HIGH COURT OF MADHYA PRADESH
Bench: Justices Vivek Agarwal and Avanindra Kumar Singh
Date of Decision: 3rd May 2024

WRIT PETITION No. 5193 of 2016

AMIT PATEL … PETITIONER

VERSUS

HIGH COURT OF MADHYA PRADESH & ORS. … RESPONDENTS

Legislation:
Article 14, 16, 226 of the Constitution of India
Madhya Pradesh Society Registrikaran Adhiniyam, 1973
Supreme Court Rules, 2013
Indian Evidence Act, 1872

Subject: Writ petition challenging the allotment of premises in the High Court Campus to the Madhya Pradesh High Court Advocates Bar Association by the Registrar General, High Court of Madhya Pradesh, Jabalpur.

Headnotes:

Public Interest Litigation (PIL) – Allotment of Premises in High Court Campus – Challenge to Allotment Procedure – High Court's Decision on Lack of Transparency and Legal Entity Recognition – Examination of Procedural Compliance and Discretionary Power

Public Interest Litigation – Maintainability – Writ Petition filed by Advocate challenging allotment of premises to unrecognized Bar Association – High Court held petition maintainable as PIL – Found absence of transparent and objective criteria in allotment process – Consideration of discrimination and violation of Article 14 [Paras 1, 113].

Administrative Discretion – Allotment of Public Property – Chief Justice's Prerogative – Examination of Discretionary Power in Absence of Policy or Procedure – High Court held lack of transparency and fairness in allotment to Madhya Pradesh High Court Advocates Bar Association – Cancellation of Allotment – Requirement of adherence to principles of justice and equity in administrative decisions [Paras 13, 63, 83, 107, 112].

Recognition of Bar Associations – Legal Entity Status under Advocates Act, 1961 – High Court upheld State Bar Council's decision to deny recognition to Madhya Pradesh High Court Advocates Bar Association – No entitlement to claim facilities without recognition – Affirmation of the principle 'One Bar One Vote' – Implications on legal status and entitlements of Bar Associations [Paras 2, 6, 11, 61, 112].

Judicial Review – Examination of Administrative Decisions – Application of Wednesbury Test – High Court found absence of objective criteria, transparency, and fairness in decision-making process – Emphasized the need for rules and procedures in allotment of public property to ensure non-arbitrariness and equality [Paras 66, 92, 106, 111].

Decision – Revocation of Allotment – Held – Allotment of space to Madhya Pradesh High Court Advocates Bar Association was arbitrary, lacked transparency and violated principles of natural justice – Allotment cancelled and premises directed to be made available to recognized Bar Associations in compliance with established procedures and equitable principles [Paras 112-114].

Referred Cases:

- Supreme Court Bar Association vs. B.D. Kaushik (2011) 13 SCC 774
- Akhil Bhartiya Upbhokta Congress vs. State of Madhya Pradesh (2011) 5 SCC 29
- Lok Prahari vs. State of Uttar Pradesh (2018) 6 SCC 1
- Vineet Narain vs. Union of India (1998) 1 SCC 226
- S.P. Gupta vs. Union of India 1981 (Supp) SCC 87

- Rajeev Suri vs. Delhi Development Authority (2022) 11 SCC 1

Representing Advocates:

Shri Satish Verma for the petitioner
Shri B.N. Mishra for respondent No.1
Shri Ramakant Awasthi for respondent No.2
Shri Anil Khare, Senior Advocate, and others for respondent No.3
Shri Sanjay Verma for respondent No.4

ORDER

This writ petition is filed by Petitioner, Shri Amit Patel, Advocate by Profession, challenging the order of allotment of premises in the High Court Campus to the respondent No.3/Madhya Pradesh High Court Advocates Bar Association by the Respondent No.1/Registrar General, High Court of Madhya Pradesh, Jabalpur.

2. Shri Satish Verma, learned counsel for the petitioner submits that the petitioner is a practising Advocate before the High Court and a citizen of India. He is life member of the Madhya Pradesh High Court Bar Association (Respondent No.4 herein). His grievance is that he has filed this writ petition in public interest seeking a relief to take over the physical possession of around 20,000 square feet of space in the Madhya Pradesh High Court Building allotted to the respondent No.3/Madhya Pradesh High Court Advocates Bar Association. The relevant orders of allotment issued by the Registrar General be cancelled as the Madhya Pradesh High Court Advocates Bar Association has no legal entity or recognition under the provisions of the Advocates Act, 1961 from the State Bar Council of Madhya Pradesh. Once the application for affiliation/recognition was rejected by the State Bar Council of Madhya Pradesh then in the light of the judgment of the Apex Court in **Supreme Court Bar Association versus B.D.Kaushik (2011) 13 SCC 774,** there can only be one Bar Association annexed with the High Court, which is the respondent No.4, namely, the Madhya Pradesh High Court Bar Association and, therefore, the Madhya Pradesh High Court Advocates Bar Association is not entitled to claim any facility for itself.

3. It is submitted by learned counsel for the petitioner that the Madhya Pradesh High Court Advocates Bar Association was created with just a membership of Rs.100/- and 120 members in the year 2007 and which is at present is having membership of at best 300 members. A valuable space of 20,000 to 22,000 square feet in front of the Copying Section of the High Court was allotted to the Madhya Pradesh High Court Advocates Bar Association without any public notice or advertisement, which is contrary to the law laid down by the Apex Court in **Akhil Bhartiya Upbhokta Congress versus State of Madhya Pradesh (2011) 5 SCC 29.**

4. It is submitted by learned counsel for the petitioner that under similar facts and circumstances of the case, since no transparent procedure was adopted for allotment of such a prestigious and valuable property in favour of the Madhya Pradesh High Court Advocates Bar Association, the Bombay High Court had cancelled allotment of Government property and land in favour of the trust of Subhash Ghai-Mukta Arts Limited vide judgment dated 9.2.2012 passed in Writ Petition No.1826/2003 reported in Manu/MH/0133/2012 and the S.L.P, which was filed against the said order by Mukta Arts Limited & Another, was dismissed by the Apex Court vide order dated 4.4.2012 in Petition (S) for Special Leave of Appeal (Civil) No.(S) 10085-10086 of 2012. Copy of resolution of the State Bar Council of Madhya Pradesh is enclosed as Annexure P/2 whereby request of the Madhya Pradesh High Court Advocates Bar Association to grant recognition was rejected by the General Body of the State Bar Council of the Madhya Pradesh.

5. It is pointed out by learned counsel for the petitioner that there exists a resolution of the Bar Council of Madhya Pradesh bearing No.88/03/GB:DT.20.12.2003, which provides that “the Council shall recognize a Bar Association only at such place where a Civil Court or Link Court is functioning. The Council may consider for recognition of a Bar Association at such place where Civil Court or Link Court is not functioning subject to the condition that at such place, the minimum number of practising lawyers should not be less than 25”.

6. Learned counsel for the petitioner submits that vide Annexure P/2, the petitioner has enclosed Resolution No.53/GB/02 (30 Second

GB dated 12.5.2002) where the State Bar Council of Madhya Pradesh resolved as under:- "The Council reaffirmed its policy of recognizing only one Bar Association at one place i.e. at Tehsil Headquarters and the District Headquarters of the State and as a Special Case, will continue to recognize the High Court Bar Association at Jabalpur, Indore and Gwalior. The recognized Bar Associations either at District Headquarters or Tahsil Headquarters are those Bar Associations either functioning in the Civil Courts/District & Sessions Courts. Such Bar Associations, which are working in the name and style of Tax Bar ssociation, SAT/CAT Bar Association/Tribunal Bar Association/Labour Bar Association, Revenue Bar Associations, are not recognized by the Council. However, at the place concerned, the recognized Bar Association may form its Wing for the lawyers practising on a particular side such as District Bar Association of "Taxation Wing" District Bar Association Labour wing, District Bar Association and SAT/CAT Wing and may appoint a convenor for such special Wings. However, the lawyers practising at on a particular side shall necessarily be the members of the recognized Bar Associations. Those Advocates, who will not be the members of the Regular Bar Associations, will be liable for misconduct and would be deprived of the benefits of the Welfare Schemes of the Council. It is resolved that a circular to this effect be issued to all Bar Associations".

7. It is submitted by learned counsel for the petitioner that at the High Court level, only one Bar Association is allowed to have recognition and, therefore, the Madhya Pradesh High Court Advocates Bar Association not having any recognition, is not entitled to enjoy the patronage of the High Court as it is an illegal Association and has no legal sanctity.

8. It is submitted by learned counsel for the petitioner that the High Court of Madhya Pradesh in **Democratic Lawyer Forum versus State Bar Council & Others (Writ Petition No.574/2016)** has directed the State Bar Council for implementing the rule of One Bar One Vote. In addition to the space allotted in front of the Copying Section, additional space has been allotted in front of the Court Room No.20, which is also used by the Members of the Madhya Pradesh High Court Advocates Bar Association to the deprivement of the other Members of the Madhya

Pradesh High Court Bar Association and, therefore, it causes not only discrimination but heartburning too. Prayer is made to cancel the relevant orders of allotment and the Madhya Pradesh High Court Advocates Bar Association be restrained from charging huge membership fee from the Advocates and further members of the Madhya Pradesh High Court Bar Association be also permitted to equally use and enjoy the premises and spaces allotted to the respondent No.3/Madhya Pradesh High Court Advocates Bar Association.

9. Learned counsel for the petitioner submits that the allotment made in favour of the respondent No.3/Madhya Pradesh High Court Advocates Bar Association is violative of Article 14 of the Constitution of India as no public notice was issued and the space was given to a parallel unrecognised body. Hon'ble the Chief Justice is the trustee of the public property and the allotment cannot be made at his discretion.

10. Reliance is placed by learned counsel for the petitioner on the judgments of the Apex Court in **Usha Mehta versus Government of Andhra Pradesh & Others (2012) 12 SCC 419, Institute of Law, Chandigarh & Others versus Neeraj Sharma & Others (2015) 1 SCC 720, Gopal Jha versus Hon'ble Supreme Court of India (2019) 13 SCC 161.** Reliance is placed on the judgment of the Delhi

High Court in **P.K.Dash Advocates & Others Writ Petition (C) No.8106/2010 C.M.Application No.2237/2013 & Other Connected Matters Decided on 31.5.2016.** Reliance is placed on the judgments of the Apex Court in **Supreme Court Bar Association versus B.D.Kaushik (2011) 13 SCC 74** and **Akhil Gupta & Another versus Bar Council of Delhi & Others** where the S.L.P (C) No.13162/2016 came to be dismissed by the Apex Court vide order dated 5.9.2016.

11. Reliance is placed by learned counsel for the petitioner on the aforesaid judgments to point out that the public premises cannot be allotted dehors the rules of allotment and any allotment made without following any objective criteria, without considering the effect of over population and without inviting any competitive bidding but giving it away at a throwaway price or no price then such allotment is liable to be set aside by taking corrective steps and the Public Interest Litigation is maintainable in such matters.

12. Reliance is placed by learned counsel for the petitioner on the judgment of the Apex Court in **Smt.Naseem Bano versus State of Uttar Pradesh & Others AIR 1993 SC 2592** to contend that if the specific averments made by the petitioner in his petition have not been controverted by the respondent then the High Court should proceed on the basis that averments have been admitted by the respondent. Petitioner's counsel submits that Hon'ble the Chief Justice could not have exercised his discretion in a casual manner and, therefore, the then Chief Justices, have erred in extending the benefit in favour of the Madhya Pradesh High Court Advocates Bar Association without following the due process.

13. This Court asked Shri B.N.Mishra, learned counsel appearing on behalf of the Respondent No.1/Registrar General of the High Court of Madhya Pradesh, Jabalpur with regard to the Policy/Rules, if any, framed for allotment of premises in the High Court.

14. Shri B.N.Mishra on instructions submitted that there is no specific Policy with regard to the allotment of premises in the High Court to the interested persons and that is the exclusive prerogative of Hon'ble the Chief Justice. Shri B.N.Mishra also submitted that he has instructions to say that the Petitioner Amit Patel has no locus to file this writ petition as Public Interest Litigation. Shri Amit Patel neither has a locus nor such writ petition is maintainable in the form of Public Interest Litigation. The writ petition suffers from delay and latches.

15. Reliance is placed by Shri B.N.Mishra, learned counsel appearing on behalf of the Respondent No.1/Registrar General of the High Court of Madhya Pradesh, Jabalpur on Paragraph No.25 of the judgment of the Apex Court in **S.P.Gupta versus Union of India & Another 1981 (Supp) SCC 87** wherein it is held that "before we part with this general discussion in regard to the locus standi, there is one point, we would like to emphasise and it is, that cases may arise where there is undoubtedly public injury by the act or omission of the State or a public authority but such act or omission also causes a specific legal injury to an individual or to a specific class or group of individuals. In such cases, a member of the public having sufficient interest can certainly maintain an action challenging the legality of such act or omission, but if the person or specific class or group of persons, who are primarily

injured as a result of such act or omission, do not wish to claim any relief and accept such act or omission willingly and without protest, the member of the public, who complains of a secondary public injury cannot maintain the action, for the effect of entertaining the action at the instance of such member of the public would be to foist a relief on the person or specific class or group of persons primarily injured, which they do not want". Hence, Shri B.N.Mishra, Advocate submits that such action being not maintainable, the writ petition is liable to be dismissed.

16. Placing reliance on the aforesaid judgment of the Apex Court in **S.P.Gupta versus Union of India & Another (supra),** it is pointed out by Shri B.N.Mishra that the Madhya Pradesh High Court Bar Association, which is the parent Association, has not opposed formation of the Madhya Pradesh High Court Advocates Bar Association or the allotment of space to them by Hon'ble the Chief Justice and, therefore, the petitioner has no locus in the matter.

17. Reliance is placed Shri B.N.Mishra on the judgment of the Apex Court in **Rajeev Suri versus Delhi Development Authority & Others (2022) 11 SCC 1** wherefrom Paragraph No.550 is referred, which reads as under:-

"550.We may usefully advert to the exposition in Narmada Bachao Andolan v. Union of India. In paragraph Nos. 230 to 235 of the reported decision, the Court noted thus:-

"230. Public interest litigation (PIL) was an innovation essentially to safeguard and protect the human rights of those people who were unable to protect themselves. With the passage of time PIL jurisdiction has been ballooning so as to encompass within its ambit subjects such as probity in public life, granting of largesse in the form of licences, protecting environment and the like. But the balloon should not be inflated so much that it bursts. Public interest litigation should not be allowed to degenerate to becoming publicity interest litigation or private inquisitiveness litigation.

231. While exercising jurisdiction in PIL cases the court has not forsaken its duty and role as a court of law dispensing justice in accordance with law. It is only where there has been a failure on the

part of any authority in acting according to law or in non-action or acting in violation of the law that the court has stepped in. No directions are issued which are in conflict with any legal provisions. Directions have, in appropriate cases, been given where the law is silent and inaction would result in violation of the fundamental rights or other legal provisions.

232. While protecting the rights of the people from being violated in any manner utmost care has to be taken that the court does not transgress its jurisdiction. There is, in our constitutional framework a fairly clear demarcation of powers. The court has come down heavily whenever the executive has sought to impinge upon the court's jurisdiction.

233. At the same time, in exercise of its enormous power the court should not be called upon to or undertake governmental duties or functions. The courts cannot run the Government nor can the administration indulge in abuse or non-use of power and get away with it. The essence of judicial review is a constitutional fundamental. The role of the higher judiciary under the Constitution casts on it a great obligation as the sentinel to defend the values of the Constitution and the rights of Indians. The courts must, therefore, act within their judicially permissible limitations to uphold the rule of law and harness their power in public interest. It is precisely for this reason that it has been consistently held by this Court that in matters of policy the court will not interfere. When there is a valid law requiring the Government to act in a particular manner the court ought not to, without striking down the law, give any direction which is not in accordance with law. In other words the court itself is not above the law.

234. In respect of public projects and policies which are initiated by the Government the courts should not become an approval authority. Normally such decisions are taken by the Government after due care and consideration. In a democracy welfare of the people at large, and not merely of a small section of the society, has to be the concern of a responsible Government. If a considered policy decision has been taken, which is not in conflict with any law or is not malafide, it will not be in public interest to require the court to go into and investigate those areas which are the function of the executive. For any project

which is approved after due deliberation the court should refrain from being asked to review the decision just because a petitioner in filing a PIL alleges that such a decision should not have been taken because an opposite view against the undertaking of the project, which view may have been considered by the Government, is possible. When two or more options or views are possible and after considering them the Government takes a policy 402 decision it is then not the function of the court to go into the matter afresh and, in a way, sit in appeal over such a policy decision.

235. What the petitioner wants the Court to do in this case is precisely that. The facts enumerated hereinabove clearly indicate that the Central Government had taken a decision to construct the dam as that was the only solution available to it for providing water to the water-scarce areas. It was known at that time that people will be displaced and will have to be rehabilitated. There is no material to enable this Court to come to the conclusion that the decision was malafide. A hard decision need not necessarily be a bad decision."

(emphasis supplied)."

18. Reliance is placed by Shri B.N.Mishra on the judgment of the Apex Court in **Kushum Lata versus Union of India & Others (2006) 6 SCC 180** and reading Paragraph Nos.6 to 15, he points out that under what facts and circumstances, a Public Interest Litigation will be maintainable and at whose instance, a Public Interest Litigation can be said to be maintainable. Reading Paragraph No.13, he points out that Public Interest Litigation is a weapon, which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking.

19. Reliance is placed by Shri B.N.Mishra on the judgment of the Apex Court in **Union of India & Another versus G.Ganayutham (1997) 7 SCC 463** to contend the limits of judicial review on the administrative action. Reading Paragraph No.12, Shri B.N.Mishra points out that while examining the reasonableness, the Court has to find out that if the administrator has left out relevant factors or taken

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into account irrelevant factors then the decision of the administrator must have been within the four corners of the law and not one, which no sensible person could have reasonably arrived at, having regard to the above principles, and must have been a bonafide one. The decision could be one of many choices open to the authority but it was for that authority to decide upon the choice and not for the Court to substitute its view.

20. Reliance is placed by Shri B.N.Mishra on the judgment of the Apex Court in **Ranjit Thakur versus Union of India (1987) 4 SCC 611** referring to Paragraph No.15 of **Union of India & Another versus G.Ganayutham (supra),** where the Apex Court in Paragraph No.25 has discussed the issue of question of choice and held as under:-

"25. The question of the choice and quantum of punishment is within the jurisdiction and discretion of the court martial. But the sentence has to suit the offence and the offender. It should not be vindictive or unduly harsh. It should not be so disproportionate to the offence as to shock the conscience and amount in itself to conclusive evidence of bias. The doctrine of proportionality, as part of the concept of judicial review, would ensure that even on an aspect which is, otherwise, within the exclusive province of the court martial, if the decision of the court even as to sentence is an outrageous defiance of logic then the sentence would not be immune from correction. Irrationality and perversity are recognised grounds of judicial review."

21. Shri B.N.Mishra submits that the High Court of Madhya Pradesh has filed an additional return vide I.A.No.1711/2024 duly supported with an affidavit of the Registrar General of the High Court of Madhya Pradesh, Jabalpur wherein it is mentioned in respect to the query raised by this Court on 24.1.2024 that no such policies, rules or regulations determining the extent of exercise of authority by Hon'ble the Chief Justice in the matter of allotment of spaces in the High Court have been framed. Hon'ble the Chief Justice being the Head of the Institution possesses inherent powers to allot available vacant spaces/premises under his jurisdiction and control for necessary use in order to save and facilitate smooth and efficient working of the

Justice Delivery System. The scope of judicial review is limited and reliance is placed on the judgment of the Apex Court in **State of NCT of Delhi & Another versus Sanjeev (2005) 5 SCC 181** wherein in Paragraph No.15, the Apex Court has observed as under:-

"15. One of the points that falls for determination is the scope for judicial interference in matters of administrative decisions. Administrative action is stated to be referable to broad area of Governmental activities in which the repositories of power may exercise every class of statutory function of executive, quasi-legislative and quasijudicial nature. It is trite law that exercise of power, whether legislative or administrative, will be set aside if there is manifest error in the exercise of such power or the exercise of the power is manifestly arbitrary (See State of U.P. and Ors. v. Renusagar Power Co. and Ors). At one time, the traditional view in England was that the executive was not answerable where its action was attributable to the exercise of prerogative power. Professor De Smith in his classical work "Judicial Review of Administrative Action" 4th Edition at Pages 285-287 states the legal position in his own terse language that the relevant principles formulated by the Courts may be broadly summarized as follows. The authority in which discretion is vested can be compelled to exercise that discretion, but not to exercise it in any particular manner. In general, discretion must be exercised only by the authority to which it is committed. That authority must genuinely address itself to the matter before it; it must not act under the dictates of another body or disable itself from exercising discretion in each individual case. In the purported exercise of its discretion, it must not do what it has been forbidden to do, nor must it do what it has not been authorized to do. It must act in good faith, must have regard to all relevant considerations and must not be influenced by irrelevant considerations, must not seek to promote purposes alien to the letter or to the spirit of the legislation that gives it power to act, and must not act arbitrarily or capriciously. These several principles can conveniently be grouped in two main categories: (i) failure to exercise a discretion, and (ii) excess or abuse of discretionary power. The two classes are not, however, mutually exclusive. Thus, discretion may be

improperly fettered because irrelevant considerations have been taken into account, and where an authority hands over its discretion to another body it acts ultra vires.''

22. Reliance is placed by Shri B.N.Mishra on the scope of administrative authority vested in Hon'ble the Chief Justice of High Court and Hon'ble the Chief Justice of India vis a vis the Supreme Court as discussed in **Shanti Bhushan versus Supreme Court of India through Its Registrar & Another (2018) 8 SCC 396** wherein referring to the judgment of the Apex Court in **Campaign For Judicial Accountability & Reforms versus Union of India & Another (2018) 1 SCC 196,** the Apex Court in Paragraph No.25 has observed thus:-

"25. The second stereotype is that being the 'Chief Justice' and senior most Judge of the Court, he is empowered to exercise 'leadership' on the Court. In this role, the 'Chief Justice' is expected to be the spokesperson and representative of the judiciary in its dealings with the Executive, Government and the Community. For this purpose, the 'Chief Justice' has a general responsibility to ensure that the Court promotes change and reform as appropriate. The judicial reforms, which is a continuing process in order to ensure that there is real access to justice, also becomes the moral responsibility of the 'Chief Justice'. Such reforms in the administration of justice are not limited to the judicial aspects (i.e. how the cases need to be decided, case management and court management, speedy disposal etc.) but also include reforms on the administrative side of the legal system as well. Procedural reforms and implementation thereof is an integral part of the judicial reform. The ultimate purpose is to dispense justice, which is the highest and noblest virtue. Again, in this role, the 'Chief Justice' gets the authority and responsibility for the administration of the Court, which gives him the ultimate authority for determining the distribution of judicial work load. In Indian context, this power was given statutory recognition by Section 214(3) of the Government of India Act, 1935 which reads as under:-

"214 (2) Rules made under this section may fix the minimum number of judges who are to sit for any purpose, so however that no case shall be decided by less than three judges:

Provided that, if the Federal Legislature makes such provision as is mentioned in this chapter for enlarging the appellate jurisdiction of the court, the rules shall provide for the constitution of a special division of the court for the purpose of deciding all cases which would have been within the jurisdiction of the court even if its jurisdiction had not been so enlarged.

(3) Subject to the provisions of any rules of court, the Chief Justice of India shall determine what judges are to constitute any division of the court and what judges are to sit for any purpose."

23. Reliance is placed by Shri B.N.Mishra on the judgment of the Apex Court in **Dattaraj Nathuji Thaware versus State of Maharashtra & Others (2005) 1 SCC 590** to contend that the petitioner has no right to file a Public Interest Litigation. Placing reliance on Paragraph No.20 of the said judgment, he points out that the Apex Court was magnanimous enough not to impose further cost on the petitioner as it was already imposed by the High Court while dismissing the writ petition. He also submits that the aforesaid judgment is on the point that when a Member of the Legal Fraternity files a writ petition for an oblique motive then that person has no locus.

24. Thus, placing reliance on the aforesaid judgments of the Apex Court, it is submitted by Shri B.N.Mishra, learned counsel for the respondent No.1/High Court of Madhya Pradesh, through Registrar General, Jabalpur that this Court cannot sit in a judicial review over the executive decision of Hon'ble the Chief Justice and, therefore, this writ petition should be dismissed.

25. Shri Anil Khare, learned Senior Counsel for respondent No.3/Madhya Pradesh High Court Advocates Bar Association submits that the averments made in Paragraph No.3.6 of the writ petition are vague. In Paragraph No.3.7, reference to the judgment of the Apex Court in **Supreme Court Bar Association versus B.D.Kaushik (2011) 13 SCC 74** is also misplaced inasmuch that judgment deals with 'One Bar One Vote' and does not deal with the recognition of a Bar Association or allotment of spaces to a Bar. The issue of recognition is different because recognition authorises a Bar Association to cater to the welfare measures for its members as may come out of various

schemes of the Bar Council but having an Association is a different thing and that does not violate any of the rights of the petitioner.

26. Reliance is placed on Division Bench Decision of this Hon'ble High Court in **Sachin Gupta versus Municipal Corporation, Gwalior & Others 2016 (3) M.P.L.J 622** wherein referring to Paragraph Nos.2 & 12, Shri Anil Khare points out that in a Public Interest Litigation, the petitioner, who claims himself to be a public spirited individual interalia, seeks a direction to the respondent No.1 to invite bids for the Ropeway Project with the lease rent payable at the prevailing rates and also seeks a direction to the Respondent No.1 not to proceed in furtherance of the agreement, has no locus inasmuch as in the matter of a contract, which was awarded in favour of the respondent No.4 after inviting tenders in which he is found to be highest bidder. Thus, when the contract was awarded in the transparent manner after following procedure prescribed in law then such agreement, which was executed on 5.6.2008 could not have been challenged after an inordinate delay of seven years for which no explanation has been offered. The principle of delay and latches is applicable in the case of Public Interest Litigation as well. Reference is made to the judgment of the Apex Court in **Bombay Dyeing & Manufacturing Company Limited versus Bombay Environmental Action Group (2006) 3 SCC 434.**

27. Reliance is placed on Division Bench Judgment of this Hon'ble High Court in **Rajendra Kumar Gupta versus Shiv Raj Singh Chouhan, Chief Minister of M.P. & Others 2016 (3) M.P.L.J 61** and reading Paragraph No.12, Shri Anil Khare points out that the Division Bench of this Hon'ble High Court has held that "it is well settled law that there must be real and genuine public interest involved in the litigation and not merely an adventure of knight errant borne out of wishful thinking. It cannot also be invoked by a person or a body of person to further his or their personal causes or satisfy his or their personal grudge and enmity. The Courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction".

28. Reliance is placed on the judgment of the Apex Court in **Aleemuddin versus State of Uttar Pradesh & Others (2020) 18 SCC 419** wherein referring to Paragraph No.10, Shri Anil Khare submits that in the matter of administrative discretion as to where a

Tehsil Building should be constructed, is not a matter for the High Court to determine in the exercise of its writ jurisdiction under Article 226 of the Constitution of India. These are essentially administrative matters and a decision has to be taken by the executive. This is hence an illustration of how a Public Interest Litigation has been utilised to subserve a personal interest. The High Courts must remain vigilant to the attempts to misuse PILs to subserve extraneous and motivated purposes. Such efforts must be dealt with firmly. The high prerogative writs cannot be utilised for such ends.

29. Shri Anil Khare, learned Senior Counsel appearing for Respondent No.3/Madhya Pradesh High Court Advocates Bar Association submits that allotment is not malafide and places reliance on Paragraph Nos.49 & 80 of the judgment of the Apex Court in **Supreme Court Bar Association versus B.D.Kaushik (supra).**

30. Relying on the aforesaid judgments, Shri Anil Khare, learned Senior Counsel for respondent No.3/Madhya Pradesh High Court Advocates Bar Association submits that the petitioner never applied for membership of the respondent/Madhya Pradesh High Court Advocates Bar Association and, therefore, has no locus to question the existence of the said Association or the spaces allotted to the said Association.

31. Shri Sanjay Agrawal, learned Senior Counsel appearing for Respondent No.3/Madhya Pradesh High Court Advocates Bar Association to supplement the submissions made by Shri Anil Khare, contends that the Bar Association was registered under the Madhya Pradesh Society Registrikaran Adhiniyam, 1973. Its Bar Room was inaugurated on 26.9.2008 by Hon'ble the then Chief Justice. Its Library was inaugurated on 14.11.2009 by the then Chief Justice of India in presence of other Supreme Court and High Court Judges. Its Conference Room was inaugurated on 8.4.2011 by the then Administrative Judge. Its e-library was inaugurated on 30.4.2016 by the then Chief Justice. Additional adjoining space was allotted to the Bar Association by the then Chief Justice vide order dated 19.7.2017.

32. In support of the aforesaid contention, Shri Sanjay Agrawal, learned Senior Counsel appearing for Respondent No.3/Madhya Pradesh High Court Advocates Bar Association places reliance on the order

dated 19.7.2017, which says that “Hon’ble the Chief Justice is pleased to allot the Room in the First Floor of the Old Administrative Block, presently occupied by the Supreme Court Section to the High court Advocates Bar Association, Jabalpur. He points out that on 11.12.2017, a new Bar Room was inaugurated by the then Chief Minister of the State of Madhya Pradesh and the then Chief Justice of the High Court of Madhya Pradesh in presence of the other Hon’ble Judges and an exhaustive list of facilities, which are available in the space allotted to the Bar Association, has been detailed out and lakhs and lakhs of rupees have been spent on creation of those facilitates and the respondent/Association cannot be uprooted overnight as they are in existence since 2006.

33. Shri Sanjay Agrawal, learned Senior Counsel appearing for Respondent No.3/Madhya Pradesh High Court Advocates Bar Association submits that there is no need for sanction of State Bar Council and the Madhya Pradesh High Court Advocates Bar Association can exist as an Association without recognition from the State Bar Council. There is no need to subject decisions of Hon’ble the Chief Justice to the judicial review and, therefore, the decision of Hon’ble the Chief Justice to allot space cannot be a subject of judicial review.

34. A list of lectures, which have been organised by the Respondent No.3/Association from 14.11.2009 to 2.12.2017, has been detailed out by Shri Sanjay Agrawal, learned Senior Counsel and thereafter it is pointed out by him that the Bar Association is officially invited in all the official functions organised by the High Court. They are part of the High Court Rule Making Committee wherein name of the President of the Madhya Pradesh High Court Advocates Bar Association, Jabalpur is mentioned at Serial No.9. Similarly, name of the President of the Madhya Pradesh High Court Advocates Bar Association, Jabalpur is mentioned in Committee No.33 i.e. the Apex Committee for Redressal of Grievances of Litigants & Members of Bar Association as per Scheme notified vide High Court Order No. A/3278 / II-15-24/77 (Part-II) dated 12-09-2014.

35. Reliance is placed by Shri Sanjay Agrawal, learned Senior Counsel on Paragraph Nos.28, 49 & 80 of the judgment of the Apex Court in **Supreme Court Bar Association versus B.D.Kaushik (supra).**

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Reliance is placed on the judgment of the High Court of Madras in **Writ Petition No.4418/2011 (The Gobichettipalayam Association Represented By its President K.R.Venkatachalam versus The Bar Council of Tamil Nadu Represented by its Secretary, Bar Council Building, High Court Campus, Chennai104 Dated 12.6.2012** [**2012-4-L.W.674]** and the Judgment of the High Court of Judicature at Madras in **Writ Petition No.9752/2015 (Madras High Court Advocates Association High Court Building Chennai 600104 Represented by its General Secretary, Arivazahgan versus The Secretary, Bar Council of Tamil Nadu) Dated 19.6.2015.** Reliance is placed on the judgment of the Apex Court in **Supreme Court Bar Association versus Ministry of Urban Development & Others 2023 LiveLaw (SC) 236** to contend that the matters of allotment of spaces to the Bar Association should be left best to the administrative decision on administrative side rather than being dealt under Article 32/226 of the Constitution of India. Shri Sanjay Agrawal, learned Senior Counsel submits that Petitioner Shri Amit Patel had put in only 11 appearances in 8 years from 2016 to 2024 and, therefore, he cannot be said to be a pubic spirited person entitled to file a Public Interest Litigation.

36. In **Writ Petition No.7551/2016 (High Court Advocates Bar Association, Jabalpur versus Bar Council of India & Others)** referring to Section 22 of the Madhya Pradesh Society Ragistrikaran Adhiniyam, 1973, attention is drawn to Page Nos.10, 11 & 12 of the Rejoinder filed vide I.A.No.1363/2024 to point out that the writ petition has been filed by a duly authorised person. The Division Bench Judgment of this Hon'ble High Court in **Writ Appeal No.91/2022 (Swakshtagrahi Sangh versus Union of India & Others)** decided on 15.3.2022 relied upon by the State Bar Council has no application to the facts and circumstances of the present case. Section 2(a) of the Adhivakta Kalyan Nidhi Adhiniyam, 1982 deals with definition of Advocate and the petitioner is entitled to be Advocates Bar Association without any recognition from the Bar Council of Madhya Pradesh. Vide Annexure P/12, an amendment application filed in the year 2023, the order of the Bar Council dated 5.2.2018 was challenged and thereafter the Bar Council has not filed any reply to the amended petition.

37. Rule 2(g) of the Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015 clearly provides that the Bar Association of a given area/town/city means an area/territory and the Court Work Based Association of Advocates whether registered under the Society Registration Act or not.

38. Thus, it is evident that the Bar Association has to derive its sanctity and existence on the basis of the Court Work and that existence of Association of Advocates will be relevant, therefore, there being no justification for a parallel body be it registered under the Society Registration Act or any other Act as there already exits a Court Work Based Association, namely, the Madhya Pradesh High Court Bar Association then there is no justification for existence of the Respondent No.3/Madhya Pradesh High Court Advocates Bar Association.

39. Shri Satish Verma, learned counsel for the petitioner submits that the petitioner is a life member of the Madhya Pradesh High Court Bar Association. He is a public spirited person. The premises, which is allotted by Hon'ble the Chief Justice, is a public property and, therefore, it could not have been allotted without having regard to the principles to be adopted while allotting a public premises.

40. Reliance is placed on the judgment of the Apex Court in **Institute of Law, Chandigarh & Others versus Neeraj Sharma & Others (2015) 1 SCC 720** and reading Paragraph Nos.15, 16, 17, 18, 19, 20, 21, Shri Satish Verma, learned counsel for the petitioner submits that in the matter of public premises, there has to be an objective criteria for allotment and without following that criteria, the petitioner cannot be said to be not having any locus to maintain his Public Interest Litigation. He also submits that as far as the delay is concerned, a petition was filed before the High Court with regard to 'One Bar One Vote' and when that case was pending before the High Court, the petitioner came to know about existence of the Madhya Pradesh High Court Advocates Bar Association and then he filed the present writ petition. He further submits that the delay will not come in way of the petitioner because if there is any encroachment on the public property by way of unauthorised allotment then it is a continuing wrong and it can be raised at any point of time. The Madhya Pradesh High Court

Advocates Bar Association cannot raise the plea of delay inasmuch it has reasonably filed its reply and that too is not a parawise reply but a general reply. Thus, without controverting specific pleadings made in this petition, the respondents cannot seek dismissal on technicalities.

41. Shri Satish Verma, learned counsel for the petitioner supplies two notes to this Court with regard to the inherent powers of Hon'ble the Chief Justice and relying on Paragraph No.11 of the judgment of the Apex Court in **H.C.Puttaswamy & Others versus The Hon'ble Chief Justice of Karnataka High Court, Bangalore & Others 1991 Supp (2) SCC 421,** he submits that Hon'ble the Chief Justice or any other Hon'ble Administrative Judge is not an absolute Ruler. Nor he is a freewheeler. He must operate in the clean world of law, not in the neighbourhood of sordid atmosphere. He has a duty to ensure that in carrying out the administrative functions, he is actuated by same principles and values as those of the Court he is serving. He cannot depart from and indeed must remain committed to the constitutional ethos and traditions of his calling. We need hardly say that those, who are expected to oversee the conduct of others, must necessarily maintain a higher standard of ethical and intellectual rectitude. The public expectations do not seem to be less exacting.

42. Reliance is placed by Shri Satish Verma on the judgment of the Apex Court in **Mahesh Chandra versus Regional Manager, U.P. Financial Corporation (1993) 2 SCC 279** to contend that every wide power, the exercise of which has far-reaching repercussion, has inherent limitation on it. It should be exercised to effectuate the purpose of the Act. In legislation enacted for general benefit and common good, the responsibility is far graver. It demands purposeful approach. The exercise of discretion should be objective. Test of reasonableness is stricter. The public functionaries should be duty conscious rather than power charged. Its actions and decisions, which touch the common man, have to be tested on the touchstone of fairness and justice.

43. Reliance is placed on the judgment of the Apex Court in **High Court of Judicature for Rajasthan versus Ramesh Chand Paliwal 1998 (3) SCC 72** wherein referring to Paragraph Nos.38 & 40, Shri Satish Verma points out that “the judges have been described as “hermits”.

They have to live and behave like "hermits" who have no desire or aspiration, having shed it through penance. Their mission is to supply light and not heat. This is necessary so that their latent desire to run the High Court Administration may not sprout before time, at least, in some cases".

44. Reliance is placed by Shri Satish Verma, learned counsel for the petitioner on the judgment of the Apex Court in **Renu & Others versus District & Sessions Judge, Tis Hazari & Another (2014) 14 SCC 50,** to contend that "it is axiomatic that no authority is above law and no man is above law. Article 13(2) of the Constitution provides that no law can be enacted which runs contrary to the fundamental rights guaranteed under Part III of the Constitution".

45. Reliance is placed by Shri Satish Verma, learned counsel for the petitioner on the judgment of the Apex Court in **Som Raj & Others versus State of Haryana & Others AIR 1990 SC 1176** to contend that if the discretion is exercised without any principle or without any rule, it is a situation amounting to the antithesis of Rule of Law. Discretion means sound discretion guided by law or governed by known principles of rules, not by whim or fancy or caprice of the authority.

46. Reliance is placed by Shri Satish Verma, learned counsel for the petitioner on the judgment of the Apex Court in **State of West Bengal & Others versus Debasish Mukherjee & Others AIR 2011 SC 3667** wherein it is held that this Court has again dealt with the provisions of Article 229 of the Constitution and held that the Chief Justice cannot grant any relief to the employee of the High Court in an irrational or arbitrary manner unless the Rules provide for such exceptional relief.

47. Reliance is placed by Shri Satish Verma, learned counsel for the petitioner on the judgment of the Apex Court in **Lok Prahari through its General Secretary versus State of Uttar Pradesh & Others (2018) 6 SCC 1** wherein it is held that the preamble to the Constitution of India embodies, interalia, the principles of equality and fraternity and it is on the basis of these principles of equality and fraternity that the Constitution recognizes only one single class of citizens with one singular voice (vote) in the democratic process subject to provisions made for backward classes, women, children, SC/ST, minorities etc.

A special class of citizens, subject to the exception noted above, is abhorrent to the constitutional ethos.

48. Reliance is placed by Shri Satish Verma, learned counsel for the petitioner on the judgment of the Apex Court in **Vineet Narain & Others versus Union of India (1998) 1 SCC 226** wherein in Paragraph Nos.54 & 55, seven cardinal rules, which are to be followed, in public life have been highlighted.

49. Reliance is placed on the judgment of the Apex Court in **Akhil Bhartiya Upbhokta Congress versus State of Madhya Pradesh (2011) 5 SCC 29** wherein it is held that the State and/or its agencies/instrumentalities cannot give largesse to any person according to the sweet will and whims of the political entities and/or officers of the State. Every action/decision of the State and/or its agencies/instrumentalities to give largesse or confer benefit must be founded on a sound, transparent, discernible and well defined policy, which shall be made known to the public by publication in the Official Gazette and other recognised modes of publicity and such policy must be implemented/executed by adopting a non-discriminatory and nonarbitrary method irrespective of the class or category of persons proposed to be benefited by the policy. The distribution of largesse like allotment of land, grant of quota, permit licence, etc by the State and its agencies/instrumentalities should always be done in a fair and equitable manner and the element of favouritism or nepotism shall not influence the exercise of discretion, if any, conferred upon the particular functionary or officer of the State.

50. Shri Satish Verma, learned counsel for the petitioner places reliance on the judgment of the Apex Court in **Sachidanand Pandey & Another versus State of West Bengal (1987) 2 SCC 295** wherein it is held that the State owned or public owned property is not to be dealt with at the absolute discretion of the executive. Certain precepts and principles have to be observed. Public interest is the paramount consideration. One of the methods of securing the public interest, when it is considered necessary to dispose of a property, is to sell the property by public auction or by inviting tenders. Though that is the ordinary rule, it is not an invariable rule. There may be situations where there are compelling reasons necessitating departure from the

rule but then the reasons for the departure must be rational and should not be suggestive of discrimination. Appearance of public justice is as important as doing justice. Nothing should be done which gives an appearance of bias, jobbery or nepotism.

51. Reliance is placed by Shri Satish Verma, learned counsel for the petitioner on the judgments of the Apex Court in **Shayara Bano versus Union of India (2017) 9 SCC 1, S.Seshachalam versus Bar Council of Tamil Nadu (2014) 16 SCC 72, City Industrial Development Corporation through its Managing Director versus Platinum Entertainment & Others (2015) 1 SCC 558, Raman Dayaram Shetty versus International Airport Authority & Others (1979) 3 SCC 489** and **Kasturi Lal Lakshmi Reddy versus State of Jammu & Kashmir (1980) 4 SCC 1.**

52. Placing reliance on the aforesaid judgments, it is submitted that there cannot be any discrimination between two classes of Advocates and, therefore, creation of a class within a class is arbitrary and cannot be given a seal of approval. Hence, prayer is made to allow the present writ petition by granting the reliefs as prayed for.

53. Shri Satish Verma, learned counsel for the petitioner places reliance on some photographs to show that the premises is only open to the Members and not to anybody else.

54. Shri Satish Verma, learned counsel for the petitioner submits that the judgment of the Apex Court in **Supreme Court Bar Association versus B.D.Kaushik (supra)** says all the Lawyers should be under one Umbrella. Referring to Paragraph No.18 of the High Court Office Memorandum dated 19.12.2016 signed by the then Registrar General of the High Court of Madhya Pradesh, Shri Manohar Mamtani, he submits that the principle is One Person, One Chamber, One Court Complex. The OBC Advocates Welfare Association had also applied for a space before Hon'ble the Chief Justice and if fragmentation of Bar is allowed to be carried out then several fragments will stand up to claim spaces, which may cause a problem for the High Court in future.

55. Shri B.N.Mishra, learned counsel for respondent No.1/Registrar General of the High Court of Madhya Pradesh,

Jabalpur submits that the respondent No.3/Madhya Pradesh High Court Advocates Bar Association is a licencee but as there are no rules for allotment of the licenced premises, therefore, Hon'ble the Chief Justice in his discretion can allot places according to his discretion and wisdom.

56. Shri Vipin Yadav, learned counsel for the Madhya Pradesh State Bar Council fairly submits that he does not wish to file reply to the amended writ petition. Annexure P/12 was added by way of amendment belatedly. Petitioner has neither assailed nor challenged the reasoning given by the Bar Council in Annexure P/12, therefore, there is no need to file any reply. He also submits that the judgment of **Gobichettipalayam Association Represented by its President K.R.Venkatachalam versus The Bar Council of Tamil Nadu (supra)** cited by the Madhya Pradesh High Court Advocates Bar Association has no application to the facts and circumstances of the present case inasmuch as in that case, certain Members were expelled from the Parent Body and they were not taken back, which forced them to form another Association while infact that is not the case here. The Members of the Madhya Pradesh High Court Advocates Bar Association are either the Members of the Madhya Pradesh High Court Bar Association or of the District Bar Association, therefore, in terms of the Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015, there is no hindrance in casting their vote from getting the benefit of the Welfare Scheme handed over by the Bar Association or under the auspices of the Bar Council of Madhya Pradesh.

57. Shri Sanjay Verma, learned counsel/President of the Madhya Pradesh High Court Bar Association, Jabalpur (Respondent No.4 herein) submits that fragmentation of Bar is to weaken the Bar Association and the Successive Chief Justices can play this aspect so as to weaken the unity of the Bar as has been mentioned in the documents filed by the Madhya Pradesh High Court Bar Association alongwith their Reply. Reading specifically from the representation made by the then President of the High Court Bar Association, Late Shri Adarsh Muni Trivedi, Shri Sanjay Verma emphasises on Paragraph No.2, which reads as under:-

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2- ekuuh; mPp U;k;ky; dk ;g er gS fd ,d gh LFkku ij ,d ls vf/kd ckj ,lksfl,'kUl gkus s ij dkuwu eas dksbZ jksd ugha gS] ij ;fn ,d LFkku ij ,d ls vf/kd ckj&,lksfl,'kUl dks ekU;rk nh xbZ rks ^ckj* dh ,drk fo[kf.Mr gk s tk;saxh vkSj vf/kd ckj ,lksfl,'kUl U;k; ikfydk dks ckj dh ,drk vkSj ,d:irk dks fo[kf.Mr djus dk volj nsxhA

58. Reading the aforesaid representation, Shri Sanjay Verma, learned counsel/President of the Madhya Pradesh High Court Bar Association, Jabalpur (Respondent No.4 herein) submits that though there is no bar in creating a parallel Bar Association but for the same purpose, creation of a parallel Bar Association will be fraught with several consequences, which cannot be appreciated without having vision for a better tomorrow.

59. The issue herein is five fold: (1) Whether this writ petition is maintainable in the name and style of a Public Interest Litigation? (2) Whether the premises allotted by the Former Chief Justices could have been allotted as such without calling for applications from the interested parties? (3) Whether there existed circumstances for bifurcation of a Bar and formation of a new Association without having any recognition from the State Bar Council, which is the mandatory and statutory requirement? (4) Can Madhya Pradesh High Court Advocates Bar Association enjoy the patronage of the High Court as a separate distinct legal entity? (5) Whether the space allotted in front of Court Room No.20 is in the same class as that allotted in front of the Copying Section above the Silver Jubilee Hall?

60. In connected Writ Petition No.7551/2016, referring to the circumstances, which resulted in rendering of the judgment by the High Court of Judicature at Madras in **The Gobichettipalayam Association Represented by its President K.R.Venkatachalam versus The Bar Council of Tamil Nadu Represented by its Secretary, Bar Council Building, High Court Campus, Chennai104) (supra),** this Court has already distinguished two circumstances and has held that there is no basis in granting recognition to the Madhya Pradesh High Court Advocates Bar Association. It is also held that the State Bar Council of Madhya Pradesh in terms of its resolution was not at fault in denying such recognition. Moreover, when the circumstances were different from

the case of Tamil Nadu and also looking to the fact that all the Members of the Madhya Pradesh High Court Advocates Bar Association are either Members of the Madhya Pradesh High Court Bar Association or the District Bar Association and are thus given benefit of the beneficial schemes floated from time to time either by the State Bar Council or the Bar Council of India.

61. Thus, coming to the issue of locus in the light of the decision rendered by the Apex Court in **S.P.Gupta versus Union of India & Another (supra),** the ratio of law is that a member of the Public, who complains of a secondary public injury cannot maintain the action but here the complainant is not a member of the public complaining of a secondary public injury but is a member of the Madhya Pradesh High Court Bar Association claiming alternative relief of either cancellation of allotment or in the alternative allow the use of the allotted premises in the hands of all the members of the Bar practising at the High Court inasmuch as the exclusive access to a premises by a particular class of Association causes prejudice to the interest of a common man and, therefore, the ratio laid down by the Apex Court in **S.P.Gupta versus Union of India & Another (supra)** has no application to the facts and circumstances of the present case.

62. In **Rajeev Suri versus Delhi Development Authority & Others (supra)** of which Paragraph No.550 is read by Shri B.N.Mishra while giving reference to the judgment of the Apex Court in **Narmada Bachao Andolan versus Union of India Narmada (2000) 10 SCC 664,** it is pointed out that how innovation called Public Interest Litigation has evolved and what are the duties and checks, which are to be observed while exercising such jurisdiction. It is held in Paragraph No.548 that the judicial time is not meant for undertaking a roving enquiry or to adjudicate upon unsubstantiated flaws or shortcoming in Policy matters of Government of the Day and politicise the same to appease the dissenting group of citizens – be it in the guise of civil society or an outfit but here the facts are different. This Court is not called upon to adjudicate the political interest or the interest of the dissenting group of citizens but the call is that whether there can be a class within a class by allotting an exclusive space to an unrecognised Association of Advocates, which has failed to get recognition from the State Bar Council of Madhya Pradesh.

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63. Thus, the writ petition raises an issue of discrimination amongst two classes of Advocates. One being more privileged to whom special place was allotted and the one, which was already in existence since formation of the High Court. Even if the writ petition is named and styled as Public Interest Litigation, it is dealing with Advocates per se and, therefore, the Court cannot forsake its responsibility to adjudicate these claims, which deals with public policy, propriety and rights of the different Advocates practising in the High Court.

64. In **Kushum Lata versus Union of India & Others (supra),** the facts are different. A Public Interest Litigation was filed by an intending bidder, who was disallowed to participate in the case of auction of a mining lease. In that case, for the same cause, the petitioner had filed two separate petitions, one challenging the auction filed as PIL and another questioning the legality of the auction and under such facts and circumstances, the Apex Court has held that being a personal interest, it was not a Public Interest Litigation.

65. In **Union of India & Another versus G.Ganayutham (supra),** the issue was that whether the judicial review powers in administrative law permit the High Courts or the Administrative Tribunals to apply the principles of proportionality and while summarising the current position of proportionality in administrative law in England and India, it is held by the Apex Court in Paragraph No.31 that "the Court would consider whether the relevant matters had not been taken into account or whether irrelevant matters have been taken into account or whether the action was not bonafide. The Court would also consider whether the decision was absurd or perverse. However, the Court would not go into the correctness of the choice made by the administrator amongst various alternatives open to him nor could it substitute its decision to that of the administrator. This is the Wednesbury Test".

66. Thus, taking clue from the ratio of law laid down by the Apex Court in **Union of India & Another versus G.Ganayutham (supra),** it is true that this Court cannot substitute its decision to that of the administrator i.e. Hon'ble the Chief Justice or the Registrar General, as the case may be, but this Court can examine whether relevant aspects were taken into account or irrelevant matters were taken into account and

whether the action was bonafide or not. This becomes further more necessary because the learned counsel for the High Court has clearly exposited on the instructions of the Registrar General that there was neither any policy for allotment of such space nor any rules were operating in this regard and, therefore, the judgment of **Union of India & Another versus G.Ganayutham (supra)** will actually help the petitioner rather than the respondent.

67. In **Ranjit Thakur versus Union of India (supra),** the proposition of law is that the judicial review generally speaking is not directed against a decision but is directed against "decision making process". In the present case, no material has been brought to the notice of this Court despite giving an opportunity to learned counsel for the High Court that what were the factors that had gone into the decision making for allotment of space to an unrecognised Advocates Association.

68. This Court is conscious of the fact that it is argued by Shri Anil Khare, learned Senior Counsel that the Madhya Pradesh High Court Advocates Bar Association is registered as a Society under the Madhya Pradesh Society Ragistrikaran Adhiniyam, 1973, but issue herein is different. The issue is that can there exist within the same premises of the High Court several different groups of Advocates professing different value system or principles as different Associations seeking space in competition to each other and when this aspect is examined, the ratio of law laid down in **Ranjit Thakur versus Union of India (supra),** does not prohibit this Court from examining decision making process.

69. In **Dattaraj Nathuji Thaware versus State of Maharashtra & Others (supra),** the Public Interest Litigation came to be dismissed because a lawyer was caught red handed blackmailing the respondent Nos.6 & 7 in respect thereof and accepting "blackmailing money". There is no such averment in the present case either against Shri Amit Patel or against Shri Satish Verma and, therefore, the ratio of the judgment laid down in **Dattaraj Nathuji Thaware versus State of Maharashtra & Others (supra)** too is not applicable to the facts and circumstances of the present case.

70. In **Shanti Bhushan versus Supreme Court of India through its Registrar & Another (supra),** the ratio of law is that Hon'ble the Chief Justice as Master of Roster in this context cannot be read as Collegium of 5 Senior Most Judges of the Supreme Court and while discharging the administrative functions of the Court, Hon'ble the Chief Justice in his individual capacity has prerogative to constitute Benches and allocate cases to those Benches in accordance with the Supreme Court Rules, 2013 and Handbook on Practice and Procedure and Office Procedure, 2017.

71. Even the aforesaid case is distinguishable on its own facts inasmuch as Hon'ble the Chief Justice while acting as Master of Roster is governed by the Supreme Court Rules, 2013 and Handbook on Practice and Procedure and Office Procedure, 2017 but in the present case, while exercising his authority to allot a particular space in favour of an unrecognised Association, Hon'ble the Chief Justice is not supported with any of the Rules or the practice and procedure and, therefore, the judgment in **Shanti Bhushan versus Supreme Court of India through its Registrar & Another (supra)** will also be of no avail to the respondents.

72. In **Campaign For Judicial Accountability & Reforms versus Union of India & Another (supra),** the issue was also with regard to constitution of Benches and allocation of cases, which were to be made in terms of the Supreme Court Rules, 2013. Had the High Court produced any rule or procedure so formulated for allotment of spaces in the High Court then the things would have been different but in absence of any rule or procedure or established practice, the matter of constitution of Benches and allocation of cases as per the Rules, which authorises Hon'ble the Chief Justice to be the Master of Roster, cannot be treated at par with the allotment of space in absence of any rule or established procedure and, therefore, the judgment of **Campaign For Judicial Accountability & Reforms versus Union of India & Another (supra)** too is not applicable to the facts and circumstances of the present case.

73. The ratio of law laid down in **Supreme Court Bar Association versus B.D.Kaushik (supra)** has though been termed to be not applicable in the facts and circumstances of the present case as the

main theme of the aforesaid judgment is with regard to One Bar One Vote but what is relevant is the observation made by the Apex Court in Paragraph No.28 to deal with the present controversy wherein it is held that "the Court Annexed Bar Associations constitute a separate class different from other Lawyers' Associations such as Lawyers' Forum, All India Advocates' Association etc. as they are always recognized by the concerned Court. The Court Annexed Bar Associations function as part of the machinery for administration of justice. As is said often, the Bench and Bar are like two wheels of a chariot and one cannot function without the other. The Court Annexed Bar Associations start with the name of the Court as part of the name of the Bar Association concerned. The very nature of such a Bar Association necessarily means and implies that it is an Association representing members regularly practising in the Court and responsible for proper conduct of its members in the Court and for ensuring proper assistance to the Court. In consideration thereof, the Court provides space for Office of the Association, Library and all necessary facilities like Chambers at concessional rates for members regularly practising in the Court, Parking Place, Canteen besides several other amenities. In the functions organized by the Court Annexed Bar Associations, the Judges participate and exchange views and ascertain the problems, if any, to solve them and vice-versa. There is thus regular interaction between the members of the Bar Association and the Judges. The regular practitioners are treated as Officers of the Court and are shown due consideration".

74. It is evident that the Apex Court recognized a distinction between the Court Annexed Bar Associations and the Lawyers Association/Advocates Association etc. It has admitted that every Court has one Bar Association like Supreme Court Bar Association, Tis Hazari District Court Bar Association, etc and when this analogy is taken into consideration, which is the spirit of the judgment in **Supreme Court Bar Association versus B.D.Kaushik (supra)** then it cannot be said that reference to this judgment by the petitioner is irrelevant or superfluous.

75. In **Sachin Gupta versus Municipal Corporation, Gwalior & Others (supra),** the facts are different. That case was with regard to an agreement for construction of rope-way project where the petitioner was an employee of a newspaper group and was resident of Mumbai

and, therefore, a Division Bench of this High Court has held that he had no locus to file a petition, which was with regard to a policy decision for development of tourism and recreational amenities and it is held that the petition suffered from delay and latches but in the present case, the cause of action is a continuing one.

76. Recently, as late as 2018, additional space was allotted by the then Chief Justice even after filing of the present Public Interest Litigation, therefore, the ratio of law laid down by a Division Bench of this High Court in **Sachin Gupta versus Municipal Corporation, Gwalior & Others (supra)** will not be applicable to the facts and circumstances of the present case.

77. Similarly, the verdict of the Apex Court in **Bombay Dyeing & Manufacturing Company Limited versus Bombay Environmental Action Group (supra)** was with regard to the challenge to the development/redevelopment of sick and/or closed industrial undertakings involving change in use of large tracks of land owned by the said undertakings. In that background, where challenge was that such change of use for commercial purpose may cause irretrievable damage to the ecology of the city, the Apex Court held that the Courts are duty bound to determine how grater public interest may be subserved by striking a balance and maintaining harmony between various public interests. Hence, the ratio of the judgment in **Bombay Dyeing & Manufacturing Company Limited versus Bombay Environmental Action Group (supra)** will have no application to the facts and circumstances of the present case inasmuch as no issue of environmental protection is involved and here the issue is whether an unrecognised Bar Association can enjoy patronage of the High Court by creating a different class.

78. A Division Bench of this High Court in **Rajendra Kumar Gupta versus Shiv Raj Singh Chouhan, Chief Minister of M.P. & Others (supra)** while dealing with the issue of locus standi, has held that the Public Interest Litigation must be real and genuine public interest involved in it and it cannot be invoked by body of persons to further his or their personal cause or satisfy their personal grudge and enmity. In the aforesaid case, challenge was to starting of the process of issuance of e-challan with the help of CCTV Footage by the Road

Transport Officer. In that background, it was held that as none of the persons, to whom fine was imposed, challenged the same or filed any writ petition aggrieved by the aforesaid action, therefore, the petitioner was not having any locus to file writ petition.

79. In the present case, again the facts are different. A lawyer affected by the so called discrimination has come to this Court and, therefore, it cannot be said that he has no locus to challenge the decision of the authorities.

80. The ratio of law in **Aleemuddin versus State of Uttar Pradesh & Others (2020) 18 SCC 419** is that in the matter of administrative discretion as to where a Tehsil Building is to be constructed is not a matter for the High Court to determine in exercise of its writ jurisdiction under Article 226 of the Constitution of India. Thus, the ratio of the aforesaid judgment is that essentially in administrative matters, a decision is to be taken by the Executive and, therefore, Public Interest Litigation should not be entertained.

81. However, in the present case, the facts are slightly different. When examined in the light of the judgment of the Apex Court in **Akhil Bhartiya Upbhokta Congress versus State of Madhya Pradesh (supra)** where it is held by the Apex Court that allotment of lands, grant of quotas, permit or licences etc must be founded on a sound, transparent, discernible and well defined policy. The policy should be made known to all public by publication in the official gazette and other recognised modes of publicity. However, the policy should be implemented in a non-discriminatory and non-arbitrary manner.

82. Thus, when tested on the ratio of this judgment then **Aleemuddin versus State of Uttar Pradesh & Others (supra)** being a different case where it is held by the Apex Court that it is not for the public to decide where a particular office shall be established, will not have any application to the facts and circumstances of the present case.

83. As far as the ratio of law laid down by the Delhi High Court in **P.K. Dash Advocates & Others Writ Petition (C) No.8106/2010 C.M.Application No.2237/2013 & Other Connected Matters Decided on 31.5.2016 (supra)** is concerned, the issue was in regard

to allotment of one Chamber to one Advocate, that is termed as one Chamber, One Advocate, One Complex so to ensure accountability in allotment of Chambers. That issue is not germane to the present controversy inasmuch as we are not dealing with the ratio of law laid down by the Apex Court in **Supreme Court Bar Association versus B.D.Kaushik (supra)** in regard to 'One Bar One Vote' and consequent competing claims for spaces in Bar Association, which was posed before the Delhi High Court in **P.K. Dash Advocates & Others Writ Petition (C) No.8106/2010 C.M.Application No.2237/2013 & Other Connected Matters Decided on 31.5.2016 (supra)** wherein it is noted that there were more than a dozen Bar Associations in Delhi and under the then existing system, an Advocate is free to contest any position in the Executive Committee or for any post as Office Bearer of any Association resulting in a situation where an individual, who need not unnecessarily practice in one Court successfully getting elected for the Association attached to it leading to unrepresented election results as such individuals have no sense of belongings and would not hesitate to undermine the functioning of the Courts, whose Bar Associations elect them. That being not the issue here. There is no need to further elaborate on the ratio of law laid down in **P.K. Dash Advocates & Others Writ Petition (C) No.8106/2010 C.M.Application No.2237/2013 & Other Connected Matters Decided on 31.5.2016 (supra)** as it will be superfluous and irrelevant for the present.

84. In **Akhil Bhartiya Upbhokta Congress versus State of Madhya Pradesh (supra)** and **Institute of Law, Chandigarh & Others versus Neeraj Sharma & Others (supra),** the Apex Court has deprecated arbitrary, illegal, unjust, unreasonable, non-transparent, hasty allotment of spaces to the Institution without following any objective criteria.

85. Thus, it is evident that when there is no objective criteria for making such allotment and at the cost of repetition, there is no hesitation to say that despite opportunity, the Registry of this High Court failed to bring any objective criteria or the policy for allotment of spaces or for expanding the space already allotted, it will be against the public policy and may give rise to competing claims, which cannot be given

a seal of approval looking to the fact that every lawyer has a liberty to be a member of an Association and on the basis of such allegiance, to claim space in the High Court, if a policy is not framed that space in the High Court will be available only to a recognised Bar Association having recognition from the State Bar Council.

86. In **H.C.Puttaswamy & Others versus The Hon'ble Chief Justice of Karnataka High Court, Bangalore & Others (supra),** the ratio of law is that nobody is an absolute Ruler and even Hon'ble the Chief Justice in violation of the statutory requirements cannot act arbitrarily.

87. In **Mahesh Chandra versus Regional Manager, U.P. Financial Corporation (supra),** the ratio of law is that public property should be subject to auction/allotment by following a transparent procedure. It should afford opportunity to all and there should not be any element of unjustness, unfairness or unreasonableness.

88. The judgment rendered by the Apex Court in **High Court of Judicature for Rajasthan versus Ramesh Chand Paliwal (supra)** has no application to the facts and circumstances of the present case.

89. The Apex Court in **Renu & Others versus District & Sessions Judge, Tis Hazari & Another (supra)** has held that no authority is above law and no man is above law. Article 13(2) of the Constitution provides that no law can be enacted, which runs contrary to the fundamental rights guaranteed under Part III of the Constitution. The context in which the aforesaid judgment is delivered was that the High Court is a constitutional and autonomous authority subordinate to none and hence, nobody can undermine the constitutional authority of the High Court while making appointment in judicial/institutional posts where allegations of illegality, irregularity, corruption, nepotism & favouritism are made, therefore, all steps should be taken to prevent menace of backdoor entries of employees, who are subsequently ordered to be regularised. The powers under Article 229(2) of the Constitution of India cannot be exercised by Hon'ble the Chief Justice in unfettered & arbitrary manner and should be made adhering to

Articles 14 & 16 of the Constitution of India and/or such rules as made by the Legislature.

90. Thus, when the Apex Court has held that the powers of Hon'ble the Chief Justice are not to be exercised in unfettered & arbitrary manner, in the matter of appointment of employees in the High Court and the Courts subordinate thereto including Class-IV employees, then it is evident that the ratio of law in **Renu & Others versus District & Sessions Judge, Tis Hazari & Another (supra)** is that any act of exercise of jurisdiction should be and can be tested on the aspect of arbitrariness, rationality and equality. When the aforesaid ratio of law is applied though the context is different then allotment of space without adopting a transparent procedure cannot be said to be just & proper.

91. The Apex Court in **Som Raj & Others versus State of Haryana & Others (supra)** has held that if discretion is exercised without any principle or without any rule, it is a situation amounting to the antithesis of Rule of Law. Discretion should be exercised in such a manner that it is guided by law or governed by the known principles of rules and not by whim or fancy or caprice of the authority.

92. It is an admitted position as stated by learned counsel for the High Court that neither there was any rule for allotment nor there is any procedure prescribed or any procedure was laid down before exercising the discretion of allotment of space and the High Court being not above the rule of law as held in **Renu & Others versus District & Sessions Judge, Tis Hazari & Another (supra),** such action in absence of any prescribed procedure cannot be given a seal of approval.

93. In **Lok Prahari through its General Secretary versus State of Uttar Pradesh & Others (supra),** the ratio of law is that natural resources, public lands and public goods like Government Bungalows/Official Residences are public properties and "doctrine of equality" which emerges from the concepts of justice, fairness must guide the State in distribution/allocation of the same. In Paragraph No17, the Apex Court has held that the resolve of "the People of India" to have a republican form of Government is a manifestation of the constitutional

philosophy that does not recognize any arbitrary sovereign power and domination of citizens by the State. The republican liberty and the doctrine of equality is the central feature of the Indian democracy. In Paragraph No.18, it is held that it is axiomatic that in a democratic republican Government public servants entrusted with duties of public nature must act in a manner that reflects that ultimate authority is vested in the citizens and it is to the citizens that holders of all public offices are eventually accountable. In Paragraph No.19, referring to the judgment of the Apex Court in **Vineet Narain & Others versus Union of India & Another (1998) 1 SCC 226,** the Apex Court referred to seven principles of Public Life cited in the Report by Lord Nolan, which includes Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty & Leadership. They have been paraphrased in Paragraph No.20 in the following terms:-

“20.The seven principles of public life stated in the Report by Lord Nolan are as follows:-

THE SEVEN PRINCIPLES OF PUBLIC LIFE

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example."

94. Thus, it is evident that when the action of the authorities is tested on the seven principles of Public Life then it fails to pass the test of Selflessness, Objectivity, Accountability, Openness, Honesty & Leadership, therefore, on the touchstone of the judgment of the Apex Court in **Lok Prahari through its General Secretary versus State of Uttar Pradesh & Others (supra)** and in the light of the judgment of the Apex Court in **Vineet Narain & Others versus Union of India & Another (supra),** the decision of allotment of space cannot be said to be a sound decision covering the cannons of transparency and fairness.

95. In **Akhil Bhartiya Upbhokta Congress versus State of Madhya Pradesh (supra),** the ratio of law is that in the matter of allotment of public space, there should be transparency and the State Agencies/Instrumentalities cannot give largesse to any person according to the sweet will and whims of the political entities and/or officers of the State.

96. Thus, the ratio of law in **Lok Prahari through its General Secretary versus State of Uttar Pradesh & Others (supra), Vineet Narain & Others versus Union of India & Another (supra)** and **Akhil Bhartiya Upbhokta Congress versus State of Madhya Pradesh (supra)** is that there should be transparency and objectivity in allotment of public space.

97. In **Sachidanand Pandey & Another versus State of West Bengal (supra),** the ratio of law is that where decision is taken openly after a long process of discussions, negotiations and consideration of objections, the plea of absence of hearing to the persons affected cannot be sustained but in the present case, none of the respondents including the High Court has brought on record any material to show that the decision to allot space as was taken by the then Chief Justices fulfilled any of the requirements of the discussions, negotiations, consideration of objections etc, therefore, the judgment rendered in **Sachidanand Pandey & Another versus State of West Bengal (supra)** will too not help the respondents to protect their allotment in absence of any such material being brought on record either by the High Court Authorities or by the adversely affected parties.

98. In **Shayara Bano versus Union of India (supra),** the ratio of law is that merely because a practice is widespread and has been continued and practiced for long by an overwhelming majority of the denomination concerned, that by itself cannot make it an essential practice. Thus, the plea of the respondents that they are in possession of the space since 2006-2007 and have invested lakhs of rupees will not create any equitable right unless they are able to show that the cannons of principles of law as enumerated in **Lok Prahari through its General Secretary versus State of Uttar Pradesh & Others (supra), Vineet Narain & Others versus Union of India & Another (supra)** and **Akhil Bhartiya Upbhokta Congress versus State of Madhya Pradesh (supra)** were observed and followed before granting any benefit in favour of the Madhya Pradesh High Court Advocates Bar Association.

99. It will not be out of place to mention here that if the Madhya Pradesh High Court Advocates Bar Association claims that it has spent several lakhs of rupees but at the same time, it has also enjoyed the fruits of

that investment for about eighteen years and merely because those fruits have been reaped, it does not mean that any vested right has come to exist in favour of the Madhya Pradesh High Court Advocates Bar Association. It is something like a licencee residing in a house during tenure of its allotment claiming lease on the basis of some investment made in the licensed property even after revocation of licence.

100. The Apex Court in **S.Seshachalam versus Bar Council of Tamil Nadu (supra)** has held that Article 14 of the Constitution of India forbids class legislation but it does not forbid reasonable classification of persons, objects, and transactions by the legislature for the purpose of achieving specific ends. The classification, however, must not be "arbitrary, artificial or evasive" but must be based on some real and substantial distinction bearing a just and reasonable relation to the object sought to be achieved by the legislation.

101. When the aforesaid ratio of law laid down by the Apex Court in **S.Seshachalam versus Bar Council of Tamil Nadu (supra)** is applied to the facts & circumstances of the present case then it is evident that the space allotted even to the Senior Advocates Council in front of Court Room No.20 will not form a different class than the space allotted to the Madhya Pradesh High Court Advocates Bar Association in front of the Copying Section. They cannot be treated differently. The Senior Advocates, being granted a distinction & honour by the High Court in terms of the rules so framed, are not a different class and, therefore, the object of granting them an exclusive space in front of Court Room No.20, can be said to be arbitrary or illegal.

102. When the aforesaid aspect is tested in the light of the law laid down in **S.Seshachalam versus Bar Council of Tamil Nadu (supra)** then this Court is of the considered opinion that the space allotted to the Senior Advocates will not be a different class and that allotment too cannot be protected like the allotment in front of the Copying Section.

103. In **City Industrial Development Corporation through its Managing Director versus Platinum Entertainment & Others (supra),** the

ratio of law is that whenever the Government (which we can read as authority in the present case) deals with the public establishment in entering into a contract or issuance of licence, the Government cannot act arbitrarily on its sweet will but must act in accordance with law and the action of the Government should not give the sense of arbitrariness.

104. When the present case is examined on the touchstone of the judgment rendered by the Apex Court in **City Industrial Development Corporation through its Managing Director versus Platinum Entertainment & Others (supra)** then it is evident that the authorities of the High Court have failed to satisfy the dual test of not acting arbitrarily or on its own sweet will and having failed to satisfy the test of not acting arbitrarily or on its sweet will, the grant of licence to the Madhya Pradesh High Court Advocates Bar Association cannot be upheld.

105. In **Kasturi Lal Lakshmi Reddy versus State of Jammu & Kashmir (supra)** and **Raman Dayaram Shetty versus International Airport Authority & Others (supra),** the ratio of law is that the administrative authority is equally bound by the norms, standards and procedures laid down by it for others. Disregard of the norms, standards and procedures would invalidate its action unless based on some valid principle, which is neither irrational or unreasonable nor discriminatory.

106. When the High Court on judicial side tests action of the authorities of the State then irrespective of the fact that the High Court was acting in exercise of the discretionary power of the then Chief Justices as submitted by Shri B.N.Mishra, learned counsel appearing for Respondent No.1/High Court of Madhya Pradesh, through Registrar General but it was duty bound to keep in mind the norms, standards and procedures, which it expects the State Instrumentalities to be followed by itself but unfortunately and admittedly in the name of the exercise of discretion, none of the aforesaid norms, standards and procedures of transparency, equality, lack of arbitrariness & irrationality were given a consideration as there was no discussion, no background paper nor any discussion was produced by the High Court to substantiate application of mind on the touchstone of the

aforesaid factors and, therefore, the allotment made in favour of the Respondent No.3/Madhya Pradesh High Court Advocates Bar Association sans the norms, standards & procedures so also being violative of the principles of natural justice & arbitrary, cannot be given a seal of approval.

107. Shri B.N.Mishra, learned counsel appearing on behalf of the Respondent No.1/Registrar General of the High Court of Madhya Pradesh admits that it was expected of the High Court that before pointing a finger towards the locus of the petitioner, it should have introspected with regard to its own conduct in making allotment of a public space in violation of the law laid down by the Apex Court in **Lok Prahari through its General Secretary versus State of Uttar Pradesh & Others (supra)** and **Vineet Narain & Others versus Union of India (supra)** prior to allotment of space to the Madhya Pradesh High Court Advocates Bar Association in the year 2006-2007.

108. In reference to the Judgment of **Dattaraj Nathuji Thaware versus State of Maharashtra & Others (supra)** on which reliance is placed by Shri B.N.Mishra, learned counsel appearing for Respondent No.1/High Court of Madhya Pradesh, through Registrar General to point out that a Public Interest Litigation for an oblique motive is not maintainable but neither the High Court nor the Madhya Pradesh High Court Advocates Bar Association, Jabalpur could substantiate any oblique motive though lot of personal allegations have been levelled against Petitioner Shri Amit Patel pointing out that he hardly had any appearance before the High Court etc but none of them have been substantiated and merely saying that there are only 11 appearances in last 8 years from 2016 to 2024 made by Shri Amit Patel, Advocate, Petitioner in Person, is not sufficient to prove any oblique motive. A request for equality, a quest for removal of arbitrariness & unreasonableness even in the hands of a stranger, cannot be discouraged to protect certain interests, which have been created because that suits a class of the Society even though it is in violation of the seven cardinal rules as enumerated in **Vineet Narain & Others versus Union of India (supra).**

109. The Apex Court in **State of West Bengal & Others versus Debasish Mukherjee & Others (supra)** has held that the power of Hon'ble the Chief Justice to grant premature increment is justiciable order passed by the Chief Justice without reference to exceptional circumstances, cannot be presumed to be under Rule 23 of the High Court Rules. It is held that "We may note that in a democracy, governed by rule of law, where arbitrariness in any form is eschewed, no Government or authority has the right to do whatever it pleases. Where rule of law prevails, there is nothing like unfettered discretion or unaccountable action. Even prerogative power is subject to judicial review, but to a very limited extent. The extent, depth and intensity of judicial review may depend upon the subject matter of judicial review".

110. The Apex Court in **Gopal Jha versus Hon'ble Supreme Court of India** has held that there is no fundamental right or any statutory right for allotment of Chambers in any Court Premises and when this aspect is taken into consideration then the Madhya Pradesh High Court Advocates Bar Association having failed to make out violation of any fundamental right or any statutory right arising out of the revocation of licence or for a prayer to revoke the licence having been not issued in compliance of the procedure required for fair play and having been issued in violation of the principles of natural justice cannot be said to be arbitrary or illegal.

111. There is substance in the argument put forth by Shri Satish Verma, learned counsel for the petitioner that on 2.11.2023, the O.B.C Advocates Welfare Association had also staked its claim for allotment of space, hall, electricity, water and other facilities as noted by a Coordinate Bench of this Hon'ble High Court on 18.12.2023 and such facilities cannot be granted to an unrecognised body and if any order is passed in favour of respondent No.3/Madhya Pradesh High Court Advocates Bar Association then it is likely to open floodgates for other Associations.

112. When the case at hand is examined on the aforesaid touchstone then the law laid down by the Apex Court in **Gobichettipalayam Association Represented By its President K.R.Venkatachalam versus The Bar Council of Tamil Nadu Represented By its Secretary, Bar Council Building, High Court Campus (supra)**

being distinguishable on its own facts, as mentioned above, has no application to the facts & circumstances of the present case and the purpose of the Court Annexed Bar Association being to protect the genuine interest of its members and also to help its members to gather benefits of the beneficial legislation and that being already provided to all members of the Madhya Pradesh High Court Advocates Bar Association, as they already happened to be members of the either High Court Bar Association or the District Bar Association, then in terms of the law laid down by the Apex Court particularly in Paragraph No.28 of the Apex Court in **Supreme Court Bar Association versus B.D.Kaushik (supra),** discussing the distinction between the Court Annexed Bar Rooms and other Lawyers Association, Respondent/Madhya Pradesh High Court Advocates Bar Association may be an Association registered under the Madhya Pradesh Society Ragistrikaran Adhiniyam, 1973 but it cannot be given the status of a Court Annexed Bar Association and, therefore, there being no provision of Two Court Annexed Bar Associations competing for space and other recognition, when this Court has already declared the act of State Bar Council of Madhya Pradesh in not granting recognition to the Madhya Pradesh High Court Advocates Bar Association to be just & proper in terms of its resolution, which reflects its philosophy to maintain the integrity the Court Annexed Bar Associations, we are of the considered opinion that a Public Interest Litigation is maintainable and when decision of allotment of space on licence to the Madhya Pradesh High Court Advocates Bar Association is examined, that being not made in exercise of cardinal rules of Selflessness, Objectivity, Accountability, Openness, Honesty & Leadership as observed by the Apex Court in as observed by the Apex Court in **Vineet Narain & Others versus Union of India & Another (supra)** and being contrary to law laid down by the Apex Court in **Lok Prahari through its General Secretary versus State of Uttar Pradesh & Others (eights judgments),** this writ petition deserves to and is hereby allowed. It is held that the licence granted to the Respondent No.3/Madhya Pradesh High Court Advocates Bar Association being improper & arbitrary deserves to and is hereby revoked.

113. Thus, the issues, which were made in Paragraph No.59 of this order, are answered in the following terms:-

Issue No.(1) Whether this writ petition is maintainable in the name and style of a Public Interest Litigation is answered in affirmative.

Issue No.(2) Whether the premises allotted by the Former Chief Justices could have been allotted as such without calling for applications from the interested parties is answered in negative holding that the Former Chief Justices were in error in not following the procedure.

Issue No.(3) Whether there existed circumstances for bifurcation of a Bar and formation of a new Association without having any recognition from the State Bar Council, which is the mandatory and statutory requirement is answered in the terms that no such circumstances could be highlighted necessitating formation of a New Association.

Issue No. (4) Can Madhya Pradesh High Court Advocates Bar Association enjoy the patronage of the High Court as a separate distinct legal entity is answered in negative.

Issue No. (5) Whether the space allotted in front of Court Room

No.20 is in the same class as that allotted in front of the Copying Section above the Silver Jubilee Hall is answered in the terms that the space allotted in front of Court Room No.20 to the Senior Advocates being in the same class will fall within the same category as the space allotted in front of the Copying Section above the Silver Jubilee Hall to the Madhya Pradesh High Court Advocates Bar Association and thus that allotment too cannot be given a seal of approval.

114. In above terms, this writ petition is disposed off.

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