

**SUPREME COURT OF INDIA****Bench: Hon'ble Mr. Justice Surya Kant, Hon'ble Mr. Justice K.V. Viswanathan****Date of Decision: 2<sup>nd</sup> May 2024**

MISCELLANEOUS APPLICATION Diary No(s).13992/2023

Parties Involved:

**SUPREME COURT BAR ASSOCIATION ...PETITIONER(S)****VERSUS****B.D. KAUSHIK ...RESPONDENT(S)****Legislation and Rules:**

Supreme Court Rules

**Subject:** Matters arising from resolutions and proposed reforms within the Supreme Court Bar Association (SCBA), specifically regarding elections, eligibility criteria for office bearers, and membership fees.**Headnotes:**

SCBA Governance Reforms – SCBA Special General Body Meeting resolutions for amending tenure and eligibility rules for office bearers, and fees structures fail to pass due to lack of required majority – Proposed reforms include changing eligibility for contesting in SCBA elections, adjusting membership fees, increasing the number of members required to convene a general meeting, and revising deposit fees for candidature – Court observes need for SCBA as a key judicial institution to adapt and reform periodically but emphasizes that such changes should be inclusive of member suggestions [Para 1-2].

Judicial Review and Directions – Despite the failure of proposed resolutions, the court underscores the importance of timely reforms in SCBA and orders further engagement with Bar members on suggestions for reforms – Court directs SCBA Executive Committee to invite and compile suggestions by 19<sup>th</sup> July 2024 for discussion – Minimum reservation for women in the SCBA Executive Committee mandated, ensuring female representation [Para 3-8].

Election Procedure – Directions for SCBA elections issued, setting elections for 16<sup>th</sup> May 2024 based on updated voter lists including members eligible between 01.03.2023 and 29.02.2024 – Election Committee established,

comprising senior advocates, with authority over election processes and eligibility determinations [Para 9-12].

Referred Cases: None specifically cited.

Representing Advocates:

For Petitioner(s): Dr. Adish C. Aggarwala, Sr. Adv., and others.

For Respondent(s): Various senior advocates including Mr. Vikas Singh, Sr. Adv., and team.

## O R D E R

1. In continuation of order dated 23.04.2024, the Observer Committee, constituted by us, has submitted its report. As per the said report all the eight resolutions put up before the Supreme Court Bar Association, Special General Body Meeting held on 30.04.2024 have failed for want of 2/3<sup>rd</sup> majority of the members present and voted. The brief description of all the resolutions has also been given in its report by the Committee. The resolutions *inter alia* recommended:

- (i) That previous resolution dated 15.10.2014 resolving that no member of the Bar shall be eligible to hold any one post for more than four years in his/her life time should be recalled;
- (ii) That the eligibility conditions to contest for the post of Office Bearers of SCBA, including the length of practice at Bar and the fee to be deposited should be revised;
- (iii) That the admission fee for the members in SCBA should be amended and revised.
- (iv) That the deposit fee and eligibility for candidates to contest for various posts in SCBA Executive Committee be revised and suitably enhanced.
- (v) That the admission fee for the membership for SCBA in future be suitably revised and enhanced.

- (vi) That the requirement of existing number of 150 members for convening General Body/Special General Body Meeting be increased to 600.
  - (vii) That the tenure of the Executive Committee be increased to two years as against one year.
  - (viii) That there should be reservation for women in SCBA Executive Committee.
2. All the aforesaid resolutions/recommendations, each signed by 150 eligible members, have been rejected in the Special General Body Meeting held on 20.04.2024.
  3. In this regard, we have heard various senior members/members of the Bar. We are of the view that the SCBA is a premier institution and is an integral part of the highest judicial forum of the country. The norms, eligibility conditions, membership, membership fee structure etc., cannot remain static for decades and timely reforms to meet with the challenges that may confront the institution from time to time, are required to be carried out. However, such reforms need to be brought after due consideration of the suggestions from the members of the Bar. In fact some suggestions have been invited from the members of the Bar, including the office bearers of the Supreme Court Executive Committee vide our order dated 14.08.2023. The relevant part whereof reads as follows:
    - “1. In deference to the previous orders including dated 10.07.2023, Mr. Vikas Singh, learned senior counsel has given certain suggestions.
    - 2. Copy of the same be given to Dr. Adish Aggarwala, learned Senior Advocate and President of the Supreme Court Bar Association.
    - 3. We have impressed upon Dr. Adish Aggarwala and the other members of the Bar Association to submit their respective suggestions and/or the modalities to be followed for further reforms in the election process of the Bar Association. The suggestions may be submitted within eight weeks.
    - 4. Post the matter on 30.10.2023.”
  4. We, thus, direct that:
    - (i) The Executive Committee of the SCBA shall invite suggestions from all the members of the Bar through a public notice in its website. All such

suggestions may be invited by 19.07.2024. Such suggestions may be in digital form or through hard copy.

(i.i) Some of the suggestions which have already been brought by senior members/members of the Bar will also taken as part of those suggestions.

(i.ii) The Executive Committee of the SCBA shall compile all the suggestions received from members of the Bar and place it on record. Such suggestions will also be then displayed on the website inviting cross-suggestions, if any, which shall be received by 09.08.2024.

5. We propose to give a time bound audience to some of the members of the Bar in representative capacity before taking a final call on the suggestions that may be received.

6. We are, however, of the view that notwithstanding any resolution passed by the Special General Body of SCBA, some of the posts in the Executive Committee must be reserved for women members of the Bar. We, accordingly, direct that hitherto including for the ensuing election there shall be reservation for women members of the Bar to the following effect:

(i) Minimum of 1/3<sup>rd</sup> seats in the Executive Committee i.e., 3 out of 9.

(i.i) Minimum 1/3<sup>rd</sup> out of the Senior Executive Members i.e., 2 out of 6.

(i.ii) At least one post of the Office Bearer shall be reserved for women candidate exclusively by turn and on rotation basis.

(i.v) In the ensuing election for 2024-2025, the post of Treasurer of the Executive Committee is reserved for women.

7. Though no clarification is required, however, to remove any sort of doubt, it is made clear that reservation is only to guarantee a minimum and women members of the SCBA, subject to their eligibility, shall be entitled to contest the election for all the posts in the Executive Committee.

8. We have also considered the suggestions and modalities for conducting the election of the Executive Committee of the SCBA, which will become due to expiry of the term of the current office bearers on 18.05.2024.

In this regard, after considering the view point of various members, it is directed that:

(i) The election of the officer bearers of the SCBA and the Executive Committee shall be held on 16.05.2024.

(ii) The election shall be held on the basis of the voter list as was finalized in the election for the year 2023.

(iii) Apart from those under the voters list for 2023, all those members who have become eligible between 01.03.2023 to 29.02.2024 would also be entitled to be included in the voters list. In this regard, we have been informed that a communication dated 06.03.2024 has been sent to the Supreme Court Registry for providing the following details:

- (1) Data of entry of Proximity Card of SCBA Members between 01.01.2023 to 31.12.2023,
- (2) Updated List of Chambers Allottee,
- (3) Updated List of Chambers Waiting, (4) Updated List of Amicus Curiae and (5) Updated List of Mediation Panel of SCBA Members.

(iv) We direct that the Registry shall, if it is not already made available, make available the above requisitioned list on or before 03.05.2024.

(v) The counting of votes shall commence on 18.05.2024. The result shall be declared on 19.05.2024.

9. The Election Committee shall comprise of (i) Mr. Jaideep Gupta, Sr. Advocate, (ii) Mr. Rana Mukherjee, Sr. Advocate and (iii) Ms. Meenakshi Arora, Sr. Advocate.

10. In case, if any of the three members have any difficulty, he or she may mention the same before us for replacement.

11. The Election Committee shall be at liberty to co-opt volunteers for conducting free and fair election.

12. We make it clear that the decision of the Election Committee shall be final on all aspects, including on the aspect of the eligibility for inclusion in the voters list

13. Post these matters on 15.07.2024.

© All Rights Reserved @ LAWYER E NEWS

\*Disclaimer: Always compare with the original copy of judgment from the official website.