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Status: **Pending**

Case Number: **WP 15832/2026**
(KAHC010346342026)

Classification: **GM RES**

Date of Filing: **20/05/2026**
13:55:52

Petitioner: **SMT SANDYA U**
PRABHU

Petitioner Advocate:

Respondent: **THE RETURNING**
OFFICER

Respondent Advocate:

Filing No.: **WP 15935/2026**

Judge: **SURAJ GOVINDARAJ**

Last Posted For: **PRELIMINARY**
HEARING - B GROUP

Last Date of Action: **01/06/2026**

Last Action Taken:

Next Hearing Date: **10/06/2026**

Daily Orders: WP 15832/2026

1	<u>10/06/2026</u>	SURAJ GOVINDARAJ	ADJOURNED
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1. Connect the above petition along with W.P. No.15252/2026.
2. The writ petitions contain numerous allegations pertaining to the conduct of the Bar Council elections. Significantly, Annexure–L, which is a communication issued by the Returning Officer, indicates that no fewer than sixteen complaints were received by him regarding various aspects of the electoral process.
3. Rule 7 of The Bar Council of India notification bearing No.F No.BCI:D:3429/2023 reads as under:
 7. Procedure regarding complaint/disputes. The complaint of mal or corrupt practice or violation of Code of Conduct if made during or prior to the election of State Bar Council, may be made by any Advocate or anybody to the Returning Officer who shall report the matter to the Returning Officer (R.O.) or Observer and the R.O. or the Observer (as the case may be) shall refer the matter to the Central Election Tribunal/Committee alongwith the complaint and the other decision. The complaints/Reports/Recommendations may be made online or offline or materials both. for the finalThe Central Election Tribunal/Committee shall give the complainant and the candidate/member (as the case may be) an opportunity of hearing before cancelling the candidature of the candidate or before taking a final decision on the complaint. The Central Election Commission/Tribunal shall assign the reason for its decision. The hearings shall be made in hybrid mode depending on the convenience of the parties.
4. A plain reading of Rule 7 makes it abundantly clear that upon the receipt of any complaint alleging malpractice, corrupt practice, or violation of the Code of Conduct in connection with the election to a State Bar Council, the Returning Officer or the Observer is under a mandatory obligation to immediately refer the same to the Central Election Tribunal/Committee. The language employed in the Rule leaves little room for discretion in this regard. The Rule specifically provides that the Returning Officer or the Observer, as the case may be, “shall refer the matter” to the Central Election Tribunal/Committee along with the complaint and other relevant material. The use of the expression “shall” indicates that the requirement is mandatory and not merely directory.
5. The scheme of Rule 7 further demonstrates that the adjudicatory function has been consciously entrusted to the Central Election Tribunal/Committee and not to the Returning Officer. The role assigned to the Returning Officer or the Observer is limited to the receipt of complaints, collection of the relevant material, and transmission of the same to the Central Election Tribunal/Committee. The Rule does not confer upon the Returning Officer any authority to undertake an adjudication of the allegations, assess their correctness, determine their merits, or render any final finding thereon.
6. The reason for such a procedure is not difficult to discern. Allegations of malpractice, corrupt practice, or violation of the Code of Conduct may have a direct bearing on the fairness, transparency, and legitimacy of the electoral process. The Bar Council of India, therefore, has provided for an independent mechanism whereby such complaints are to be considered by a specialised body, namely, the Central Election Tribunal/Committee. The object appears to be to ensure that complaints affecting the electoral process are examined by a body distinct from the authorities conducting the election, thereby securing fairness, impartiality, and public confidence in the process, which examination has to be made immediately on receipt of the complaint.
7. Rule 7 also incorporates the essential requirements of natural justice. Before cancelling the candidature of a candidate or before taking any final decision on a complaint, the Central Election Tribunal/Committee is required to afford an opportunity of hearing to both the complainant and the candidate/member concerned. The Rule further mandates that reasons be assigned for the decision ultimately taken. Thus, the Rule contemplates not merely a mechanical consideration of complaints but a structured adjudicatory process involving notice, hearing, consideration of the material placed on record, and the rendering of a reasoned decision.
8. In the present case, Annexure–L discloses that as many as sixteen complaints were received by the Returning Officer. Having regard to the mandate contained in Rule 7, the receipt of such complaints necessarily attracted the obligation to place the same before the Central Election Tribunal/Committee for its consideration. Whether the allegations contained in the complaints were ultimately sustainable or otherwise is a matter falling within the exclusive domain of the Central Election Tribunal/Committee. What assumes significance is that the Rule envisages that such complaints should be subjected to scrutiny by the competent forum designated under the Bar Council of India Notification and not be dealt with in a manner inconsistent with the procedure prescribed therein.
9. Prima facie, therefore, compliance with the procedure prescribed under Rule 7 assumes considerable importance, particularly in a case where multiple complaints relating to the conduct of the election were admittedly received. Since the Rule constitutes a self-contained mechanism for the examination and adjudication of election-related complaints, adherence thereto is essential for preserving the integrity of the electoral process and ensuring that all stakeholders have confidence in the fairness and legality of the election.
10. The procedure prescribed under Rule 7 marks a significant departure from the principles ordinarily governing election disputes. As a general rule, courts exercising jurisdiction in electoral matters refrain from interfering with an ongoing election process. Any person aggrieved by the conduct of an election is ordinarily relegated to the remedy of an election petition after the declaration of the results. Judicial intervention during the currency of the election process is generally discouraged in order to ensure that the electoral process is not interrupted or derailed.
11. Rule 7, however, provides for a distinct mechanism in relation to elections to the State Bar Councils. The Rule expressly contemplates the filing and consideration of complaints relating to malpractice, corrupt practice, or violation of the Code of Conduct during the course of the election itself and even prior to the declaration of the

results. Such complaints are not required to await the conclusion of the election process. On the contrary, the Rule mandates their immediate consideration by the Central Election Tribunal/Committee.

12. This assumes considerable significance because the consequence contemplated under Rule 7 is not merely the setting aside of an election after the declaration of results, which is the remedy commonly available under election laws. The Rule empowers the Central Election Tribunal/Committee to cancel the candidature of a candidate upon consideration of the complaint and after affording an opportunity of hearing to the concerned parties. The object of the Rule is therefore preventive as much as corrective. The intention appears to be to preserve the purity of the electoral process by addressing allegations of malpractice at the earliest possible stage rather than postponing their consideration until after the election has concluded.

13. The timing of such cancellation may itself have substantial electoral consequences. If the candidature is cancelled prior to the conduct of polling, the candidate's name would necessarily stand excluded from the ballot and the electorate would not have the opportunity to cast votes in favour of such a candidate. On the other hand, if the candidature is cancelled after polling but before the declaration of results, the votes cast in favour of the disqualified candidate cannot simply be ignored. The consequences of such cancellation would have to be worked out in accordance with the electoral system governing elections to the State Bar Council.

14. Elections to the State Bar Council are not elections to a single office or post. They are elections to a representative body comprising multiple members. The electoral process is based upon a system of preferential voting, and the successful candidates are determined through successive rounds of counting and elimination. In such a system, every preference expressed by a voter assumes significance, and the exclusion of a candidate at any stage may materially affect the electoral prospects of all remaining candidates.

15. Consequently, where the candidature of a candidate is cancelled after polling, the votes polled in favour of such candidate cannot be viewed in isolation. The elimination of that candidate from the electoral contest would necessarily require the redistribution or transfer of the preferences expressed in those ballot papers in accordance with the prescribed counting methodology. Such redistribution may directly influence the order of elimination, the transfer of preferences and, ultimately, the determination of the candidates who secure election to the Council.

16. The consequences become even more significant if the cancellation of candidature occurs after the commencement of the counting process. In a system founded upon successive rounds of elimination and transfer of preferences, the exclusion of a candidate during counting would have a cascading effect on the entire electoral exercise. The candidate would stand excluded from the contest altogether, requiring the counting process to be revisited from the stage at which such candidate ought to have been eliminated, which is at the stage of polling. The votes polled in favour of that candidate and the consequential transfers of preferences would require to be reworked in accordance with the applicable rules. Such an exercise may necessitate a complete recount and a fresh redistribution of preferences amongst the remaining candidates.

17. This is not a matter of mere arithmetic. The process would require a fresh application of the statutory counting methodology at every stage of elimination and transfer of preferences. The administrative burden involved is substantial. The present election itself illustrates the complexity of the process. Though polling has already concluded in April 2026, the counting process is stated to be continuing several months thereafter and is still not completed as on date. If a candidature were to be cancelled at this stage, the inevitable consequence would be a recount after excluding the candidate concerned and a fresh determination of the transfer of preferences. Such an exercise would not only consume considerable time and resources but may also materially alter the position of several candidates in the order of elimination and eventual selection.

18. It is therefore evident that a decision under Rule 7 is capable of producing consequences extending far beyond the individual candidate against whom the complaint is made. The cancellation of a candidature may alter the entire matrix of vote distribution and preference transfers and thereby impact the electoral prospects of several other candidates. It is precisely for this reason that Rule 7 entrusts the decision-making function to the Central Election Tribunal/Committee, incorporates the requirements of natural justice, and mandates the recording of reasons. Given the far-reaching ramifications that may flow from the cancellation of a candidature, strict adherence to the procedure prescribed under Rule 7 assumes critical importance and cannot be treated as a mere procedural formality.

19. The legislative intent underlying Rule 7 appears to be that complaints relating to malpractice, corrupt practice or violation of the Code of Conduct should be addressed with expedition so that questions relating to the eligibility or continuance of a candidature are resolved at the earliest possible stage. Failure to do so may result in serious complications during or after the counting process, affecting not only the candidate against whom the complaint is made but potentially the entire electoral outcome itself.

20. In the present matter, the first aspect which requires consideration is whether the complaints admittedly received by the Returning Officer were, in fact, forwarded to the Central Election Tribunal/Committee in terms of Rule 7. If such forwarding has taken place, it would further be necessary to ascertain the action taken thereon by the Central Election Tribunal/Committee. Annexure-L merely records the receipt of the complaints and does not disclose whether they were transmitted to the Central Election Tribunal/Committee. Neither has any material been placed before this Court indicating that the Central Election Tribunal/Committee has considered the complaints or taken any decision thereon. In the absence of such material, this Court is unable, at this stage, to ascertain whether the procedure prescribed under Rule 7 has been duly complied with.

21. It is relevant to note that a similar situation arose in relation to the elections to the Bar Council of Delhi, where complaints concerning the electoral process had been raised. The matter came to be considered by the Hon'ble Supreme Court and with the consent of the parties, the Hon'ble Supreme Court entrusted the adjudication of the disputes to a Division Bench of the High Court of Delhi by requesting the Hon'ble Chief Justice of the High Court of Delhi to constitute an appropriate Special Bench for that purpose. The Hon'ble Supreme Court, while doing so, directed that the counting of the ballot papers be kept in abeyance, while reserving liberty to all parties to raise their respective contentions before the forum designated for adjudication.

22. The aforesaid course of action underscores the importance of ensuring that complaints affecting the integrity of the electoral process are examined and adjudicated before the election results attain finality. Having regard to the serious nature of the allegations raised in the present petitions, the receipt of multiple complaints as reflected in Annexure-L, and the apparent absence of material demonstrating compliance with Rule 7, this Court is of the prima facie view that appropriate interim measures may be required to safeguard the sanctity of the electoral process and preserve the rights and contentions of all concerned parties.

23. However, before any such order is passed, this Court deems it appropriate, in the interests of fairness, to afford a further opportunity to the Returning Officer and the concerned authorities to place on record the steps taken pursuant to the complaints received. In particular, they shall indicate whether the complaints referred to in Annexure-L were forwarded to the Central Election Tribunal/Committee, the dates on which such forwarding was made, and the action, if any, taken by the Central Election Tribunal/Committee thereon. The said exercise shall not be confined merely to the complaints referred to by the petitioners but shall also encompass any other complaints received by the Returning Officer in relation to the conduct of the election.

24. Respondent Nos.1 and 2, as also respondent No.4, are directed to file their respective statements of objections setting out their stand in the matter. The response of respondent No.4 assumes particular significance, having regard to the fact that the issues raised in the present proceedings concern the conduct of elections to a statutory body governing the legal profession and directly impinge upon the integrity of the institutional framework established for the regulation of advocates.

25. Learned counsel appearing for respondent No.4, the Bar Council of India, shall also place on record the complete mechanism envisaged under the applicable Rules and Notifications as also relevant judgements and directions issued by the Hon'ble Supreme Court for the resolution of election-related complaints and disputes. The Bar Council of India shall specifically indicate the hierarchy of authorities involved, the respective functions of the Returning Officer, Observer, Central Election Tribunal/Committee and any other authority concerned, the procedure to be followed at each stage, and the time frame within which action is required to be taken on complaints received during the electoral process. Such information would assist the Court in determining whether the statutory framework has been adhered to in the present case and whether any further directions are warranted.

26. At the request of all counsels, relist on 12.06.2026 at 2.30 pm.

27. In the unlikely event of the counting being completed, the results shall be subject to the result of the above petitions.

28. Hand delivery ordered.

Last Updated On: 2026-06-10 19:14:59

2	<u>29/05/2026</u>	LALITHA KANNEGANTI	ADJOURNED
List this matter on 01.06.2026. Last Updated On: 2026-06-02 14:59:44			
3	<u>26/05/2026</u>	LALITHA KANNEGANTI	ADJOURNED
List this matter on 29.05.2026. Last Updated On: 2026-05-29 10:35:04			
4	<u>21/05/2026</u>	C.M. POONACHA	ADJOURNED

,Learned counsel Sri.T.P.Vivekananda is requested to take notice for the respondents.
In addition, petitioner is permitted to take out hand summons to the respondents.
Learned counsel for the petitioner is directed to serve copy of the writ petition papers within two days and file proof of such service.
List this matter on 26.05.2026.

Last Updated On: 2026-05-22 11:05:11

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