

IN THE HIGH COURT FOR THE STATE OF TELANGANA, HYDERABAD

* * *

WRIT PETITION No. 11364 OF 2024

Between:

Vijay Gopal, Aged: 35 years, Occupation: Advocate, Address:
12-13-1085/72, 3rd Floor, St # 11, Shirdi Sai Nagar, Tarnaka,
Secunderabad-500 017.

Petitioner
(Party-in-person)

VERSUS

1. Bar Council of India (BCI), Represented by Chairman, 21, Rouse Avenue Institutional Area, Near Bal Bhawan, New Delhi – 110 002.
2. Bar Council for State of Telangana (BCST), Represented by Chairman, Telangana High Court Premises, Madina Road, Hyderabad – 500 066 Email. sectsbc@gmail.com
Mobile: 8520078049.

Respondents

ORDER PRONOUNCED ON: 29.04.2026

THE HONOURABLE SRI JUSTICE N. TUKARAMJI

1. Whether Reporters of Local newspapers may be allowed to see the Judgment? : Yes
2. Whether the copies of judgment may be Marked to Law Reporters/Journals? : Yes
3. Whether His Lordship wishes to see the fair copy of the Judgment? : Yes

N. TUKARAMJI, J

*** THE HON'BLE SRI JUSTICE N. TUKARAMJI**

+ WRIT PETITION No. 11364 OF 2024

% 29.04.2026

Between:

Vijay Gopal, Aged: 35 years, Occupation: Advocate, Address:
12-13-1085/72, 3rd Floor, St # 11, Shirdi Sai Nagar, Tarnaka,
Secunderabad-500 017.

Petitioner
(Party-in-person)

VERSUS

1. Bar Council of India (BCI), Represented by Chairman, 21, Rouse Avenue Institutional Area, Near Bal Bhawan, New Delhi – 110 002.
2. Bar Council for State of Telangana (BCST), Represented by Chairman, Telangana High Court Premises, Madina Road, Hyderabad – 500 066 Email. sectsbc@gmail.com Mobile: 8520078049.

Respondents

! Counsel for the petitioners	: Petitioner appeared as party-in-person
^Counsel for respondents	: Mr. Aadesh Varma, learned counsel for respondent No.1
	Mr. Ashok Anand Kumar, learned Senior Counsel, appearing for respondent No.2.

<GIST:

> HEAD NOTE:

? Cases referred

Gaurav Kumar v. Union of India (W.P. (C) No. 352 of 2023);

Damayanti Naranga v. Union of India (1971) 1 SCC 678;

Division Bench of this Court in W.P. Nos. 12527 of 2024 and batch.

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HONOURABLE SRI JUSTICE N.TUKARAMJI

WRIT PETITION No. 11364 OF 2024

DATE: 29.04.2026

Between :

Vijay Gopal

... Petitioner

AND

Bar Council of India (BCI), Represented by Chairman, 21,
Rouse Avenue Institutional Area, Near Bal Bhawan,
New Delhi – 110 002, and another.

... Respondents.

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking the following relief:

“...to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus:

- 1. To declare that the respondent No. 1 (BCI) cannot force me by way of Rule 6 of Part VA, Chapter II of “Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015” of Bar Council of India, (Mandating Joining of Bar Association by an Advocate after enrollment), as Ultra Vires Article 19 (1) (c) of Constitution of India, as joining any Advocate association or NOT joining is the Fundamental Right of a citizen to choose and cannot be imposed on me and strike it down*

2. *To direct the Respondent No. 1 (BCI) to issue circular/notification or communication to all State Bar Councils in India regarding the same and submit a compliance report in a time bound manner as this Hon'ble Court may deem fit*
3. *Any other order or orders this court may deem fit and proper under the circumstances of this case."*

2. I have heard the petitioner appeared as party-in-person; Mr. Aadesh Varma, learned counsel for respondent No.1 and Mr. Ashok Anand Kumar, learned Senior Counsel appearing for respondent No.2.

3.1. The petitioner, an Advocate duly enrolled under Section 22 of the *Advocates Act, 1961* (hereinafter referred to as "the Act, 1961"), has instituted the present writ petition challenging the constitutional validity of Rule 6 of the *Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015* (hereinafter referred to as "the Rules, 2015").

3.2. The principal grievance of the petitioner is that the impugned rule, in effect, mandates compulsory membership in a Bar Association and confers determinative authority upon the State Bar Council in a manner that travels beyond the scope of the parent statute. The petitioner, who practices before the High Court for the State of Telangana, contends that membership in the concerned Bar Association entails payment of substantial annual fees. It is asserted that neither the Act, 1961 nor any

other statutory provision prescribes compulsory enrolment in a Bar Association as a precondition for the exercise of the right to practice law.

3.3. The petitioner further challenges the impugned rule on the ground that the imposition of recurring verification fees, certification requirements, and the alleged compulsion to join a Bar Association are not contemplated under the Act, 1961, thereby rendering the rule ultra vires and constituting excessive delegation of legislative power. It is also averred that despite submitting representations and seeking clarification through an application under the Right to Information Act, no response was received from the Bar Council of India. Consequently, in the absence of an efficacious alternative remedy, the petitioner has invoked the writ jurisdiction of this Court.

4.1 The petitioner, appearing in person, contends that Rule 6 of the Rules, 2015 is ex facie illegal, arbitrary, and ultra vires the provisions of the Act, 1961, particularly Sections 22, 30, and 33. It is argued that the statutory scheme unequivocally confers upon an enrolled Advocate the right to practice law, and such right is neither conditional nor subject to compulsory membership in any Bar Association.

4.2. It is further submitted that the impugned rule introduces additional conditions, such as mandatory association membership and recurring certification obligations, which are beyond the contemplation of the parent statute, and hence liable to be struck down. The petitioner asserts that the Bar Council of India, being a delegate of Parliament, cannot create substantive rights, obligations, or disabilities not envisaged under the Act.

4.3. Reliance is placed on the judgment of the Hon'ble Supreme Court in *Gaurav Kumar v. Union of India* (W.P. (C) No. 352 of 2023), wherein it was held that delegated legislation must operate strictly within the object and purpose of the parent enactment and cannot impose new substantive obligations lacking statutory foundation.

4.4. The petitioner further contends that the impugned rule violates the fundamental rights guaranteed under Articles 19(1)(c) and 19(1)(g) of the Constitution of India. It is argued that the freedom to form associations inherently includes the right not to associate, as recognized in *Damayanti Naranga v. Union of India* (1971) 1 SCC 678. Therefore, any compulsion to join a Bar Association infringes this constitutional guarantee.

4.5. Additionally, it is submitted that the imposition of onerous conditions and financial burdens under the guise of verification indirectly

restricts the statutory right to practice law, thereby constituting an unreasonable restriction on the freedom to practice a profession. The petitioner also contends that Bar Associations, being non-statutory bodies, cannot be vested, either directly or indirectly, with regulatory authority over an Advocate's right to practice. Such conferment, it is argued, is contrary to the scheme of the Act, 1961.

4.6. Accordingly, the petitioner seeks a declaration that Rule 6 of the Rules, 2015 is *ultra vires*, a direction to the Bar Council of India to clarify that membership in Bar Associations is not mandatory, and a consequential direction permitting the petitioner to practice law without such membership.

5.1 Per contra, the respondents contend that the challenge to Rule 6 is misconceived and devoid of merit. It is submitted that the Bar Council of India, in exercise of its rule-making power under Section 49(1)(ah) of the Act, 1961, is competent to prescribe conditions governing the right to practice law.

5.2. The respondents argue that the impugned rules, including Rule 6.1, are within the statutory framework and are intended to regulate and identify practicing Advocates, as well as to ensure effective

implementation of welfare schemes. It is specifically contended that Rule 6 does not mandate compulsory membership in any Bar Association; rather, it provides an option. An Advocate may either become a member of a recognized Bar Association or, alternatively, intimate the State Bar Council regarding non-membership and indicate how he or she proposes to avail welfare benefits.

5.3. It is further submitted that the vesting of decision-making authority in the State Bar Council is administrative in nature and does not amount to coercive control or infringement of statutory or constitutional rights. Reliance is placed on Sections 6(1)(dd), 6(2)(a), and 7(2)(a) of the Act, 1961, which empower Bar Councils to frame and implement welfare schemes.

5.4. The respondents also contend that the requirement of certification and verification is intended solely to identify genuine practitioners and facilitate welfare distribution. There is no violation of Article 19, as the rules neither compel association membership nor restrict the right to practice.

5.5. Reliance is further placed on the judgment of a Division Bench of this Court in *W.P. Nos. 12527 of 2024 and batch*, wherein the validity of

Rule 6.1 and the requirement of a certificate of practice were upheld. The Court observed that such requirements serve the legitimate purpose of ensuring that an Advocate is genuinely practicing before the concerned Court and, therefore, cannot be termed unconstitutional.

5.6. It is also submitted that the validity of the Rules, 2015 is presently under consideration before the Hon'ble Supreme Court in Transfer Case (Civil) No. 126 of 2015. Hence, the writ petition is liable to be dismissed.

6. I have perused the material on record and carefully considered the submissions advanced by the parties.

7. In light of the rival pleadings, the central issue that arises for determination is whether the prescriptions under Rule 6 of the Rules, 2015 traverse beyond the scope of the Act, 1961 and infringe constitutional guarantees.

8. At the outset, Sections 29, 30, and 33 of the Act, 1961 unequivocally recognize Advocates as the only class of persons entitled to practice law, subject to enrolment under the Act. The statutory scheme does not expressly mandate membership in any Bar Association as a condition precedent to the exercise of such right.

9. However, Section 49(1)(ah) confers rule making power upon the Bar Council of India to prescribe conditions, subject to which an Advocate shall have the right to practice. The validity of the impugned rule, therefore, hinges upon whether the conditions imposed therein are regulatory in nature and consistent with the object of the Act, or whether they create substantive obligations not contemplated by the parent statute.

10. In this regard, the principle laid down by the Hon'ble Supreme Court in *Gaurav Kumar v. Union of India* (supra) assumes significance, wherein it has been held that delegated legislation must operate within the scope, object, and purpose of the parent enactment and cannot create new rights, obligations, or disabilities.

11. For better appreciation, Rule 6 of the Rules, 2015 is extracted below:

6. Advocate to be a member of the Bar Association where he/she normally practices law:

6.1 An advocate, after having obtained a Certificate of Enrollment under Section 22 of the Advocates Act, 1961, is required to get himself registered as a member of the Bar

Association where he ordinarily practices law or intends to practice law And if any Advocate does not intend to be a member of any Bar Association duly recognized by concerned State Bar Council, then he shall be required to intimate the same to the State Bar Council and he shall have to explain as to how shall he be getting the benefits of any welfare scheme floated by the State Bar Council or the Local Bar Association. The decision of State Bar Council shall be final in this regard.

6.2 In case an advocate leaves one Bar Association and joins another by reason of change of place of practice or by reason of change of field of law, he/she shall intimate such change with all the relevant particulars to the State Bar Council, of which he is a member. Such fact of leaving as well as of joining shall be independently intimated to the aforesaid Bar Council within a period of one month.

6.3. Bar Associations to apply to the respective Bar Council within whose jurisdiction they are located, for being recognized under these rules. Recognition shall be accorded

to such a Bar Association only which falls within the definition of Bar Association as defined in these rules.

12. A plain reading of Rule 6 indicates that membership in a Bar Association is not mandatory. The provision merely affords an option to an Advocate either to join a Bar Association or, in the alternative, to intimate the State Bar Council regarding such non-membership for the purpose of availing welfare benefits. When construed in this manner, the rule can be sustained as a regulatory measure. Notably, the respondents have also urged that the rule be interpreted in this light.

13. In such circumstances, the requirement would fall within the ambit of Sections 6, 7, and 49(1)(ah) of the Act, 1961, as a condition governing the right to practice, aimed at identifying genuine practitioners and facilitating the implementation of welfare schemes.

14. The Division Bench of this Court, in W.P. No. 12527 of 2024 and batch, has likewise upheld the requirement of a Certificate of Practice, observing:

Requirement of certificate of practice from Bar Association:

30. Rule (5.2)(A) makes it obligatory for practising Advocate candidates to produce certificate of practice obtained from

concerned Bar Association as proof. Clause 6.1 of Bar Council of India notification dated 12.01.2015 published in Official Gazette reads thus:

“6.1 An advocate, after having obtained a Certificate of Enrollment under Section 22 of the Advocates Act, 1961, is required to get himself registered as a member of the Bar Association where he ordinarily practices law or intends to practice law. And if any Advocate does not intend to be a member of any Bar Association duly recognized by concerned State Bar Council, then he shall be required to intimate the same to the State Bar Council and he shall have to explain as to how shall he be getting the benefits of any welfare scheme floated by the State Bar Council or the Local Bar Association. The decision of State Bar Council shall be final in this regard.”

31. Thus, the requirement to furnish such certificate is not without any basis. The purpose to obtain that certificate is to ensure that the Advocate is actually practising in the concerned Court. Since there is an object sought to be achieved, the same cannot be called as unconstitutional. Thus, this ground must also fail.

15. This view effectively upholds the requirement of a Certificate of Practice and lends support to the proposition that such a verification mechanism, when reasonably structured and aligned with a legitimate objective, cannot be termed unconstitutional merely on the ground of inconvenience.

16. In light of the aforesaid conclusions, it is evident that Rule 6 cannot be interpreted or enforced in a manner that renders membership in a Bar Association compulsory or delegates regulatory control over the right to practice to non-statutory bodies. To that extent, any coercive or mandatory interpretation would be ultra vires the *Advocates Act, 1961* and violative of Articles 19(1)(c) and 19(1)(g) of the Constitution of India. Further, as a regulatory provision, Rule 6 merely provides an option to the Advocate and serves a legitimate objective of welfare and identification. Interpreted in this manner, the rule would be *intra vires* the Act, 1961 and constitutionally valid.

17. In view of the foregoing analysis, Rule 6 of the Rules, 2015 is read down to the following extent:

- a) Membership in a Bar Association shall be purely voluntary;
- b) Non-membership shall not disentitle or restrict an Advocate from practicing law;
- c) Bar Associations shall not exercise any determinative or regulatory control over the right to practice.

18. Accordingly, Respondent No. 1, namely the Bar Council of India, New Delhi, is directed to issue appropriate clarifications to all State Bar

Councils. The requirement of certification and verification shall be implemented solely as a regulatory mechanism for availing welfare measures and not as a means of imposing coercive conditions.

19. Subject to the above interpretation, the challenge to Rule 6 of the Rules, 2015 stands disposed of. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

Date: 29.04.2026

svl

N.TUKARAMJI, J