

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	20.09.2023		<p>WPPIL No. 185 of 2018 <u>Hon'ble Vipin Sanghi, C.J.</u> <u>Hon'ble Rakesh Thapliyal, J.</u></p> <ol style="list-style-type: none"> 1. Mr. Shakti Singh, learned counsel for the petitioner. 2. Mr. Azmeen, learned Standing Counsel for the Union of India/ respondent no. 1. 3. Mr. C.S. Rawat, learned Chief Standing Counsel for the State of Uttarakhand/ respondent nos. 3 and 4. 4. Mr. Piyush Garg, learned counsel for respondent no. 5. 5. The present Writ Petition has been preferred, statedly, in public interest to seek a writ of mandamus to the respondents, who are the Union of India, Bar Council of India, State of Uttarakhand, and the Bar Council of Uttarakhand to comply with, and implement the schemes as per the Advocates Welfare Fund Act, 2001, Advocates Act, 1961 and the U.P. Advocates Welfare Fund Act, 1974. The petitioner also seeks a mandamus directing the respondents to implement various welfare schemes at par, and uniformly and transparently. The third direction sought by the petitioner is for a mandamus to the respondents to pay stipend to the young lawyers upto 5 years of their practice forthwith. 6. Learned counsel for the petitioner has, firstly, drawn our attention to Section 6 of the Advocates Act, 1961, which lays down the functions of the State Bar Councils. Clause (dd) enumerates the function of the State Bar Councils to promote the growth of State Bar

Associations for the purposes of effective implementation of the welfare schemes referred to in clause (a) of sub-section (2) of the said Section, and clause (a) of sub-section (2) of Section 7. Section 6(2)(a) reads that a State Bar Council may constitute one, or more funds in the prescribed manner for the purpose of giving financial assistance to organise welfare schemes for the indigent, disabled or other advocates.

7. The Bar Council of Uttarakhand has filed its counter affidavit, and the stand of the Bar Council is that it is not in receipt of any grant of whatsoever nature from the State Government. The only source of revenue for the State Bar Council is the charge (one time) collected by it at the time of enrolment of an Advocate. No recurring, or periodical fee is available to the Bar Council from the Advocates enrolled on its roll. The Bar Council states that, presently, it does not have the funds for providing financial assistance, and, for that purpose, to organize welfare schemes for indigent, disabled or other Advocates.

8. We may note that Section 7 enumerates the functions of the Bar Council of India, and Section 7(2)(a) is *pari materia* with Section 6(2)(a) of the Advocates Act.

9. Pertinently, the Legislature of the State of Uttar Pradesh enacted the Uttar Pradesh Advocates' Welfare Fund Act, 1974, which is also applicable to the State of Uttarakhand since its creation, under the Uttar Pradesh Reorganisation Act, 2000. Section 3(1) of the said Act states that a charitable trust shall be created in respect of a Fund, to be constituted, as provided in the said Act, to be called the Uttar Pradesh Advocates Welfare

Fund. Section 3(2) states that the fund shall consist of several amounts, which are drawn into the said fund statutorily.

10. Mr. Rawat, learned Chief Standing Counsel states that the amounts are being received by the Bar Council of Uttarakhand, in terms of Sections 3 and 4 of the said Act.

11. Learned counsel for the petitioner has also argued that the State of Kerala has formulated a scheme for providing financial assistance, by way of stipend, to lawyers, who have been in practice from 3 to 5 years. A similar law has also been framed by the Government of Puducherry.

12. Merely because such schemes have been framed by other States, and Union Territories, does not follow that the petitioner has a vested right to seek creation of a similar scheme in the State of Uttarakhand. The Bar Council of Uttarakhand has expressed its inability, in the light of its finances.

13. We are, therefore, not inclined to issue any directions, as sought by the petitioner in this Writ Petition. At the same time, we appeal to the State Government to look into the issue of financial hardship, which young Advocates face. Advocates, who practice law in Courts, are the protectors of fundamental and legal rights of citizens. To maintain rule of law in the State, a healthy Bar, with competent Advocates, is essential. It should not be that a competent Advocate falls by the wayside, and leaves the profession only on account of him/ her not being able to make both ends meet in his/ her earlier days in the profession.

14. The State should, therefore, consider providing a one-time *ex gratia* amount to the Bar Council of

Uttarakhand, so that it can run a welfare scheme for the welfare of young and needy Advocates.

15. The Writ Petition stands disposed of in the aforesaid terms.

16. Consequently, pending application(s), if any, also stand disposed of accordingly.

(Rakesh Thapliyal, J.)
20.09.2023

(Vipin Sanghi, C.J.)
20.09.2023

Rahul