

ORDER SHEET
HIGH COURT OF SINDH AT KARACHI

Suit 972 of 2024

Date	Order with signature of Judge(s)
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For hearing of CMA No.13385 of 2024

27.09.2024

Mr. Asim Mansoor Khan
Mr. Tahmasp Rasheed Razvi
Ms. Umaima Mansoor Khan
(Advocates for the plaintiff)

Mr. Ikhtiar Ali Channa, advocate (Karachi Bar Association).
Mr. Ayan Mustafa Memon, advocate for defendant no.2
Mr. Fahim Zia, advocate (Sindh Bar Council)

Mr. K.A. Vaswani, Assistant Advocate General

This suit assails order dated 14.09.2024, issued by the Karachi Bar Association ("KBA"), whereby the membership of the plaintiff was suspended for a period of three months. It is the plaintiff's case that the said order was rendered by the Disciplinary Committee of the KBA, whereas, it is the defendants' case that the findings of the Disciplinary Committee were approved and acted upon by the Management Committee of KBA.

The primary legal issue before the court is the juxtaposition of the Memorandum and Articles of Association of the Karachi Bar Association 2012 ("2012 Constitution") versus the Model Memorandum, Rules and By-Laws of Bar Association ("Model Rules"), introduced by the Bar Association (Recognition) Rules 2017 ("2017 Rules"). Rule 10 of the 2017 Rules reads as follows:

"10. These Rules shall apply to all existing Bar Associations in the Province and in case any existing Bar Association fail to apply to the Bar Council for recognition and registration such Bar Association / Associations shall deemed to be registered and recognized under these Rules and the Model Memorandum, Rules and By-Laws framed by the Bar Council under Section 56 of the Legal Practitioners and Bar Councils Act, 1973 shall apply mutatis mutandis."

The crux of the arguments articulated on behalf of the plaintiff was that the Model Rules are the governing constitution of respective bar associations, irrespective and in supersession of any constitutive documents of their own, and that the impugned order has been delivered in dissonance with rule 26 of the Model Rules.

Mr. Ayan Mustafa Memon stated that if this interpretation is accepted then all constitutive documents of all bar associations would be rendered otiose. It was argued that the application of the Model Rules is only envisaged in the instance that a bar association has failed to apply for recognition and registration per the 2017 Rules.

Mr. Asim Mansoor Khan adverted to rule 3(ii) of the 2017 Rules to suggest that post promulgation of the 2017 Rules, the Model Rules would be

the only constitution of any bar association; in derogation of any earlier constitutive documentation.

Mr. Ikhtiar Channa (KBA) stated that recognition and registration was accorded to the KBA per the 2017 Rules and the purview thereof extended to the 2012 Constitution. It was articulated that the impugned order was rendered in *prima facie* consonance *inter alia* with rule 38 of the 2012 Constitution. Mr. Ayan Mustafa Memon adverted to rule 32 of the 2012 Constitution to demonstrate that any member aggrieved by censure of the management committee had the right to appeal to the general body.

Mr. Fahim Zia (SBC) stated that the complaints of the contesting parties, the plaintiff and defendant No.2, are before the Bar Council and shall be addressed in accordance with the law. Upon specific query as to whether the 2012 Constitution of the KBA had been accorded registration and recognition, in manifest disapplication of the Model Rules, he sought time so that the issue may be addressed with corroboratory record.

Per joint request, adjourned to 03.10.2024; to be taken up at 11am. The respective parties may file / exchange pleadings, counter affidavits, rejoinders etc., if so advised, before the next date.

Judge

Amjad