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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 16.01.2026

+ LPA 368/2024, CM APPL. 27164/2024 & CM APPL. 49413/2025

SANGITA RAI

.....Appellant

Through: Mr. Shishir Pinaki, Mr. Rakesh Singh,
Mr. Shavnam Singh, Advs. with the
petitioner in person

versus

NEW DELHI BAR ASSOCIATION & ORS.

.....Respondents

Through: Mr. Ashish Garg & Mr. Govind
Singh, Advs.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

DEVENDRA KUMAR UPADHYAYA, CJ. (ORAL)

1. This *intra-court* appeal seeks exception to an order dated 30.10.2023, passed by the learned Single Judge whereby, *W.P.(C) 3331/2023* instituted by the appellant has been dismissed.

2. The appellant is an Advocate, enrolled with the Bar Council in the year 2000 *vide* Enrolment No. D/53-E/2000. As per the assertions made by the appellant, she has been a regular practitioner as an Advocate since the year 2000 and has represented Government agencies and certain autonomous bodies and has also been on the Senior Panel of Bharat Sanchar Nigam Limited, since the year 2011 and also on the Senior Panel of Mahanagar Telephone Nigam Limited, Delhi Jal Board, Municipal Corporation of Delhi and other such bodies or authorities.

3. The appellant instituted the aforesaid writ petition with the following prayers:



“A. Pass Writ or directions in the nature of mandamus or other suitable writ or order or direction thereby directing the Respondents to remove their lock and immediately hand over the possession of the Chamber no. 279A, Patiala House Courts to the Petitioner and allow her to use the same without any hindrance and difficulty.

B. Issue a Writ in the nature of mandamus or other suitable writ or order or direction thereby directing the Respondent No. 1 and/or Bar Council of Delhi to take appropriate action against the said Advocates, who have indulged in illegal and criminal activities of committing criminal acts trespassing in respect of the Chamber in question; and

C. Pass any other order or orders in favour of the Petitioner, this Hon'ble Court may deem fit & proper in the facts & circumstances of the present Petition be also passed in favour of the Petitioner.”

4. The petition was filed *inter alia* with the assertion that in the year 2013, one Mr. Asgar Ali approached and told her that he is an allottee of Chamber No.279A at Patiala House Court Campus (*hereinafter referred to as the ‘Chamber’*) and requested her to utilize the same on rent, to which she agreed and started functioning from the said Chamber on monthly rent basis. It was also averred by the Appellant in the writ petition that on a certain date when she returned from Tis Hazari Court to the said Chamber at Patiala House Court Campus, she found that the said Mr. Asgar Ali along with ten other persons were occupying her Chamber having broke open the lock. It was also stated by the appellant that these persons started threatening, abusing and pressurizing her to remove her belongings and to vacate the Chamber without any reason.

5. The Appellant also stated in the writ petition that even the office bearers of the New Delhi Bar Association (*hereinafter referred to as the ‘Bar Association’*) on 04.02.2023, instead of solving the issue and helping



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her, threatened her to vacate the Chamber immediately and even a lock of the Bar Association was put on the said Chamber which left the appellant helpless and in a state of shock, as the belongings of the appellant including the case files of various government departments became inaccessible to her which adversely affected her profession. It was also stated in the writ petition by the appellant that the police was informed; however, the police also did not take any action against the persons who had committed acts of criminal trespass etc. and even refused to take written complaint, advising her to approach the Chairperson of the Bar Association concerned.

6. It was also asserted that the appellant filed a representation with the Bar Association for removing the lock from the Chamber and to make the Chamber available to her. Various reminders are also said to have been given to the Bar Association, as also to the Principle District and Sessions Judge, Patiala House Court, however, she did not get any response/reply. It was also averred in the writ petition by the appellant that on 06.03.2023, she received a call on her mobile phone at around 11:00 AM, while she was appearing in some matter before the Central Administrative Tribunal and was informed that the files and other documents belonging to the appellant have been thrown out of the said Chamber and that the same are lying outside on the street.

7. With these averments, the appellant instituted the writ petition with the prayers as extracted above.

8. Learned Single Judge in the impugned order dated 30.10.2023, noticed various averments made by the appellant and while issuing notice on 17.03.2023, directed the District Judge In-charge of Patiala House Court to



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gain access to the Chamber in question and enable the appellant to remove all her belongings from the said Chamber and put a lock there on. During the course of the proceedings before the learned Single Judge, the District Judge in-charge filed a report stating that belongings of the appellant have been removed from the Chamber and accordingly, learned Single directed that the keys of the Chamber in question be handed over to Mr. Asgar Ali, who undertook before the Court that the Chamber would be used by him personally along with his associates and that the same shall not be given for any monetary consideration to any individual whosoever.

9. A preliminary objection was raised on behalf of respondent no.5 in the writ petition regarding its maintainability on the ground that the Bar Association is neither 'State' nor its instrumentality within the meaning of Article 12 of the Constitution of India; neither does it perform any public functions, as such, and the writ petition was not maintainable.

10. Learned Single Judge in the impugned order has observed that the appellant is not an allottee of the Chamber in question, rather she was put in permissive possession in the Chamber by its allottee and, therefore, she cannot claim any right over the Chamber and accordingly, held that in absence of any right, the writ petition filed by the appellant was not maintainable.

11. Learned Single Judge in the impugned order while noticing the assertions of the appellant, also observed that it was always open to the appellant to initiate action against respondent no.5 for the alleged criminal trespass in the Chamber in question by availing the remedies, as provided for under the Code of Criminal Procedure and, therefore, the learned Single



Judge expressed his opinion that he was not inclined to entertain the submission for a direction to the authorities to initiate a criminal case against respondent no.5. Citing judgments of Hon'ble Supreme Court in *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409* and *Priyanka Srivastava v. State of U.P., (2015) 6 SCC 287*, learned Single Judge observed that the remedies to the appellant are available under the Code of Criminal Procedure.

12. An observation has also been made by the learned Single Judge in the impugned order that the appellant declined to convert the writ petition into a Public Interest Litigation Petition for streamlining the allotment of Chambers in Patiala House Court Campus or to issue guidelines or directions to ensure that no sub-letting of the Chambers takes place. He also observed that if sub-letting of Chambers is not permissible, then in case of any sub-letting, it is for the District Judge to take action in the facts of each case. Making such observations, the writ petition was dismissed with a observation that respondent no.5 shall be bound by the undertaking given before the Court and also by the order restraining him from sub-letting the Chamber in question to anyone.

13. Impeaching the impugned order, learned counsel appearing for the appellant has drawn our attention to an order passed by this Court on 08.05.2024 wherein, it was recorded that the appellant did not press prayer 'A' of the writ petition and accordingly, notice was issued confined to prayer 'B' of the writ petition, to the respondents.

14. It has been argued on behalf of the appellant that so far as prayer 'B' made in the writ petition is concerned, a direction was sought by the appellant, directing the Bar Association and/or Bar Council of Delhi to take



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appropriate action against the Advocates who had allegedly indulged in illegal and criminal activities of committing criminal acts of trespassing in the Chamber in question, however, learned Single Judge did not take into account the said prayer and has, thus, erred in law by refusing to entertain the writ petition.

15. In our opinion, even in respect of prayer ‘B’ made by the appellant in the writ petition, the petition was not maintainable for the reason that by the said prayer a direction was sought to the Bar Association, which is an Association of Lawyers registered under the Societies Registration Act, 1860 (*hereinafter referred to as the ‘Act, 1860’*) and the primary object of the Bar Association is to ensure welfare of its members and take necessary steps therefore. Thus, Bar Association is not a public body so as to be covered under Article 12 of the Constitution of India.

16. Bar Association is a body of private individual lawyers and in normal discharge of its functions, it does not perform any function which can be said to be a public function. It is a body registered under the Act, 1860; however, its affairs are governed by its Memorandum of Association, Constitution and Rules. The functions being generally discharged by Bar Associations, as observed above, are to protect the interest of the individual lawyers. It is in fact, a purely private entity and cannot in any manner or for any reason, whatsoever, be termed to be ‘State’ or its instrumentality or agency or authority.

17. In absence of any public functions being discharged by the Bar Association, and the Bar Association not being a ‘State’ or its instrumentality within the meaning of State in Article 12 of the Constitution of India, in our



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considered opinion, no Mandamus can be issued by the Court to Bar Association in exercise of our jurisdiction under Article 226 of the Constitution of India. If we examine prayer 'B' made in the writ petition, what we find is that that the appellant had prayed for an issuance of a Writ of Mandamus, directing the Bar Association to take action against certain Advocates, who have allegedly indulged in illegal and criminal activities of committing criminal acts such as trespass, as asserted by the appellant.

18. Such acts of the lawyers, which have been complained of by the appellant, may warrant criminal action, however, for the said purpose; the learned Single Judge has rightly observed that the appellant could take appropriate steps by instituting proceedings under the criminal law so as to put criminal law machinery in motion.

19. The appellant had also sought a direction to be issued to the Bar Council of Delhi which is a statutory body and has been entrusted with the statutory duty of regulating the profession of Advocates/Lawyers. One of the duties cast on the Bar Council is to take appropriate disciplinary action, in case of reported misconduct by a lawyer and therefore, the appellant ought to have approached the Bar Council instead of filing the writ petition seeking a Mandamus for issuing direction to the Bar Council to take action as desired by the appellant.

20. It is trite that for seeking Writ of Mandamus, the person approaching the Court has to first approach the authorities concerned or to take up his/her cause with the authorities and it is only in case of failure on the part of the public authorities concerned that a Writ of Mandamus can be sought by



filing a petition that too, in case failure of discharge of statutory duties by such authorities is established.

21. In the instant case, the appellant did not represent her cause to the Bar Council of Delhi nor even the Bar Council of Delhi was impleaded as a party respondent before the learned Single Judge and accordingly, the Mandamus, as sought for by the appellant to the Bar Council of Delhi, could also not be issued and therefore, in this view of the matter, we are in complete agreement with the order passed by the learned Single Judge, whereby, the writ petition has been dismissed as not maintainable.

22. For the reasons aforesaid, we find no force in the instant appeal which is hereby, dismissed.

23. Notwithstanding dismissal of the instant appeal, it is needless to say that it will always be open to the appellant to take recourse to appropriate civil or criminal action, as may be permissible under law by invoking the appropriate jurisdiction of a Court of competent jurisdiction or by approaching the authority concerned, including the Bar Council of Delhi.

24. There will be no order as to costs.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA, J

JANUARY 16, 2026/MJ