

**High Court Bar Association, Allahabad Vs. Hon'ble High Court of Judicature at Allahabad and Another**

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**Court :** Allahabad

**Decided On :** Jul-09-2015

**Judge :** The Honourable Chief Justice Dr. Dhananjaya Yeshwant Chandrachud, Dilip Gupta & Pradeep Kumar Singh Baghel

**Appeal No. :** Special Appeal No. 1102 of 2008

**Appellant :** High Court Bar Association, Allahabad

**Respondent :** Hon'ble High Court of Judicature at Allahabad and Another

**Judgement :**

By the Court:

An order dated 27 January 2006 passed by the Deputy Director of Consolidation, Bulandshahr is the subject matter of a challenge before the learned Single Judge in a writ petition<sup>1</sup> filed under Article 226 of the Constitution. While hearing the writ petition, the learned Single Judge passed an order on 18 December 2006, by which the learned Single Judge issued a direction fixing 31 March 2007 as the last date for furnishing details required for the registration of advocates practicing in the District Courts and before this Court at Allahabad and Lucknow. The order of the learned Single Judge reads as follows:

"By order dated 16.11.2006, this Court called upon Sri Pankaj Naqvi appearing for U.P. Bar Council to seek instructions whether 31st Dec 2006 be fixed as the last date for registration of advocates on the rolls of the District Courts for which modalities were prescribed in the order of the Court dated 25.7.2006. From a perusal of the affidavit filed on behalf of the Bar Council, it is eloquent that the Bar Council has already taken a decision vide resolution No. 2946 of 2006 dated 16.12.2006 attended with a result to pass appropriate orders fixing 31.1.2007 as the last date for registration of the Advocates practising in different Courts of U.P. The further resolution of the Bar Council is to the effect that those advocates who do not furnish the requisite details to the District Judge by the date fixed, shall not be treated to be authorized to practice in that District Court and appropriate action shall follow in accordance with law thereafter. Along with the affidavit, the Bar Council has also filed copy of Model Bye-laws which according to the learned counsel for the Bar Council has been duly approved by the Bar Council of India on 15/16.9.2006.

In the above perspective, this Court is of the view that there is no difficulty in prescribing some date for registration of Advocates practising in different District Courts including High Courts in terms of guidelines contained in the order of the Court dated 25.7.2006.

Accordingly, 31.3.2007 is fixed as the last date for furnishing requisite details required for registration at the end of the District Judges in the case of advocates practising in the districts and at the end of the Registrar General in the case of Advocates practising in the High Court and Registrar, in the case of advocates practising at Lucknow Bench of this Court attended with the proviso that no registration of any advocate shall be permissible after expiry of the aforesaid date except those advocates who are enrolled thereafter.

In the case of model bye-laws approved by the Bar Council of India, it is directed that the said model bye-laws may be enforced for compliance by all the Bar Associations affiliated to Bar Council of U.P.

Let copies of this order be circulated to all authorities including Registrar General Allahabad High Court, and all the District Judges, accordingly for strict compliance.

A copy of this order be also supplied to learned counsel appearing for the Bar Council U P. for being communicated to all Bar Associations in the State of U.P.

The matter is ordered to be listed in the first week of April 2007 to review the progress made in the matter of compliance of the order of this Court passed on various dates including order dated 25.7.2006."

In the special appeal which has been filed by the High Court Bar Association, the order of the learned Single Judge was called into question. On 2 March 2007, a Division Bench of this Court referred the following issues for determination by the Full Bench:

(a) Whether the Court concerned can assume jurisdiction not conferred upon the Court under the distribution of work by Hon'ble Chief Justice/Acting Chief Justice?

(b) Whether a Court hearing a petition can frame an issue and then answer the same, although the issue may not arise for consideration in the proceedings before the Court?

(c) Whether the High Court on judicial side can issue directions for regulating the entry, conduct and other related matters in respect of practice as a lawyer in the High Court, Subordinate Courts, Tribunal and other authorities."

Questions (a) and (b) are no longer res integra and are covered by a judgment of a Full Bench of this Court in Smt Maya Dixit Vs State of U P2. The Full Bench observed as follows:

"Thus, this would make it clear that even if a Bench was hearing a matter assigned to it as per the assignment and if in the course of hearing it proceeds to consider reliefs not sought in the petition, but which will fall within the PIL jurisdiction, then the Bench is bound to direct the Registry to place the matter before the learned Chief Justice for appropriate directions or before the appropriate P.I.L Bench. In other words, if that Bench is not assigned PIL work, it cannot proceed to hear the matter."

In view of the judgment of the Full Bench, the principle of law is well settled. It would not be open to a Court to assume jurisdiction not conferred upon the Court under the distribution of work by the Chief Justice. We may also note at this stage that in taking this view, the Full Bench has, inter alia, relied upon the following decisions of the Supreme Court:

(i) State of Maharashtra Vs Narayan;

(ii) Inder Mani Vs Matheshwari Prasad;

(iii) State of Rajasthan Vs Prakash Chand;

(iv) R Rathinam Vs State By DSP, District Crime Branch, Madurai District, Madurai; and

(v) Jasbir Singh Vs State of Punjab.

In view of the law laid down by the Full Bench, question (a) would have to be and is accordingly answered in the negative.

Insofar as question (b) is concerned, we are of the view that the answer to that question would also have to be in the negative. When a Court hears a petition, the scope of the adjudicatory power is confined to issues which arise directly or incidentally in the context of the lis or controversy before the Court. An issue which does not arise for consideration before the Court cannot be adjudicated upon. Any such exercise would also be in violation of principles of natural justice since the parties would be on notice of the case which they have to meet while deciding the issues which arise on the basis of the controversy on facts and law. Consequently, question (b) shall also stand answered in the negative.

Insofar as question (c) is concerned, it will really not survive for adjudication in the present reference having due regard to our answers to questions (a) and (b) above. The issues which arise in question (c) are also pending adjudication before a Bench of seven learned Judges of this Court in Re: Zila Adhivakta Singh, Allahabad<sup>8</sup>. Since the Bench of seven learned Judges is seized of the issue, we deem it appropriate and proper not to express any opinion thereon since the issue

would not survive for answer in the present reference and is being considered by the Bench of seven Judges.

The reference to the Full Bench is accordingly answered. The proceedings shall now be listed before the Division Bench for disposal on merits of the case.

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