for the purpose of identifying the members who would be entitled to vote to elect the Office Bearers of the SCBA. Their Lordships, accordingly, directed that the criteria adopted in *Vinay Balchandra Joshi's* case (supra), should be adopted by the SCBA and its Office Bearers to identify those advocates who practiced regularly in the Supreme Court. A further direction was given that the Office Bearers of the SCBA or a small Committee to be appointed by the SCBA, consisting of three Senior Advocates, should take steps to identify the regular practitioners in the manner indicated in the order, and, thereafter, to prepare a list of members regularly practising in this Court and another separate list of members not regularly practising in this Court and a third list of temporary members of the SCBA. These lists were directed to be posted on the SCBA website and also on the SCBA Notice Board. It was also directed that a letter should be sent by the SCBA to each member, informing him about the status of his membership, on or before February 28, 2012. Any aggrieved member would be entitled to make a representation to the Committee within 15 days from the date of receipt of the letter from the SCBA, and if a request was made to be heard in person, the representation was to be heard by the Committee and a decision thereupon was to be rendered in the time specified therein. The decision of the Committee was to be communicated to the member concerned and the same was to be final, conclusive and binding on the member of the SCBA. Thereafter, a final list of advocates regularly practising in this Court was to be displayed by the SCBA.

4. Several other directions were also given as to what was to be done after the final list of the regular practitioners was made ready and published. The Court also found that the amendment made in Rule 18 of the SCBARules was legal and valid and that no right of the Advocates had been infringed by such amendment.

5. In keeping with the suggestions made on behalf of the SCBA and the recommendations of the Court, Mr. K.K. Venugopal, Mr. P.P. Rao, and Mr. Ranjit Kumar, all Senior Advocates, practising in the Supreme Court, were appointed as the members of the Implementation Committee. After their appointment, the members of the Implementation Committee issued a questionnaire on 2nd January, 2012, which was forwarded to all the members of the SCBA, to be filled up and returned to the office of the SCBA for the purposes indicated in the judgment itself. The questionnaire was meant for Senior Advocates, Advocates-on-Record and Non-Advocates-on-Record. The same was prepared in keeping with the procedure followed in *Vinay Balchandra Joshi's* case (supra). Thereafter, the Implementation Committee held a meeting on 11th January, 2012 and adopted the following resolutions:

“2. In view of the directions of the Supreme Court of India, in its judgment in *SCBA Vs. B.D. Kaushik*, to the effect that “the Committee of the SCBA to be

appointed is hereby directed to prepare a list of regular members practising in this Court ”, the following categories of members of SCBA, in addition to the list of members already approved by the Implementation Committee, are entitled to vote at, and contest, the election of the office bearers of the SCBA as ‘regular members practising in this Court’:

“i) All Advocates on Record who have filed cases during the calendar year 2011.

ii) All Senior Advocates designated as Senior Advocates by the Supreme Court of India, who are resident in Delhi and attending the Supreme Court of India.

iii) All members who subscribed to any of the cause lists of the Supreme Court of India during the calendar year 2011.

iv) All members who have been members of the SCBA for the last 25 years, commencing 01.01.1986, and have been paying subscription to the SCBA regularly, in each one of the 25 years. The list of such members who are eligible to vote and contest elections will be put up on the SCBA notice board for the information of all members and will also be circulated in the usual manner including circulation with the daily cause list. Copies of this list will also be available at the reception desk in Library. The persons whose names figure in this list need not reply to the questionnaire issued earlier.”

6. At a further meeting of the Implementation Committee held on 15th January, 2012, certain other resolutions were adopted identifying some of the members of the SCBA who were not required to fill up the questionnaire, except to indicate the category under which they claimed to be regular members practising in the Supreme Court.

7. Thereafter, certain incidents took place to which we need not refer in these proceedings. However, certain disputes arose between the members of the Supreme Bar Association regarding the criteria laid down by the Implementation Committee for identification of members who are regularly practising in the Supreme Court. As a consequence, Interlocutory Application No.5 came to be filed on behalf of the Supreme Court Bar Association seeking clarification and directions in regard to the criteria evolved by the Implementation Committee.

8. The said application was heard in the presence of the members of the SCBA and the Implementation Committee and certain suggestions were made which we feel need to be taken into consideration by the Implementation Committee while identifying the members of the SCBA who were regularly practising in the Supreme Court for the purpose of determining their eligibility to vote to elect the Office Bearers of the SCBA. In fact, certain suggestions were made with regard to criteria evolved by the Implementation

Committee.

9. The first criteria laid down by the Implementation Committee that all the members of the SCBA who had 50 appearances and/or 20 filings in a year, should be considered to be regular practitioners in the Supreme Court, was duly accepted. A suggestion was also made to include advocates who have been continuously representing the State Governments or the Union Government before the Supreme Court for at least three years and have a minimum of 50 appearances for such Government, in the category of regular practitioners with right to vote. Another suggestion was made to include Advocates, who were Government Standing Counsel or counsel appearing for the Government in the Supreme Court and all Advocates-on-Record in the said category. It was also suggested that non- Advocates-on-Record who were in the panel of Amicus Curiae, approved by the Supreme Court Registry, and members who are working as Mediators in the Supreme Court Mediation Centre, be also included in this category. The said suggestions were found to be sound and were accepted.

10. The next suggestion of the Implementation Committee was with regard to the inclusion of all Senior Advocates of the Supreme Court, who are resident in Delhi and attending the Supreme Court. It was rightly pointed out that in view of the close proximity of the satellite townships, which had grown up around Delhi, such Senior Advocates who resided in Noida, Gurgaon, Faridabad and Ghaziabad, should also be included in this category. The said suggestion is sound and is accepted.

11. Yet another criteria for identification of regular practitioners in the Supreme Court as suggested by the Implementation Committee was that all members of the SCBA who had attended the Supreme Court at least 90 days in the calendar year 2011, as established by the database showing the use of proximity cards maintained by the Registrar of the Supreme Court, could also be included in the list of regular practitioners. It was felt that instead of attendance of 90 days, the same should be reduced to 60 days, which suggestion is duly accepted. As a supplement to the above, it is also accepted that appearances before the Chamber Judge, as also before the Registrar's Courts, in the years 2009 and 2010, will be counted towards the total number of appearances.

12. One of the suggestions made by the Implementation Committee with regard to the directions contained in the judgment delivered in the Civil Appeals regarding publication of details of the Voters' List on the website, showing the different categories of members of the SCBA who were recognized as regular practitioners and those who were not, was also taken up for consideration. It was felt that such publication could adversely affect the learned Advocates who were not shown to be regular practitioners in the Supreme Court. It was generally felt that the publication on the website should not be resorted to and individual members should be informed of their status either by E-mail or through SMS on their mobile phones. The objection has merit and is allowed and such publication need

not be effected.

13. It was specifically felt that allotment of Chambers, other than in the Supreme Court, should not be made a criteria for identifying members who were regular practitioners in the Supreme Court and the said decision was also considered and accepted.

14. It was lastly indicated that persons who had contested elections to the Executive Committee of any Court annexed Bar Association, other than the SCBA, during any of the years from 2007 to 2012, could not be allowed to vote to elect the Office Bearers of the SCBA on the "One Bar One Vote" principle, or to attend the General Body meetings of the SCBA. The same would also include a person who had cast his vote in any election to the Executive Committee of any Court annexed Bar Association, other than the SCBA, for the abovementioned years. The said suggestion is also accepted and approved.

15. I.A. No.5 filed in the disposed of Appeals is, therefore, disposed of with a direction to the Members of the Implementation Committee to modify the criteria suggested by it in the light of the above suggestions, which have been accepted in this order, for the purpose of identifying members of the SCBA, who are regular practitioners in the Supreme Court, for the purposes indicated in the judgment dated 26th September, 2011.

16. The Members of the Implementation Committee are directed to take expeditious steps in finalizing the Voters' List of members of the SCBA entitled to cast their votes in the election of Office Bearers of the SCBA, and, thereafter, to set the programme for the election of the Office Bearers and conduct the same as expeditiously as possible. Till then, the arrangement with regard to the management of the SCBA, as is existing, shall continue.

Judgment Referred

1(1998) 7 SCC 0461