



A.F.R.

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW****WRIT - C No. - 7701 of 2026**

Lal Bihari Verma

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Law U.P. Lko. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ramendra Kumar Misra, Amit Kumar Gupta, Rakesh Chandra Tripathi, Satyendra Mishra, Smt. Preeti Gupta
Counsel for Respondent(s)	:	C.S.C., Shailesh Kumar Pathak, Subhash Chandra Pandey

Court No. - 3**HON'BLE SHEKHAR B. SARAF, J.****HON'BLE ABDHESH KUMAR CHAUDHARY, J.**

1. Heard learned counsel appearing on behalf of the parties.
2. This is a writ petition under Article 226 of the Constitution of India, wherein the writ petitioner has sought for the following substantial relief (s):-

"(i). Issue a writ, order or direction in the nature of certiorari quashing the impugned order (press release) dated 12.06.2026 passed by the opp. party no. 4 for debarring the petitioner from membership of central Bar Association Tehsil Gola Gokaran Nath District Lakhimpur Kheri for one year as contained in Annexure no. 1 to this writ petition in the interest of justice."

3. After hearing learned counsel appearing for the parties and upon perusal of the material on records, it appears that essentially the petitioner is, in substance, aggrieved by the action on the part of the "Central Bar Association, Tehsil Gola Gokaran Nath, District Lakhimpur Kheri" (hereinafter to be referred as the "Bar Association"), in debarring him from its membership for a period of one year. We have deliberately reproduced the prayer verbatim to demonstrate that although the State of Uttar Pradesh, Bar Council of India (BCI) and

Bar Council of Uttar Pradesh have been arrayed as Respondent's No.1, 2 and 3 respectively, however, the entire grievance is in fact directed against the Bar Association, which is arrayed as Respondent No.4.

4. It emerges from the averments in the writ petition that the petitioner is a practicing Advocate, enrolled with the Bar Council of Uttar Pradesh vide Enrollment No. 02520/1989. It has been claimed by the learned counsel that the petitioner is an ex-president of the said Bar Association and was also appointed its Chief Election Officer for conducting of elections on 20.01.2026. It is contended that having conducted a fair election, the petitioner subsequently lodged complaints against the newly elected office-bearers alleging illegal activities, and that the impugned debarment, publicized through the impugned press release is retaliatory, arbitrary, and has caused irreparable injury to his reputation.

5. On the other hand, the learned counsel for the respondents have vehemently opposed the maintainability of the writ petition. It has been submitted that the basic prayer is against the Bar Association and is purely private in nature and the petitioner has an equally efficacious alternative remedy before other authority and even on the face of the facts of the pleadings it's writ large that it actually arises due to disputed facts of membership, which cannot be adjudicated by this Court in its writ Jurisdiction.

6. We have given a thoughtful consideration to the facts & circumstances of the present case. Without entering into the merits of the grievances raised by the petitioner, this Court finds that a preliminary and indeed threshold question arises before this Court as to whether a writ petition under Article 226 of the Constitution of India is maintainable against a Bar Association (Respondent No. 4) in respect of a dispute relating to its internal member's/ debarment dispute.

7. It is by now well settled that the amenability of a body to writ jurisdiction under Article 226 does not turn on whether it is "public" or "private" in form, but on the "function test" as to whether the impugned action involves the discharge of a public duty or public

function or is a private affair. This principle has been consistently reaffirmed in various cases including in ***Federal Bank Ltd. v. Sagar Thomas, (2003) 10 SCC 733***, wherein the Apex Court held that a private body, even if regulated by statute, does not become amenable to writ jurisdiction unless it is entrusted with a public duty. The Apex Court held a writ to be not maintainable, when a disciplinary action was taken against an employee of a private Bank registered under the Statute, in the following terms:

"33. For the discussion held above, in our view, a private company carrying on banking business as a scheduled bank, cannot be termed as an institution or company carrying on any statutory or public duty. A private body or a person may be amenable to writ jurisdiction only where it may become necessary to compel such body or association to enforce any statutory obligations or such obligations of public nature casting positive obligation upon it. We don't find such conditions are fulfilled in respect of a private company carrying on a commercial activity of banking. Merely regulatory provisions to ensure such activity carried on by private bodies work within a discipline, do not confer any such status upon the company nor puts any such obligation upon it which may be enforced through issue of a writ under Article 226 of the Constitution. Present is a case of disciplinary action being taken against its employee by the appellant Bank. Respondent's service with the bank stands terminated. The action of the Bank was challenged by the respondent by filing a writ petition under Article 226 of the Constitution of India. The respondent is not trying to enforce any statutory duty on the part of the Bank. That being the position, the appeal deserves to be allowed.

34. In the result, the appeal is allowed and the judgment and order passed by the High Court is set aside and the writ petition is held to be not maintainable."

8. In the same year, the Supreme Court in the case of ***G. Bassi Reddy v. International Crops Research Institute, (2003) 4 SCC 225***, held that mere registration or regulation is not sufficient; the character of the specific function under challenge must be examined. The Apex Court clarified the law in the following words:

"In the instant case, it cannot be said that the appellant's legal right has been infringed. The appellants had a contractual relationship

(contract of employment) with the respondent institute and any right or obligation between the two parties was purely contractual in nature. In a number of cases, the Supreme Court has categorically held that a writ petition under Article 226 cannot be resorted to in order to enforce a contractual right. Accordingly the general rule is that no writ under Article 226 will lie to quash an order terminating a contract of service, albeit illegally [S.R. Tewari v. Distt. Board, Agra, AIR 1964 SC 1680; Bachhanidhi v. State of Orissa, AIR 1972 SC 843, 845; Executive Committee of Vaish Degree College, Shamli v. Lakshmi Narain, (1976) 2 SCC 58] Exception is made only where order of termination is made by a statutory body acting in breach of a mandatory obligation imposed by a statute. [V.R. Mishra v. Managing Committee, Jai Narain College, (1972) 1 SCC 623]. ICRISAT is certainly not a statutory body nor its activities are mandated by a statute."

9. Most recently, in **S. Shobha v. Muthoot Finance Ltd.**, reported in **(2025) 11 SCC 335**; the Supreme Court crystallized the position thus by holding that a body, public or private, should not be categorized as amenable or not amenable to writ jurisdiction, since the vital consideration is the "function test". The Court held that a private entity's obligations confined to its own account holders or members, without any binding effect on the public at large, take it outside the scope of Article 226.

10. As far as specific judgments relating to maintainability of a writ petition under Article 226 of the constitution, interdicting functional activity of a Bar Association is concerned, we find that recently, a Division Bench of the Delhi High Court in **"Sangita Rai v. New Delhi Bar Association"**, **2026 SCC OnLine Del 243**, had an occasion to adjudicate the aforesaid proposition. The Delhi High Court in the said matter was concerned with a dispute concerning possession and use of a lawyers' chamber at one of the District courts of Delhi. The Division bench, while dismissing the writ petition on the ground of maintainability, went on to hold that a Bar Association registered under the Societies Registration Act, 1860 is a private body of lawyers and does not perform public functions. The Court also observed that a Bar Association is "an Association of Lawyers registered under the Societies Registration Act, 1860 and the primary object of the Bar Association is to ensure welfare of its members."

Thus, it went on to conclude that a Bar Association was 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."

11. After recording the aforesaid observation, the Delhi High Court categorically returned a finding that a Bar Association 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. Thus, it went on to conclude that since Bar Association is not a public body, therefore, it is not covered under Article 12 of the Constitution of India and accordingly, the High Court in exercise of its jurisdiction under Article 226 of the Constitution of India, can't issue writ of Mandamus to Bar Association.

12. The aforesaid judgment of the Division bench of the Delhi High Court has been upheld by the Hon'ble Supreme Court vide an order dated 01.06.2026 passed in **SLP(Civil) No. 18940/2026**, wherein the Court refused to interfere with the Judgment of the Delhi High Court and dismissed the special leave petition.

13. This Court is conscious that the "function test" is not a rule of automatic exclusion of private bodies; where a private association exercises a regulatory, or public character over an entire field, as the Supreme Court found in the case of the **Board of Control for Cricket in India (BCCI) V/s Cricket Association of Bihar, (2015) 3 SCC 251**; and **Zee Telefilms vs. Union of India, (2005) 4 SCC 649**; wherein although the writ petition were filed not against a state within the meaning of Article 12 of our constitution, however, in both these cases, writ jurisdiction has been held to extend to it despite its private, society-registered form. However, that line of authority proceeds on the special facts of bodies exercising *de facto* public monopoly over an entire national activity, and has no application to a district-level voluntary Bar Association whose functions are confined to the welfare and internal regulation of its own enrolled members.

14. Coming back to the facts of the present case, admittedly, the Central Bar Association, Tehsil Gola Gokaran Nath, is a society registered under the provisions of Societies Registration Act, 1860

and we find that the issue which is engaging the attention of this Court is essentially a membership dispute. No doubt, a writ under Article 226 can lie against a private body or a society, but the said privilege is with a caveat that a writ can only lie against a private body or the society, when it exercises a public function or discharges a public duty. One can very well argue that the legal profession as a whole possesses a public character and there can be no doubt about the same, however, according to this Court the *inter se* relationship between a voluntary Bar Association and its members is essentially contractual and regulatory under its own rules. Therefore, any resolution of disputes regarding membership or debarment must be pursued before a competent Civil Court or before the Registrar of society or before the body designated for the said purpose under the Bye-laws of the society/ Bar Association itself. In any case, membership dispute of the Bar Association, cannot be termed to be a public function of the Association or a dispute having any public character, so as to make the said dispute amenable to the writ Jurisdiction of this Court.

15. This Court is clear in its mind that in matters concerning the internal administration of a society, including its membership or admission, suspension, or debarment of its members from the association, the society acts purely as a private body governed by its own bye-laws. Such membership dispute or any internal disputes do not involve any public law element. Further, we find that such disputes can be resolved either by filing a civil suit or in the alternatively, in case these disputes, in any manner effect the affairs of the society (Bar Association), are very much amenable to the summary procedure of adjudication by the Registrar of Societies, Chit & Funds established for that very purpose in the State of Uttar Pradesh, in view of the insertion made to the Society Registration Act by the Uttar Pradesh Amendment, by virtue of which Section 21 to 33 have been inserted into the said Act.

16. The mere fact that the State of Uttar Pradesh, the Bar Council of India, and the Bar Council of Uttar Pradesh have been impleaded as respondents no. 1, 2, and 3 does not cure the defect of maintainability, as no relief or inaction has been attributed to them, independently of the Bar Association. The core grievance is directed

exclusively against the press release issued by respondent no. 4.

17. For all the reasons stated above, this Court holds that the present writ petition is not maintainable under Article 226 of the Constitution of India as essentially any dispute relating to membership issue of a Bar Association is private in nature and does not perforce of any public character. The writ petition is accordingly dismissed as being not maintainable.

18. However, liberty is granted to the petitioner to seek alternative legal remedies, either by filing a civil suit before a Court of competent jurisdiction or by approaching the Registrar of Societies concerned or any authority specifically designated under the bye-laws of the society for redressal of his grievances. It is further directed that in case such an application is filed within a period of one week, the concerned authority is directed to decide/dispose of the aforesaid membership dispute application, preferably within a period of four weeks from the date of such Application, after affording an opportunity of hearing to the petitioner and all stake holders, in accordance with law.

19. With the aforesaid observations/directions, the writ petition stands **disposed of.**

September 9, 2026
Praveen

(Abdhesh Kumar Chaudhary,J.) (Shekhar B. Saraf,J.)