



2025:AHC:190659-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 30861 of 2025

Civil Bar Association District Basti And Another

.....Petitioner(s)

Versus

State Of U.P. And 4 Others

.....Respondent(s)

Counsel for Petitioner(s) : Ashutosh Pandey
Counsel for Respondent(s) : Ashish Mishra, C.S.C.

Court No. - 3

**HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE INDRAJEET SHUKLA, J.**

1. Heard Sri Arun Kumar Gupta learned Senior Advocate assisted by Sri Ashutosh Pandey learned counsel for the petitioners, Sri Mukul Tripathi learned Standing Counsel for the State and Sri Ashish Mishra learned counsel for the High Court.

2. Present petition has been filed by the Civil Bar Association, Basti, for the following relief:

"(i) Issue a writ, order or direction in the nature of mandamus directing the respondent no. 1 to deposit due electricity bill, due upon the petitioner.

"(ii) Issue a writ, order or direction in the nature of mandamus directing the respondent no. 1 to deposit regular electricity bill incurred upon the petitioner."

3. Learned Senior Advocate has first relied on the decision of the Supreme Court in **Supreme Court Bar Association and Others Vs. B.D. Kaushik (2011) 13 SCC 774**. That decision has been applied to identical facts, by the Madhya Pradesh High Court in **Vinod Kumar Bharadwaj Vs. State of M.P. and Others, AIR 2013 (MP) 145**, specifically paragraphs 10, 11 and 12. For ready reference, that passages of the above decision read as below:

"10. The Hon'ble Single Judge of Karnataka in the case of Advocates'

Association, Bangalore v. The Chief Minister, Government of Karnataka, Bangalore and others [AIR 1997 Karnataka 18], has held as under in regard to duties discharged by the advocates and obligations of the Government to provide facilities to the Bar Association:

"The nature of the duties discharged by an advocate is in the nature of a public duty. The accommodation/building for an association must be construed and treated as part and parcel of the building of the Court or Court complex, and it cannot be treated differently from the building required for housing of Courts. There cannot be effective working of judicial system or functioning of Administration of Justice in a democratic polity, unless the lawyers and Judges work in the system as complementary for each other. They are the two limbs of the system or can be compared to the two wheels of a chariot of justice. The chariot of justice cannot move or achieve the desired object unless both the wheels work and function complementary to each other. Just as the need of highly competent, honest and devoted judiciary is a must for the protection of rule of law, competent, honest and devoted bar is also a must. Therefore, in a country like ours where the majority of the advocates are not in a position to acquire necessary tools or facilities required by them for effective discharge of their professional duties, a duty is cast on the State to provide minimum facilities like building for an Advocate's Association, minimum library and other facilities to the Advocates' Association. It cannot be disputed that the need of an independent, strong, efficient and honest judiciary for maintenance of rule of law and for the continued existence of democratic form of Government which we have accepted. It also cannot be disputed that the source of recruitment, whether for higher judiciary or subordinate judiciary, is from the Bar."

In the aforesaid judgment, it is held that it is obligatory on the part of the Government to provide free electricity to the Bar Association.

11. From the aforesaid quoted judgments of the Hon'ble Supreme Court and the High Court, it is well settled principle of law that the profession of an advocate is not mere a profession. The advocates are officers of the Court, they have their duty towards their clients and also towards the Court and an efficient and intelligent bar is necessary for the effective administration of justice. If the bar does not have proper facilities in the Court premises, then the administration of justice would be affected

adversely as observed by the Hon'ble Supreme Court in the case of Supreme Court of Bar Association and others (supra). The Supreme Court is providing four huge libraries, three canteens, two lounges, several rooms as consultation rooms, parking places and free use of electricity supply to the members of the Supreme Court's Bar Association. It is a common knowledge that the members of the Supreme Court Bar Association have been earning much more than the members of the High Court Bar Association or District Court Bar Association or Tahsil Court Bar Association, when they are being provided facilities of free electricity, then certainly the members who are working in the High Court, District Courts and Tahsil Courts are also eligible to get free electricity in the Bar rooms officially provided in the Courts premises. The State Government cannot ignore this aspect of administration of justice to the effect that for providing facilities to the advocates in practising so that they can effectively practice before the Courts. During Court working hours, the advocates have a facility to sit in the Bar rooms, which is officially provided by the Courts. In the aforesaid Bar rooms, they used to sit when they are not required to appear in the Court, they used to read the files and law books and also used to consult with their clients and when it is held that the profession of the advocates is not merely a profession but the advocates are officers of the Court, then, certainly they are entitled to get some facilities, consequently it naturally follows the electricity charges of the electricity consumed in the Bar rooms officially provided by the Court shall be paid by the State Government. It does not mean that the State Government has to provide Air-conditioning charges in the Bar rooms. It is obligatory on the part of the Government to bear electricity expenses of fans, tube-lights and bulbs and also of coolers during summer season in the Bar rooms of High Court, District Courts and Tahsil Courts officially provided by the Courts.

12. We have made these observations in regard to the District Courts which are within the jurisdiction of this Bench and also the Bar rooms of the High Court of Gwalior Bench, because this Bench has jurisdiction to issue direction within the jurisdiction of Gwalior Bench. We also appreciate the gesture of the Government that it has itself taken an initiative in this regard. We hope that the Government shall take proper decision in this regard within a particular time."

4. Further reliance has been placed on another decision of Punjab and Haryana High Court in **Bar Association, Zira Vs. State of Punjab and Others, 2017 (3) PLR 785**. Therein, it has been observed as below:

"7. After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that this petition has merit as the evidence led by the petitioner is to the effect that they have not been using the electricity for construction of their chamber through bar room or library and are only praying that the electricity consumed by them for bar room and library may not be charged/levied on them. The decision in Punjab and Haryana High Court Bar Association's case (supra) is on all fours in favour of the petitioner in which it has been categorically held that the bar room, bar library, office of the Bar Association and Bar Lounge are the integral part of the Court and water and electricity expenses for electricity supply to this part of the Court shall not be charged from the Bar Association but has to be borne by the Court itself."

5. In short, it has been submitted that judiciary cannot function effectively without wholesome participation by the members of the Bar. The Bar Association is the representative body of members of the Bar who are largely independent practitioners. For reason of their unique role played in the running of the judicial system, the State remains duty bound to bear the minimum expenses to provide for constructions of buildings to accommodate the members of the Bar, together with minimum facilities of electricity, water supply, drinking water, washroom etc. It cannot refuse or ignore to pay for electricity and other charges for use of building provided to the members of the Bar through the Bar Association. In that context, heavy reliance has been placed on the decision of the Madhya Pradesh High Court in **Vinod Kumar Bharadwaj (supra)**.

6. In the facts of the present case, it has been submitted that the petitioner-Association does not have the means to pay for the electricity dues being demanded. Only to avoid immediate disconnection, certain members of the Bar Association have contributed funds leading to deposit of Rs. 1,27,000/- which has been paid towards the electricity dues.

7. Members of the Bar and the Bar Association do not have any further means available to them to pay for the dues of electricity. Therefore, till such time as the State may make arrangement to pay for dues, no coercive measures may be adopted against the Bar Association and the electricity

connection may not be disconnected.

8. On the other hand, learned Standing Counsel has opposed the writ petition. He would submit, the ratio in **B.D. Kaushik (supra)** is not to the effect that the State is obligated to pay for electricity charges for use/consumption of electricity by members of the Bar in a building built for their use inside the court premises. To the extent, the Bar rooms are not part of the Court room structure and are only infrastructure provided for facilitation, no obligation exists on the state to pay for the regular dues such as for use of electricity.

9. To the decision of Madhya Pradesh High Court in **Vinod Kumar Bharadwaj (supra)** and the decision of the Punjab and Haryana High Court in **Bar Association, Zira (supra)**, it has been submitted that in the first place there is no policy of the State Government of Uttar Pradesh to provide for such payments and second those decisions do not lay down any binding law that may be applied by this Court.

10. Sri Ashish Mishra learned counsel for the High Court would submit that as a matter of fact, the policy being implemented in the State of Uttar Pradesh is otherwise. Here, though basic infrastructure in the shape of building having rooms, halls and toilets are constructed by the State, the liability to pay for electricity and other dues remains on the tenants to whom individual rooms are let out. Not one exception may have been made to that policy.

11. Having heard learned counsel for parties and having perused the record, at present the submissions advanced have to be examined in the context of relief claimed. As noted above, the petitioner has sought a mandamus upon the State Government to deposit the electricity dues being claimed from the petitioner i.e. Civil Bar Association, Basti. Further, mandamus has been sought on the same respondent to pay the regular electricity dues that may arise against the petitioner i.e. Civil Bar Association, Basti.

12. It goes without exception that a mandamus may lie to enforce performance of a duty of a statutory authority where (i) such duty pre-exists and (ii) there is a denial, refusal or neglect to perform that duty. No

statutory duty exists on the State to either pay for arrears or the future dues of the electricity being claimed by the Purvanchal Vidyut Vitran Nigam Limited against use of electricity by members or by the Civil Bar Association, Basti. Second, no policy decision has been made by the State Government as may commend any examination by this Court if the State Government or its functionaries are acting in arbitrary manner or contrary to the stated policy. What therefore, survives is, if there is precedential law creating such duty on the State. In **B.D. Kaushik (supra)**, the ratio of the decision was not with respect to the liability of the State to pay for electricity dues that may be incurred by association of law practitioners i.e. lawyers. What the Supreme Court laid down in that case was in the context of formation of Bar Associations and the principle 'one person one vote'. While laying down the law on that issue, discussion did arise as has been referred to by the learned Senior Counsel for the petitioner that the members of the Bar are participants in the judicial functioning and judicial decision making. For that reason, they are referred to as officers of the Court. However, no extension or application of that principle was made by the Supreme Court as may be read to create a duty on the State Government to pay for the electricity dues of the petitioner.

13. At the same time it is recognised that the decision of Madhya Pradesh High Court in **Vinod Kumar Bharadwaj (supra)** is on the point at hand. However, in that case a claim had been made by the Bar Association to the State Government and the same had been rejected. Later, in that case, the State Government had offered to form a Committee to look into the grievances being voiced. We are not aware of the final outcome of that demand made by the Bar Association, in the State of Madhya Pradesh. Therefore, on facts the case before us is distinguishable from the facts noticed by the Madhya Pradesh High Court in **Vinod Kumar Bharadwaj (supra)**.

14. Second, having given our anxious consideration to the submissions advanced, we are unable to subscribe to the view taken by the Madhya Pradesh High Court that there exists an exact parity between the two streams that contribute to the efficient judicial function. Though mutual respect, regard is required to be offered by both the streams to the other and the lawyers who appear before the Court remain officers of the Court

who in that position by very nature of the work, contribute to the judicial decision making process at the same time unfortunately, that cannot become the basis to reach a conclusion that minimum facilities of electricity and other utilities and finances of the Bar may be provided at the cost of the State exchequer. To the extent, lawyers largely remain body of private practitioners and they form Associations to protect their interests and further their common objectives, they would have to share responsibilities of paying for the facilities that they use.

15. The extension of the principle of law (and not the principle) laid down by the Supreme Court in **B.D. Kaushik (supra)** as offered by the Madhya Pradesh High Court in **Vinod Kumar Bharadwaj (supra)** as may have also been recognised by Punjab and Haryana High Court in **Bar Association, Zira (supra)** may remain an extension of the principle (laid down by the Supreme Court) with which we may respectfully disagree.

16. Consequently, neither on technicalities of the law of mandamus nor on the facts, we are inclined to issue a writ of mandamus to the State or the High Court to provide for payment of electricity dues of the petitioner.

17. What thereafter survives is the consequential actions that may arise. In the context of the limited relief sought we do not propose to issue any further direction but leave it open to the petitioner to approach the State Government as also to pay up the balance electricity dues and current dues in such manner and in such time as it may be advised.

18. Writ petition is accordingly **dismissed**.

(Indrajeet Shukla,J.) (Saumitra Dayal Singh,J.)

October 30, 2025

Faraz