

IN THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR

Writ Petition No. / 2020

PETITIONER DISTRICT BAR ASSOCIATION,
BHOPAL

Versus

RESPONDENTS State of MP and another

DECLARATION/UNDERTAKING

(UNDER RULE 25 CHAPTER X)

The copies, as required by rule 25 of chapter X of the High Court of Madhya Pradesh Rules 2028, have been served upon Advocate General Office through email as per the guidelines of this Hon'ble Court dated 15/4/2020 and acknowledgment / screenshot of the same is duly attached.

The copy of Respondent no.1 is served on Email Id –
and copy of Respondent no.1 is served on
Email Id –

Jabalpur
Dated 18.5.2020

(ANKIT SAXENA)
ADVOCATE FOR APPLICANT
MOBILE NUMBER -
ENROLMENT NUMBER-

IN THE HIGH COURT OF MADHYA PRADESH
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Jabalpur
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CHRONOLOGICAL LIST OF DOCUMENTS

Date	EVENT
22/4/2020	Petitioner Association written letter regarding the difficulties faced by the Bar Association Bhopal.
April 2020	Scheme was floated and circulated
4/5/2020	Gazette Notification was issued
12/5/2020	Objection was raised

Jabalpur

Date: 18.5.2020

ANKIT SAXENA
COUNSEL FOR PETITIONER

IN THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR

Writ Petition No. / 2020

PETITIONER **DISTRICT BAR ASSOCIATION,**
BHOPAL, District Court Campus, Arera
Hills, Bhopal (M.P.) Through its Secretary

Versus

RESPONDENTS **1. STATE OF M.P.,**
Law and Legislative Affairs
Department, 1st Floor Vindhyachal
Bhawan, Bhopal
Through its Secretary,

2. STATE BAR COUNCIL OF M.P.,
High Court of M.P. Campus,
Jabalpur (M.P.) Through its Secretary

(Writ Petition under Article 226 of the Constitution of India)

1. Particulars of the cause/order against which the petition is made:

- i) Order dated : NIL
- ii) Passed by : NIL
- iii) Case No. : NIL

SUBJECT MATTER IN BRIEF :

By way of the instant Writ Petition, the petitioner is not challenging any particular order but is aggrieved by the

inaction of Respondents by which neither criteria for eligibility has been fixed for extending financial help to the needy advocates nor the actual effected advocates have been made entitled for the relief rather in arbitrary manner 5% advocates of total strength of the members of Bar Association had been made entitled and despite the repeated requests, representations, objections and suggestions submitted to the Respondents by the Petitioner Association, the same have neither been replied nor had paid any heed to it nor has been decided. It is worth to mention here that even the same has not been taken into consideration prior to publishing the scheme by the Respondents. Hence the Petitioner is left with no option except to knock the door of the Hon'ble Court for following reliefs on the following fact and grounds ::

- 2. A declaration that no proceeding on the same subject matter has been previously instituted in any Court, authority or tribunal. If instituted, the status or result thereof, along with copy of the order:**

It is hereby, declares that the petitioners have not filed any petition against the impugned order and except the present no proceeding on the same subject matter has been previously instituted in any court, authority to Tribunal by the petitioner.

- 3. Details of remedies exhausted:**

The petitioner declares that in absence of effective remedy available in the matter of violation of fundamental right and looking into the nature of proceedings taken by the respondents the petitioner has approached this Hon'ble Court to get his grievances remedied efficaciously.

- 4. Delay, if any, in filing the petition and explanation therefore:**

The petitioner is declared that there is no any inordinate delay in filing the present petition.

5. Fact of the case:

The fact of the case are submitted as under:-

- 5.1 That, the Petitioner is a registered association and the association has authorized the Secretary of the Bar to file the present petition. The petitioner is entitled to protect the fundamental rights of the members of District Bar Association, Bhopal as envisaged under the Constitution of India being the elected body of Association.
- 3.2 That, the authorized signatory of the petition who is also secretary of association is enrolled as an advocate at Serial No. on 5th December 1990 by the Respondent No. 2 and since then is engaged in legal profession and presently is the elected Secretary of District Bar Association, Bhopal. Copy of Identity Card is annexed and marked herewith as **Annexure P/1.**
- 3.3 That, due to the threat of pandemic Corona Virus and immobilization of public at large in the wake of unprecedented and uncertain situation, the Hon'ble Court was pleased to declare the non-working of the Hon'ble Court

as well as of the entire subordinate judiciary w.e.f. 25th March 2020.

- 3.4 That, due to the threat of pandemic Corona Virus and immobilization of public at large and non-working of courts of Madhya Pradesh, the Advocates had to suffer financially and most of the Advocates, who don't have either so much briefs or are unable to earn huge money from professional fees so as to save the money for their future and are not earning anything during the lockdown period so as to maintain their family.
- 3.5 That, looking to the demand of the various Bar Association of Madhya Pradesh including the District Bar Association, Bhopal for extending help to the needy advocates, Respondents had framed Scheme called as *e;/izns'k vf/koDrk lgk;rk ¼izkd`frd vkink ,ao vizR;kf'kr ifjLFkfr;kW½ ;kstuk 2020*- Copy of request letter dated 22/4/2020 written to the Respondents is annexed and marked herewith as **Annexure P/2** and the draft scheme is annexed and marked herewith as **Annexure P/3**.
- 3.6 That, looking to the demand of the various Bar Association of Madhya Pradesh for extending help to the needy advocates, Respondents had framed Scheme, as mentioned above wherein clause No. 4 describes the procedure for recommendation of application by the Samiti and the amount

to be paid against the help and more specifically the Schedule was also made part of the scheme wherein the number of cases, though irrational, to whom the financial help can be extended, was mentioned.

3.7 That, the scheme was irrational hence objection to the scheme as also the suggestions were submitted by the Petitioner-secretary with the Respondents through email on dated 23.4.2020. Copy is annexed and marked herewith as **Annexure P/4.**

3.8 That, the Respondents despite receipt of the objection and suggestion failed to consider the same and had notified the Scheme on 4th May 2020 with two amendments i.e. the amount reserved in draft of the scheme had been enhanced and the schedule had been modified whereby the eligible number mentioned therein had been replaced by 5% of the total members of the Bar Association. Copy of Gazette Notification is annexed and marked herewith as **Annexure P/5.**

3.9 That, the Scheme notified by the Respondent is defective on the following grounds ::

(a) Scheme does not describe the eligibility criteria for entitlement of the benefits

(b) Sub Clause No. 6 of Clause 4 speaks about the enquiry and satisfaction of the concerned Bar Association that too after due enquiry but what type of enquiry and satisfactions would be, is missing.

- (c) Application Form Annexure 1 does not contain any clause so as to declare the material information about his status or to demonstrate the category as needy advocate.
- (d) The total number of eligible members of any Bar Association is 5% of its total members, which is irrational and will be the great cause of internal fractions between the members and the elected office bearers and executive members of the Bar Association.

3.10 That, after the notification of the Scheme, Petitioner lodged its objection with the Respondent through email on 29/4/2020 but that too had not been considered by the Respondents. Copy of same is annexed and marked herewith as **Annexure P/6.**

3.11 That, in the meantime, District Bar Association, Bhopal has invited application from the needy advocates and till the filling of the present petition, District Bar Association, Bhopal has received more than 700 application from its members. The office bearers of the District Bar Association, Bhopal were facing many problems including allegations of partiality hence to overcome the same, District Bar Association, Bhopal further submitted request letter to the Respondent No. 1 through email on 12/5/2020 for issuing directions or apprising the District Bar Association, Bhopal about the eligibility criteria for entitlement so that the applications could

be scrutinized, sorted and could be sent to the Respondent No. 1. Copy of letter is annexed and marked herewith as **Annexure P/7**. It is pertinent to mention that in similar situation the Rajasthan Bar Council has also frame rules and the copy of rules framed by the Bar Council of Rajasthan are annexed and marked herewith as **Annexure P/8**. But that letter had neither been replied nor necessary instructions had been issued hence the District Bar Association, Bhopal is facing hardship in identifying application of 5% applicants out of 700 applications whose application could be recommended and rest be ignored and like wise. Hence the Petitioner is knocking the door of the Hon'ble Court for the following relief on the following grounds ::

6. Grounds:-

- a) That, inaction on the part of the Respondents is causing great hardship to Petitioner and other office bearers of the District Bar Association, Bhopal due to which the applications of advocates cannot be sent to the Respondent No. 1 and they are being deprived to receive the help from Respondent No. 1.
- b) That, this Hon'ble Court may kindly be pleased to appreciate that the Constitutional and Legal Rights of the Advocates should not be denied.
- c) That in absence of proper rules, criteria and guidelines embarrassing situation has arisen before the Petitioner Bar Association, Bhopal because it has approximately 4000 members whereas the Scheme provides help to the extent of 5% of the strength i.e. 200 members out of 4000 members that too on the recommendation of the President, Secretary and Treasurer of the concerned Bar Association.

- d) That the decision in hands of association will at one side develops theory in advocates and members of favourism and nepotism against the Bar Association Bhopal.
- e) That, the Petitioner has given various representations to the Respondents but had neither been attended nor taken into consideration
- f) Other grounds shall be raised at the time of hearing of the matter.

7. RELIEF SOUGHT

In view of the facts and circumstances of the case, the petitioner pray for the following relief:-

1. The Hon'ble Court may kindly be pleased to issue a appropriate writ/order/direction directing respondents to frame rules , proper guidelines with prescribed criteria regarding fund allocation to the needy advocates.
2. The Hon'ble Court may kindly be pleased to issue a appropriate writ/order/direction directing respondents to accept all the forms submitted to the petitioner association and distribute the fund at their own level.
3. Any other relief/order/direction/prod which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, may also kindly be granted to the petitioner along with cost of entire litigation.

8. Interim Order / writ, if prayed for :

The Hon'ble Court may kindly be pleased to issue an appropriate writ/order/directing respondents to accept all the forms of advocates received to the petitioner association and decide the criteria themselves.

9. Documents relied on but not in possession of the petitioner:

The petitioner has not relied upon any documents which is not in his possession.

10. Caveat:

That, no notice of lodging a caveat by the opposite party is received.

An affidavit in support of this writ petition is filed herewith.

PLACE: JABALPUR

DATE: 18-05-2020

(ANKIT SAXENA)

ADVOCATE FOR APPLICANT

MOBILE NUMBER - 9752898989

ENROLMENT NUMBER- 2260/2006

E-MAIL- ADVANKITSAXENA@YAHOO.CO.IN

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BHOPAL

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RESPONDENTS State of MP and others
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LIST OF DOCUMENTS

S.No.	Description of Document	Date of Order	Original/ Copy	No. of Pages
1.	Identity Card	NIL	Copy	
2.	letter	22/4/2020	Copy	
3.	Draft Sceme	NIL	Copy	
4.	Objection to Scheme	23/4/2020	Copy	
5.	Gazzette Notification	NIL	Copy	
6.	Objection	29/4/2020	Copy	
7.	letter	12/5/2020	Copy	
8.	Copy of Rules framed by Bar Council of Rajasthan	NIL	Copy	

PLACE: JABALPUR
DATE: 18-05-2020

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APPLICATION FOR URGENT HEARING

It is humbly submitted as under:-

1. That the Petitioner has filed present petition whereby the respondents has asked to submit the list of selected advocates without fixing any criteria of selection.
2. That due to above more that 700 forms have come and selection would be a lottery system or Toss system unless rules and criteria is not prescribed .

PRAYER

It is, therefore, prayed that this Hon'ble Court may kindly be pleased to hear the matter urgently through video conferencing.

PLACE: JABALPUR

DATE: 18-05-2020

(ANKIT SAXENA)

ADVOCATE FOR APPLICANT

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E-MAIL-

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APPLICATION FOR EXEMPTION FROM NOTARY
AND MEMO TICKETS

It is humbly submitted as under:-

1. That the Petitioner has filed present petition whereby the respondents has asked to submit the list of selected advocates without fixing any criteria of selection.
2. That due to Covid-19 pandemic and as the lock-down is prevalent, the ticket vendors and tickets are not available and therefore the petitioner may be exempted from filing the Adhivakta Kalyan Ticket.
3. That the petitioner further undertakes to comply with the said deficits within 72 hours from the opening of the regular courts or as and when the same is available.

PRAYER

It is, therefore, prayed that this Hon'ble Court may kindly be pleased to accept the undertaking and exempt the petitioner from Notary and Adhivakta Kalyan Ticket in the interest of justice.

PLACE: JABALPUR

DATE: 18-05-2020

(ANKIT SAXENA)

ADVOCATE FOR APPLICANT

MOBILE NUMBER -

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:: AFFIDAVIT ::

I,

do hereby state on solemn
affirmation as under:-

1. That I am the Secretary of Petitioner Association and authorized to file the present petition and as such I am competent to swear this affidavit also.
2. That I have read and understood the contents of the petition and same has been drafted under my instruction, by my counsel.
3. That the contents of Para from 1 to 10 of the petition are true and best of my personal Knowledge, and I believe the same to be true and I have not suppressed or concealed any material facts from this Hon'ble Court.
4. That the annexed documents Annexure P-1 to P-8 are true and correct and are not forged and fabricated.

:: VERIFICATION ::

I, the above named deponent do here by verify and declare on oath that the contents from para 1 to 4 of this affidavit are true and correct to the best of my knowledge and belief.

Signed and verified today 18 /05/2020 at Bhopal.