

Supreme Court Bar Association & Anr.
v.
State of Uttar Pradesh & Ors.

(Miscellaneous Application No(s). 3-4 of 2025
In
Criminal Appeal No(s). 3883-3884 of 2024)

19 March 2025

[Bela M. Trivedi* and Satis Chandra Sharma, JJ.]

Issue for Consideration

The present Miscellaneous Applications have been filed seeking intervention in the matter and seeking clarification/ modification of the directions contained in Para 42 of the Judgment and Order dated 20.09.2024 in Criminal Appeal No. 3883-3884 of 2024. The two questions arise before the Court: (i) whether the Advocates have an indefeasible right to appear for a party or to get their appearances marked for a party, though not duly authorised to appear in the court proceedings and (ii) whether the impugned directions given by the court impinge or affect any of the legal, fundamental or statutory rights of the Advocates.

Headnotes[†]

Constitution of India – Art. 145 – Supreme Court Rules, 2013 – Bar Council of India Rules – Advocates Act, 1961 – The Supreme Court Rules, 2013 as amended by Rules, 2019 having the statutory force, have to be adhered to and complied with by all the officers of the Court as also the Advocates practicing in the Supreme Court – For regulating the Practice and Procedure of the Supreme Court, the following directions issued:

Held: (i) Where the Vakalatnama is executed in the presence of the Advocate-on-Record, he shall certify that it was executed in his presence; (ii) Where the Advocate-on-Record merely accepts the Vakalatnama which is already duly executed in the presence of a Notary or an Advocate, he shall make an endorsement thereon that he has satisfied himself about the due execution of the Vakalatnama;

* Author

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(iii) The Advocate on record shall furnish the details as required by the Appearance Slip prescribed in Form No.30 through the link provided on the website as mentioned in the Notice dated 30.12.2022 issued by the Supreme Court; (iv) The respective Court Masters shall ensure to record appearances in the Record of Proceedings only of Senior Advocate/AOR/Advocate who are physically present and arguing in the Court at the time of hearing of the matter, and one Advocate/AOR each for assistance in Court to such arguing Senior Advocate/AOR/Advocate, as the case may be, as required in the Note mentioned at the foot of the said Form No.30; and (v) If there is any change in the authorisation of the AOR or of the Senior Advocate or Arguing Advocate by the concerned party, after the submission of the Appearance Slip prescribed in Form No.30, it shall be duty of the concerned AOR to submit an Appearance Slip afresh to the concerned Court Master informing him about such change, and the concerned Court Master shall record appearances of such Advocates accordingly in the Record of Proceedings; (vi) A Senior Advocate shall not appear without an AOR in the Supreme Court. [Para 24]

Constitution of India – Art. 145 – Supreme Court Rules, 2013 – Bar Council of India Rules – Advocates Act, 1961 – Right of Advocates – Apperances before the Court:

Held: 1. Though an Advocate whose name is entered on the roll of any State Bar Council maintained under the Advocates Act, 1961 is entitled to appear before the Supreme Court, his appearance would be subject to the said Rules of 2013 framed by the Supreme Court – The proviso to Rule 1(a) of Order IV of 2013 Rules restricts an Advocate from addressing the Court for the purpose of any effective hearing, if his name has been entered on the roll of any State Bar Council for less than 1 year – Of course, he is entitled to mention the matter in the Court for limited purpose of asking time, date, adjournment and similar such orders – As per Rule 1(b), no Advocate other than the Advocate-on-Record for a party can appear, plead and address the Court in a matter unless he is instructed by the Advocate-on-Record or permitted by the Court. [Para 13]

2. Rule 20 thereof states that no Advocate-on-Record shall authorise any person whatsoever except another Advocate-on-Record, to act for him in any case – Rule 2(b) mandates that a Senior Advocate shall not appear without an Advocate-on-record in the Supreme

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Court and shall not appear without a junior in any other court in India – Thus, as per the said Rule so far as Supreme Court is concerned, a Senior Advocate can not appear without the Advocate on Record appearing on behalf of a party. [Para 14]

3. Every Vakalatnama has to be executed by the party in presence of the Advocate-on-Record or in presence of a Notary or an Advocate, for being sent to the Advocate-on-Record – If the Vakalatnama was not executed in his presence, the Advocate-on-Record has to make an endorsement on the Vakalatnama that he has satisfied himself about the due execution of the Vakalatnama. [Para 15]

4. A right of an Advocate to appear for a party and to practice in the courts is coupled with the duty to remain present in the court at the time of hearing, and to participate and conduct the proceedings diligently, sincerely, honestly and to the best of his ability – Rights and duties are two sides of the same coin, and they are inherently connected with each other. [Para 18]

Constitution of India – Art.145 – Supreme Court Rules, 2013 – Bar Council of India Rules – Advocates Act, 1961 – It is submitted on behalf of the Applicants Associations that it has been the practice in the Supreme Court to get appearances of all counsels marked, who are present in the court for a particular case, and contributed or assisted the arguing counsel – Correctness:

Held: It is difficult to accept the submission made on behalf of the Applicants Associations that it has been the practice in the Supreme Court to get appearances of all counsels marked, who are present in the court for a particular case, and contributed or assisted the arguing counsel – It hardly needs to be stated that no practice could be permitted to overrule the Statutory Rules, particularly when the Rules are framed by the Supreme Court in exercise of the powers conferred under Article 145 of the Constitution – The said Rules having a statutory force have to be strictly adhered to and followed by all concerned, that is, by the officers of the Court including the Court Masters as also the Advocates – There has to be effective participation or assistance by the concerned Advocate assisting the Arguing advocate in the case, when the matter is being conducted in the Court – Casual, formal or ineffective presence in the Court along with the AOR or arguing Advocate, without due authorisation by the party concerned, cannot entitle the Advocate

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to insist the Court Master to record his or her appearance in the Record of Proceedings. [Para 21]

Advocates Act, 1961 – ss.16, 30, 35, 36, 49 – Discussed:

Held: The Advocates Act, 1961 has been enacted to amend and consolidate the law relating to legal practitioners and to provide for the constitution of Bar Councils and All India Bar – Section 16 thereof states that there shall be two classes of Advocates, namely, Senior Advocates and other Advocates – Section 30 thereof, inter alia, provides that subject to the provisions of the said Act, every Advocate whose name is entered in the State roll shall be entitled as of right to practice throughout the territories to which the said Act extends, in all courts including the Supreme Court – Chapter V of the said Act pertains to the conduct of the Advocates, and Section 35 and 36 empower the State Bar Council and the Bar Council of India to take disciplinary actions and punish the Advocate who has been found guilty of professional and other misconduct – Section 49 thereof empowers the Bar Council of India to make rules for discharging its functions under the said Act and in particular for the matters prescribed therein. [Para 8]

Case Law Cited

Indira Jaising v. Supreme Court of India [2023] 5 SCR 434 : (2023) 8 SCC 1; Gopal Jha v. Hon'ble Supreme Court of India [2018] 13 SCR 517 : (2019) 13 SCC 161; Supreme Court Bar Association and Others v. B.D. Kaushik [2011] 15 SCR 736 : (2011) 13 SCC 774; Bar of Indian Lawyers Through Its President Jasbir Singh Malik Etc. v. D.K. Gandhi PS National Institute of Communicable Diseases and Another, etc. [2024] 6 SCR 484 : (2024) 8 SCC 430 – referred to.

List of Acts

Constitution of India; Supreme Court Rules, 2013; Bar Council of India Rules; Advocates Act, 1961.

List of Keywords

Supreme Court Bar Association (SCBA); Supreme Court Advocates-on-Record Association (SCAORA); Clarification/ modification of the directions; Advocates-on-Record appearance before the Court; Advocates appearance before the Court; Vakalatnama; Form-30

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prescribed in the Fourth Schedule of Supreme Court Rules, 2013; Appearance Slip; Marking the appearances of the Advocates before the Court; Right of advocate to appear; Fundamental or statutory rights of the Advocates; Law relating to legal practitioners; Article 145 of the Constitution of India; Appearance Slip prescribed in Form 30; Recording of appearances of Advocates.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Miscellaneous Application
No(s). 3-4 of 2025

In

Criminal Appeal No(s). 3883-3884 of 2024

From the Judgment and Order dated 20.09.2024 of the Supreme Court of India in Crl.A. No. 3883 and 3884 of 2024

Appearances for Parties

Advs. for the Petitioners:

ANS Nadkarni, Sr. Adv., Ms. Rachana Srivastava, Vipin Nair, Vikrant Yadav, Nikhil Jain, Kaustubh Shukla, S.K. Tomar, Mukesh Kumar Singh, Amit Sharma.

Judgment / Order of the Supreme Court

Judgment

Bela M. Trivedi, J.

1. The Miscellaneous Applications have been filed jointly by the Supreme Court Bar Association (SCBA) and the Supreme Court Advocates-on-Record Association (SCAORA) seeking intervention in the matter and seeking clarification/ modification of the directions contained in Para 42 of the Judgment and Order dated 20.09.2024 in Criminal Appeal No. 3883-3884 of 2024. The said Para 42 reads as under: -

“42. In view of the said Notice/Circular dated 30.12.2022 and in furtherance of the afore-stated order passed by the Coordinate Bench, it is directed that the Advocates-on-Record may mark the appearances of only those Advocates who are authorized to appear and argue the case on the

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particular day of hearing. Such names shall be given by the Advocate on Record on each day of hearing of the case as instructed in the Notice. If there is any change in the name of the arguing Advocate, it shall be duty of the concerned Advocate-on-Record to inform the concerned Court Master in advance or at the time of hearing of the case. The concerned Officers/Court Masters shall act accordingly.”

2. This Court on 23.01.2025, had passed the following Order in the captioned Miscellaneous Applications: -

“O R D E R**“IA No. 239214/2024, IA No. 283438/2024, and IA No. 283437/2024**

1. These applications have been filed by the applicants- Supreme Court Bar Association (SCBA) And Supreme Court Advocates On-Record Association (SCAORA) in Miscellaneous Application Nos. 3-4/2025, seeking permission to intervene in the matter and seeking clarification/ modification of the judgment dated 20.09.2024 passed in Crl. Appeal Nos.3883-3884 of 2024. Following prayers have been sought in the M.A. No.3-4/2025.

“a) Modify order dated 20.09.2024 passed by this Hon’ble Court in the Crl. A. No. 3883-3884 of 2024 to the extent that the investigation carried out by the CBI in furtherance on the directions of this Hon’ble Court, shall be independent and not influenced by the observations made in the instant matter especially Paragraphs 24, 25, 30 and 32 of the Judgment dated 20.09.2024;

b) Modify/Clarify the directions passed in Para 42 of the order to the extent that the names of those Advocates should also be included who have assisted the Advocate on Record in preparation of the case and/or have briefed the arguing counsel or Senior Advocate and/or are from the office of the Senior Advocate assisting on the matter.”

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2. At the outset, in response to the query put forth by the Court as to what locus standi the applicants have to file these Interlocutory Applications/ Miscellaneous Applications in a disposed of Criminal Appeals being Crl. Appeal Nos.3883-3884/2024, the learned Senior Advocate, Mr. Kapil Sibal, appearing for the applicants fairly conceded that in normal circumstances the applicants would not have the locus standi, however he earnestly urged to permit him to address the Court, submitting that both the applicants – Associations are working for the welfare of the Bar, and the judgment in question has a wide repercussions on the Advocates practicing in the Supreme Court and on the legal profession as a whole.

3. He further submitted that so far as prayer clause (a) sought in M.A. is concerned, it may be clarified that the observations made in the judgment are *prima facie* and may not influence the CBI in carrying out the investigation independently.

4. Since, Mr. Kapil Sibal, is not only the Senior Advocate but is also the President of the SCBA, we permitted him to address the Court without being technical as to the locus standi of the applicants. Considering his earnest request, however without diluting the tenor and effect of the directions given and observations made in the judgment dated 20.09.2024, we may clarify that the CBI shall carry out the Inquiry/ Investigation independently and in accordance with law and register the case against the persons who are found involved and responsible for the commission of the alleged crimes.

5. So far as the prayer clause (b) is concerned, learned Senior Advocate, Mr. Kapil Sibal, submitted that the Members of both the Associations i.e. SCBA and SCAORA, are committed to the cause of justice and are also committed to promote professional competence and maintain professional integrity, and to prevent unethical practices affecting the legal profession. He submitted that on the next date of hearing, the applicants shall come out with some concrete proposal for taking steps/ action for the promotion and improvement of the professional

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competence, which in turn would help in maintaining the professional integrity for the larger cause of justice.

6. In view of the said submission, list the applications before the same combination of Bench on 30.01.2025 at 02:00 p.m.”

3. In view of the above Order, the Court had allowed the Applicants-Associations to make their submissions, without being technical about their *locus standi* to intervene and to file these Miscellaneous Applications in the disposed of matter.

4. On 13.02.2025, Ms. Rachana Srivastava, the Vice President of SCBA, and the other Representatives of the SCBA and of SCAORA, made oral submissions and also submitted written joint submissions *inter alia* as under: -

- i. The directions contained in the Judgment and Order dated 20.09.2024 are likely to seriously prejudice the rights of the members of the said Associations including their voting rights, rights in the allotment of chambers and their right for being considered for the designation as Senior Advocate etc.
- ii. As per the Guidelines for the designation of Senior Advocates 2023, an Advocate is required to furnish a particular number of reported/ unreported Judgments in the last 5 years in cases, in which he has appeared as an Arguing Counsel and Assisting Counsel. The decision in case of ***Indira Jaising vs. Supreme Court of India***¹, has been relied upon to highlight the role of a lead counsel and assisting counsel.
- iii. Number of appearances of an Advocate is also one of the criteria for determining the eligibility for allocation of chambers in the premises of the Supreme Court. In this regard, the decision in case of ***Gopal Jha vs. Hon'ble Supreme Court of India***², has been relied upon.
- iv. As per Rule 5 of the Rules and Regulations of SCBA, a member is eligible to vote only if he is a regular member of the Association, for which he should have appearance in the Supreme Court either as a lead Counsel in at least 5 matters in each year of

¹ (2023) 8 SCC 1

² (2019) 13 SCC 161

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the 2 years period or as a Junior Advocate appearing with the Senior Advocate/ Advocate-on-Record in at least 20 matters in each year of the 2 years period. As per **Supreme Court Bar Association and Others vs. B.D. Kaushik**³, only Advocates practising regularly in the Supreme Court are allowed to cast vote or contest the elections of the Association.

- v. Form-30 prescribed in the Fourth Schedule of Supreme Court Rules, 2013, requires an Appearance Slip to be submitted by the Advocate-on-Record for marking the appearances of the Advocates before the Court. It has always been an accepted rule, norm and practice in the Supreme Court to mark the appearances of all the Counsels who are present before the Court for a particular case and have contributed for proper adjudication of that case.
- vi. As per Order III Rule 1 of the Civil Procedure Code, a pleader has a right to appear on behalf of the party before any court.
- vii. By not recording the appearances of the assisting Advocates, there will be an adverse impact on the career progression of the Junior Advocates.

5. At the outset, it may be noted that the Court was constrained to give the impugned directions as a part of corrective measures, in the judgment and order dated 20.09.2024, as the court had found not only a misuse and abuse of process of law, but also a fraud on the court having been *prima facie* committed at the instance of the party-litigants and their advocates involved in the case. The other reason for giving such direction was also that the Court had noticed a very strange practice being followed in the Supreme Court regarding marking the appearances of number of advocates for a party, without anybody verifying or certifying whether they all are authorised to appear for that party or not. In almost all matters, whether simple or complicated, a number of appearances of Advocates would be shown in the Record of Proceedings, running into pages and pages, without any verification as to whether such advocates were in fact present in the Court or were in fact authorised to appear for a particular party in the case.

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6. Two questions therefore arise before the Court: (i) whether the Advocates have an indefeasible right to appear for a party or to get their appearances marked for a party, though not duly authorised to appear in the court proceedings? and (ii) whether the impugned directions given by the court impinge or affect any of the legal, fundamental or statutory rights of the Advocates?
7. Before advertiring to the above questions, it would be apt to refer to some of the relevant provisions contained in The Advocates Act, 1961, The Bar Council of India Rules and The Supreme Court Rules, 2013.
8. The Advocates Act, 1961 has been enacted to amend and consolidate the law relating to legal practitioners and to provide for the constitution of Bar Councils and All India Bar. Section 16 thereof states that there shall be two classes of Advocates, namely, Senior Advocates and other Advocates. Section 30 thereof, *inter alia*, provides that subject to the provisions of the said Act, every Advocate whose name is entered in the State roll shall be entitled as of right to practice throughout the territories to which the said Act extends, in all courts including the Supreme Court. Chapter V of the said Act pertains to the conduct of the Advocates, and Section 35 and 36 empower the State Bar Council and the Bar Council of India to take disciplinary actions and punish the Advocate who has been found guilty of professional and other misconduct. Section 49 thereof empowers the Bar Council of India to make rules for discharging its functions under the said Act and in particular for the matters prescribed therein.
9. The Bar Council of India in exercise of its rule making power under the Advocates Act, 1961 has framed the Rules called 'The Bar Council of India Rules'. The said Rules have been divided into nine parts. Part VI pertains to the Rules governing the Advocates. Chapter I of the said part VI lays down the restrictions on Senior Advocates in the matter of their practise of the profession of law as mentioned in Section 30 of the Advocates Act. Chapter II of part VI pertains to the standards of professional conduct and etiquette to be followed by the Advocates. The said Chapter lays down the Duties of an Advocate to the court, to the client, to the opponent, and to the colleagues. Chapter IV of Part VI also prescribes the form of dresses or robes to be worn by the Advocates.
10. It may further be noted that under Article 145 of the Constitution of India, the Supreme Court is empowered, with the approval of

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the President, to make Rules for regulating generally the practice and procedure of the Court including the Rules as to the persons practicing before the Court. Accordingly, the Supreme Court has framed the Supreme Court Rules 2013, which came to be amended by the Supreme Court/Amendment Rules, 2019 (hereinafter referred to as the said Rules).

11. Order IV of the said Rules 2013, pertains to the "Advocates." Relevant parts of the said Rules contained in Order IV are reproduced hereunder: -

"1. (a) Subject to the provisions of these rules an advocate whose name is entered on the roll of any State Bar Council maintained under the Advocates Act, 1961 (25 of 1961) as amended shall be entitled to appear before the Court:

Provided that an advocate whose name is entered on the roll of any State Bar Council maintained under the Advocates Act, 1961 (25 of 1961), for less than one year, shall be entitled to mention matters in Court for the limited purpose of asking for time, date, adjournment and similar such orders, but shall not be entitled to address the Court for the purpose of any effective hearing:

Provided further that the Court may, if it thinks desirable to do so for any reason, permit any person to appear and address the Court in a particular case.

(b) No Advocate other the Advocate-on-Record for a party shall appear, plead and address the court in the matter unless he is instructed by the Advocate-on-Record or permitted by the Court."

(c)

2. (a) The Chief Justice and the Judges may, with the consent of the advocate, designate an advocate as senior advocate if in their opinion by virtue of his ability, standing at the Bar or special knowledge or experience in law the said advocate is deserving of such distinction

(b) A senior advocate shall not-

(i) file a vakalatnama or act in any Court or Tribunal in India;

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- (ii)** appear without an advocate-on-record in the Court or without a junior in any other Court or Tribunal in India;
- (iii)** accept instructions to draw pleadings or affidavit, advise on evidence or do any drafting work of an analogous kind in any Court or Tribunal in India or undertake conveyancing work of any kind whatsoever but this prohibition shall not extend to settling any such matter as aforesaid in consultation with a junior;
- (iv)** accept directly from a client any brief or Instructions to appear in any Court or Tribunal in India.

Explanation. -

3 to 4

5. No advocate shall be qualified to be registered as an advocate-on-record unless: -

(i) his name is, and has been borne on the roll of any State Bar Council for a period of not less than four years on the date of commencement of his training as provided hereinafter:

(ii) to **(iv)**.....

6.....**7. (a)**

(b) (i) Where the vakalatnama is executed in the presence of the Advocate-on-Record, he shall certify that it was executed in his presence.

(ii) Where the Advocate-on-Record merely accepts the vakalatnama which is already duly executed in the presence of a Notary or an advocate, he shall make an endorsement thereon that he has satisfied himself about the due execution of the vakalatnama.

(c) No advocate other than an advocate-on-record shall be entitled to file an appearance or act for a party in the Court.

(d) & (e)**8-9**

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10. When, on the complaint of any person or otherwise, the Court is of the opinion that an advocate-on-record has been guilty of misconduct or of conduct unbecoming of an advocate-on-record, the Court may make an order removing his name from the register of advocates on record either permanently or for such period as the Court may think fit and the Registrar shall thereupon report the said fact to the Bar Council of India and to State Bar Council concerned:

Provided

11 to 19

20. No advocate-on-record shall authorise any person whatsoever except another advocate-on-record, to act for him in any case."

12. So far as Appearance Slip is concerned, the said Rules have prescribed it in the Form No.30 in the Fourth Schedule, appended to the said Rules. The said Form No. 30 alongwith its Note is reproduced as under: -

**“No. 30
APPEARANCE SLIP
IN THE SUPREME COURT OF INDIA”**

Date of Listing.....

Court No...../In Chambers Item No.....

Case No.....

Enrolment No.

Name of Advocate Enrolment No.

1.

.....

2.

.....

Appearing for

Respondent
No.

[Signature of AOR]

[Name of AORI]

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Note. –

Court Master shall ensure to record appearance in the Record of Proceedings only of Senior Advocate/ AOR/ Advocate who are physically present and arguing in the Court at the time of hearing of the matter and one Advocate/ AOR each for assistance in Court to such arguing Senior Advocate/ AOR/ Advocate, as the case may be.”

13. From the above stated statutory provisions, what is deducible is that the Supreme Court in exercise of the powers conferred by Article 145 of the Constitution of India and all other powers enabling it in this behalf, has made with the approval of the President, the Rules for regulating generally the practice and procedure of the Court, including the Rules as to persons practicing before the Court. Therefore, though an Advocate whose name is entered on the roll of any State Bar Council maintained under the Advocates Act, 1961 is entitled to appear before the Supreme Court, his appearance would be subject to the said Rules of 2013 framed by the Supreme Court. The proviso to Rule 1(a) of Order IV restricts an Advocate from addressing the Court for the purpose of any effective hearing, if his name has been entered on the roll of any State Bar Council for less than 1 year. Of course, he is entitled to mention the matter in the Court for limited purpose of asking time, date, adjournment and similar such orders. As per Rule 1(b), no Advocate other than the Advocate-on-Record for a party can appear, plead and address the Court in a matter unless he is instructed by the Advocate-on-Record or permitted by the Court.
14. Rule 20 thereof states that no Advocate-on-Record shall authorise any person whatsoever except another Advocate-on-Record, to act for him in any case. Rule 2(b) mandates that a Senior Advocate shall not appear without an Advocate-on-record in the Supreme Court and shall not appear without a junior in any other court in India. Thus, as per the said Rule so far as Supreme Court is concerned, a Senior Advocate can not appear without the Advocate on Record appearing on behalf of a party.
15. It is pertinent to note that as per Rule 7(c) no Advocate other than the Advocate-on-Record is entitled to file an appearance or act for a party in the Court, and Rule 7(a) requires an Advocate-on-Record to file his memorandum of appearance on behalf of a party accompanied by Vakalatnama duly executed by the party. Where

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the Vakalatnama is executed in the presence of the Advocate-on-Record, he shall certify that it was executed in his presence. If the Advocate-on-Record has merely accepted the Vakalatnama, which was already executed in the presence of a Notary or an Advocate, he has to make an endorsement thereon that he has satisfied himself about the due execution of the Vakalatnama. Meaning thereby, every Vakalatnama has to be executed by the party in presence of the Advocate-on-Record or in presence of a Notary or an Advocate, for being sent to the Advocate-on-Record. If the Vakalatnama was not executed in his presence, the Advocate-on-Record has to make an endorsement on the Vakalatnama that he has satisfied himself about the due execution of the Vakalatnama. This Rule 7 assumes significance more particularly in the Supreme Court, in as much as, many a times, the Advocates-on-Record would be receiving the Vakalatnama already executed by the party, who might be staying at a far away place. In that case, it would be incumbent on the part of Advocate-on-Record, before filing his Memorandum of appearance on behalf of such party that the Vakalatnama received by him was duly executed in presence of a Notary or other Advocate and to make an endorsement in that regard.

16. Rule 10 of the said Order IV also assumes significance in case when an accountability is required to be fixed on the Advocate-on-Record and when, in the opinion of the Court, he has been guilty of misconduct or of conduct unbecoming of an Advocate-on-Record.
17. It is noticed by us that in many cases the Advocate-on-Record would merely lend his/her name without any further participation in the proceedings of the case. The Advocate-on-Record would be seldom found present along with the Senior Advocate. The Appearance Slip in the prescribed Form No.30 would also not have been given showing the correct appearances. We cannot resist ourselves from observing that every Vakalatnama or Memorandum of Appearance filed in a case by the Advocate on Record carries lot of responsibility and accountability.
18. A right of an Advocate to appear for a party and to practice in the courts is coupled with the duty to remain present in the court at the time of hearing, and to participate and conduct the proceedings diligently, sincerely, honestly and to the best of his ability. Rights and duties are two sides of the same coin, and they are inherently connected with each other.

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19. This Court in case of ***Bar of Indian Lawyers Through Its President Jasbir Singh Malik Etc. Vs. D.K. Gandhi PS National Institute of Communicable Diseases and Another, etc.***⁴, while holding that the legal profession is *sui generis* i.e. unique in nature and cannot be compared with other professions, also held that a service hired or availed of an Advocate, is a service under “a contract of personal service” and therefore would fall within the exclusionary part of the “service” contained in Section 2(42) of the Consumer Protection Act, 2019. On the right of an Advocate to practice, and to act for any person in the court, it was observed as under: -

“49. A conjoint reading of the provisions contained in Order III CPC and Chapter IV of Advocates Act pertaining to right to practise, there remains no shadow of doubt that an advocate whose name has been entered in the State roll is entitled as of right to practise in all Courts, however he can act for any person in any Court only when he is appointed by such person by executing the document called “Vakalatnama.” Such Advocate has certain authorities by virtue of such “Vakalatnama” but at the same time has certain duties too, i.e. the duties to the courts, to the client, to the opponent and to the colleagues as enumerated in the Bar Council of India Rules.

50. In this regard, this Court in ***Himalayan Cooperative Group Housing Society vs. Balwan Singh and Others*** has made very apt observations, which are reproduced hereunder: -

22. Apart from the above, in our view lawyers are perceived to be their client’s agents. The law of agency may not strictly apply to the client-lawyer’s relationship as lawyers or agents, lawyers have certain authority and certain duties. Because lawyers are also fiduciaries, their duties will sometimes be more demanding than those imposed on other agents. The authority-agency status affords the lawyers to act for the client on the subject-matter of the

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retainer. One of the most basic principles of the lawyer-client relationship is that lawyers owe fiduciary duties to their clients. As part of those duties, lawyers assume all the traditional duties that agents owe to their principals and, thus, have to respect the client's autonomy to make decisions at a minimum, as to the objectives of the representation. Thus, according to generally accepted notions of professional responsibility, lawyers should follow the client's instructions rather than substitute their judgment for that of the client. The law is now well settled that a lawyer must be specifically authorised to settle and compromise a claim, that merely on the basis of his employment he has no implied or ostensible authority to bind his client to a compromise/settlement. To put it alternatively that a lawyer by virtue of retention, has the authority to choose the means for achieving the client's legal goal, while the client has the right to decide on what the goal will be. If the decision in question falls within those that clearly belong to the client, the lawyer's conduct in failing to consult the client or in making the decision for the client, is more likely to constitute ineffective assistance of counsel."

20. So far as Appearance Slip is concerned, the "Note" mentioned at the foot of Form No.30 in the Fourth Schedule appended to the said Rules 2013, requires the Court Master to ensure to record appearances in the Record of Proceedings only of Senior Advocate/ AOR/ Advocate who is physically present and arguing in the Court at the time of hearing of the matter and one Advocate/ AOR each for assistance in the Court to such arguing Senior Advocate/ AOR/ Advocate, as the case may be. This means that the Court Master is required to record appearances in the Record of Proceedings only of (i) Senior Advocate or AOR or Advocate who is physically present and arguing in the Court on behalf of a party at the time of hearing of the matter and (ii) one Advocate or AOR each for assistance in the Court to such arguing Senior Advocate or AOR or Advocate as the case

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may be. Therefore, along with the arguing Senior Advocate or AOR or Advocate appearing for a party, further additional appearance of only one Advocate or AOR as the case may be, who is assisting in the matter, could be recorded. Of course, any subsequent change in the engagement of the AOR or the Senior Advocate or the Arguing Advocate by the party, may be intimated by the concerned AOR by submitting an Appearance Slip afresh to the concerned Court Master, and the concerned Court Master shall have to mark the appearances of the Advocates accordingly in the Record of Proceedings.

21. It is difficult to accept the submission made on behalf of the Applicants Associations that it has been the practice in the Supreme Court to get appearances of all counsels marked, who are present in the court for a particular case, and contributed or assisted the arguing counsel. It hardly needs to be stated that no practice could be permitted to overrule the Statutory Rules, particularly when the Rules are framed by the Supreme Court in exercise of the powers conferred under Article 145 of the Constitution. The said Rules having a statutory force have to be strictly adhered to and followed by all concerned, that is, by the officers of the Court including the Court Masters as also the Advocates. There has to be effective participation or assistance by the concerned Advocate assisting the Arguing advocate in the case, when the matter is being conducted in the Court. Casual, formal or ineffective presence in the Court along with the AOR or arguing Advocate, without due authorisation by the party concerned, cannot entitle the Advocate to insist the Court Master to record his or her appearance in the Record of Proceedings.
22. The submission made on behalf of the Applicants-Associations that the impugned directions given by the Court would have an adverse impact on the rights of the Advocates to vote, to be considered for the allotment of chambers in the Supreme Court premises and for the designation as Senior Advocate, also has no force. In this regard, it may be noted that the issues with regard to allotment of chambers in the Supreme Court premises and about the voting rights of the Advocates in the elections of Supreme Court Bar Association have been raised and considered by this Court in various judgments. In **Gopal Jha case (supra)**, this Court had reiterated that there is no fundamental right or statutory right of an Advocate to have an allotment of chamber in any court premises, and that it is only a facility which

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is provided in the court premises. It has been further observed that the members of SCAORA or other similarly situated persons who are members of SCBA can make only a request to the Chambers committee constituted under the Supreme Court Lawyers' Chambers (Allotment and Occupancy) Rules framed by the Supreme Court on administrative side, for the allotment of chambers within the compound of Supreme Court. The said Rules govern the procedure and the eligibility criteria for allotment of chambers which are binding to all.

23. The issues with regard to the voting right and the right to contest elections of SCBA, have also been crystallised by this Court in **Supreme Court Bar Association and Others (supra)**, in which it has been held *inter alia* that right to vote or to contest election is neither a fundamental right nor a common law right, but is purely a statutory right governed by the Statutes/Rules/Regulations. We therefore need not elaborate any further on the issues raised, except to observe that members of the Applicants-Associations are bound by the Rules and Regulations with regard to right to the allotment of Chambers and with regard to the right to vote or right to contest elections of the Bar Association, as also they are bound by the Supreme Court Rules, 2013 framed under Article 145 of the Constitution of India.
24. In the aforesaid premises, we are of the opinion that the said Supreme Court Rules, 2013 as amended by Rules, 2019 having the statutory force, have to be adhered to and complied with by all the officers of the Court as also the Advocates practicing in the Supreme Court. The Supreme Court being the highest court of the country, the practice and procedure being followed in the Supreme Court proceedings by the Advocates and Officers of the Supreme Court have to be strictly in accordance with the Statutory Rules framed by it, and not *dehors* the said Rules. Hence, keeping in view the said Rules framed in exercise of the powers conferred under Article 145 of the Constitution of India, and for regulating the Practice and Procedure of the Supreme Court, it is directed that –
 - (i) Where the Vakalatnama is executed in the presence of the Advocate-on-Record, he shall certify that it was executed in his presence.
 - (ii) Where the Advocate-on-Record merely accepts the Vakalatnama which is already duly executed in the presence of a Notary or an

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Advocate, he shall make an endorsement thereon that he has satisfied himself about the due execution of the Vakalatnama.

- (iii) The Advocate on record shall furnish the details as required by the Appearance Slip prescribed in Form No. 30 through the link provided on the website as mentioned in the Notice dated 30.12.2022 issued by the Supreme Court;
- (iv) The respective Court Masters shall ensure to record appearances in the Record of Proceedings only of Senior Advocate/AOR/ Advocate who are physically present and arguing in the Court at the time of hearing of the matter, and one Advocate/AOR each for assistance in Court to such arguing Senior Advocate/ AOR/Advocate, as the case may be, as required in the Note mentioned at the foot of the said Form No. 30; and
- (v) If there is any change in the authorisation of the AOR or of the Senior Advocate or Arguing Advocate by the concerned party, after the submission of the Appearance Slip prescribed in Form No. 30, it shall be duty of the concerned AOR to submit an Appearance Slip afresh to the concerned Court Master informing him about such change, and the concerned Court Master shall record appearances of such Advocates accordingly in the Record of Proceedings.
- (vi) A Senior Advocate shall not appear without an AOR in the Supreme Court.

25. Subject to the above modification in the directions contained in para 42 of the Judgement dated 20.09.2024, the Miscellaneous Applications stand disposed of.

26. The Office shall do the needful for the due compliance of the directions contained in this order.

Result of the case: Miscellaneous applications disposed of.

[†]Headnotes prepared by: Ankit Gyan