

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(Cr.) No. 425 of 2021

Nand Kishor Gupta @ Nand Kishor Ram Petitioner

Versus

1.The State of Jharkhand through Director General of Police Jharkhand, Ranchi
 2. The Superintendent of Police, Giridih
 3.The Officer In-Charge, Muffasil Police Station, Giridih,

..... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner: Mr. Rajeev Lochan, Advocate

For the State : Mr. Ashish Kumar, A.C. to G.A.-II

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07/Dated: 03/08/2022

Today, this matter has been argued by Mr. Rajeev Lochan who is practising lawyer of Delhi High Court and his Enrolment No. is D/412/2011.

2. Mr. Rishi Chandan, who is practising lawyer of this Court pointed out that his senior is Mr. Rajiv Lochan and his Enrolment No. is 3325/2000 and his Enrolment Number has been used in filing valalatnama. He further submits that spelling of the name of his senior is Rajiv Lochan whereas the spelling of this advocate is Rajeev Lochan.

3. Mr. Jagdeesh, who is practising lawyer of this Court fairly submits that Rajeev Lochan who is arguing this matter sent vakalatnama in which Enrolment No. is 3325/2000 disclosed and he has filed the vakalatnama as it is he received. The entire documents have been sent by Rajeev Lochan from Delhi.

4. Prima facie, it appears that in filing this vakalatnama interpolation has been made by counsel appearing for the petitioner namely, Rajeev Lochan.

5. Accordingly, this matter is referred to the Bar Council of India as well as Jharkhand State Bar Council who will enquire into the matter.

6. This practice is looms large in the entire country. The concern has been shown by the Hon'ble Supreme Court as well as High Courts. In one of the matter, the Hon'ble Supreme Court has directed the Bar Council of India to find out fake lawyers and probably the Bar Council of India has taken certain steps pursuant to direction of the Hon'ble Supreme Court. The Chairman of Bar Council

of India himself has disclosed about fake degrees before Central Information Commission **Satya Pal Tyagi v. Bar Council of Delhi**, reported in **2016 SCC OnLine CIC 11172**. Para 4 and 5 are quoted here-in-below:-

"4. Justice is essential need of citizenry in democracy and lawyers are omnipotent in the justice delivery system. There is no greater professional calling than to stand as a lawyer at the bar of justice and breathe life into the law by asserting and defending the rights of citizens. The legal fraternity should never lose sight of respect this profession commands. Relevance can be placed on shocking revelation by Bar Council of India Chairman Mr. Manan Kumar Mishra saying 'results of an ongoing verification process may surprise many and far exceed the initial estimates that over 30% lawyers have fake degrees'.

5. The Commission observes that clientele and general public have right to know what action is initiated by Bar Council of India to verify and weed out forged certificates. It's a matter of serious public concern and in larger public interest of justice system. The Bar Council of India, a prestigious statutory organization of a reputed profession of advocates has a duty to protect faith of millions of seekers of justice. When it is officially stated that 30% of educational qualification of its members are suspicious, it is their duty to inform if they have weeded out membership of such persons after proof of suspicion. Any advocate having a forged degree is not just a black sheep among the black coats but represents a cancerous misconduct which has to be surgically removed. If a person wants to become a lawyer by illegal means, the law will suffer, the justice will become a mirage, and finally credibility along with rule of law will crumble. Bar Council of India has duty to ensure that this great edifice does not crumble. Though the Bar Council of India, a statutory body under the Advocates Act, 1961 which is under duty to eliminate such fake lawyers in order to reinstate the faith which is to be reposed in this profession, has introduced a mechanism/procedure for ascertaining the number and identify such fake or non-practicing lawyers and with that purpose by framing Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015, but the time frame by when this process will be completed is not certain. More so, it is deplorable to see that advocates having suspended licenses are still allowed to practice when the appellant brought to the notice of the Commission that an advocate, Mr. Rajeev Kumar Sharma having enrolment no. D-431/04 which had been suspended by Mrs. Rana Parween Siddiquii — Chairman, Bar Council of Delhi on 29.11.2012, is still practicing law."

7. In the case of **Ajayinder Sangwan v. Bar Council of Delhi** reported in **(2018) 2 SCC 780** at paras 6 to 9 are relevant and quoted here-in-below:

"6. To put it in a nutshell, the petitioners are requesting for immediate elections of the State Bar Council as the term has expired long back whereas the Bar Council of India is pressing for the need of verification of the candidates to eliminate fake lawyers in order to bring improvement in the Bar and to get deserving practising advocates for the respective Bar Councils.

7. We have been informed by the learned Senior Counsel for the Bar Council of India as well as the respective State Bar Councils that the process of verification is not completed yet. In view of that, to do complete justice to the parties, it would be proper for us to provide a last opportunity for the same as mentioned below:

7.1. 15 (fifteen) days' time be given to cure the defective applications by the advocates concerned and to all such advocates to submit their complete application forms for necessary verification of their degrees if they have not submitted the same earlier, from the

date of publication of advertisement in two leading newspapers, one in English language and the other in regional language having wide circulation in the respective State/Union Territories, for which advertisement shall be published within 7 days from the passing of this order.

7.2. 1 (one) month's time for verification of applications, without any charge, by the State Bar Councils, after the expiry of the above 15 (fifteen) days.

7.3. The University authorities shall ensure the verification of degrees awarded by them, without any charge, within 1 (month) on its presentation.

7.4. The respective State Bar Councils shall publish a final electoral roll by including the names and particulars of such advocates whose degrees attached with the application forms have been verified by the University authorities concerned. The names of all such advocates who have not removed the defects in the application forms already submitted within the specified time and also such persons whose degrees on verification have been found false or fake by the University authorities shall not be included in the electoral rolls.

7.5. The Bar Council of India to declare the schedule of elections in respective State Bar Councils to be held after the expiry of 75 (seventy-five) days, as mentioned above, within one week mentioning therein:

(i) 15 days for nomination.

(ii) 1 week for withdrawal of nomination.

(iii) to upload final candidates' list in 1 (one) week.

(iv) to decide the date of election.

8. We further make it clear that all the steps be taken by all the parties concerned in the matter for the purpose of elections in respect of all the Bar Councils where the term of the existing members have already expired or to be expired. We further make it clear that although this order has been passed in favour of the verification only for the purpose of the election but it would also include for the purpose of the verification of all other learned lawyers who have already applied within the time stipulated by this Court.

9. We direct all the State Bar Councils to take necessary steps and to conclude all proceedings by 31-12-2017 and send a reply to the Bar Council of India. Thereafter, the Bar Council of India, after receiving all the replies from the State Bar Councils, would file a status report.

8. Further in the case of **Bar Council of Maharashtra V. M. V.**

Dabholkar reported in **(1975) 2 SCC 702** condemned corrupt practices of

advocates in para 52 which reads as follows:-

"52. The Bar is not a private guild, like that of "barbers, butchers and candlestick-makers" but, by bold contrast, a public institution committed to public justice and pro bono publico service. The grant of a monopoly licence to practice law is based on three assumptions: (1) There is a socially useful function for the lawyer to perform, (2) The lawyer is a professional person who will perform that function, and (3) His performance as a professional person is regulated by himself not more formally, by the profession as a whole. The central function that the legal profession must perform is nothing less than the administration of justice ('The Practice of Law is a Public Utility' — 'The Lawyer, The Public and Professional Responsibility' by F. Raymond Marks et al — Chicago American Bar Foundation, 1972, p. 288-89). A glance at the functions of the Bar Council, and it will be apparent that a rainbow of public utility duties, including legal aid to the poor, is cast on these bodies in the national hope that the members of this monopoly will serve society and keep to canons of

ethics befitting an honourable order. If pathological cases of member misbehaviour occur, the reputation and credibility of the Bar suffer a mayhem and who, but the Bar Council, is more concerned with and sensitive to this potential disrepute the few black sheep bring about? The official heads of the Bar i.e. the Attorney-General and the Advocates-General too are distressed if a lawyer "stoops to conquer" by resort to soliciting, touting and other corrupt practices."

9. The Bar Council of India and Jharkhand State Bar Council shall look into the matter and will submit report to this Court within four weeks.
10. On submission of report by the Bar Council of India and Jharkhand State Bar Council, the Court will consider about lodging of the First Information Report against Mr. Rajeev Lochan, counsel appearing for the petitioner.
11. Let a copy of this order be communicated to the Chairman, Bar Council of India as well as Jharkhand State Bar Council.
12. Let this matter appear on 19.09.2022.

(Sanjay Kumar Dwivedi, J.)