



**AILAJ**

**ALL INDIA LAWYERS' ASSOCIATION FOR JUSTICE**

#18, Bharat Bhavan, No. 35, Infantry Road, Bengaluru- 560001

[Ailajhq@gmail.com](mailto:Ailajhq@gmail.com)

30<sup>th</sup> June 2023

To,

(1) Chairman,  
Bar Council of India,  
  
21, Rouse Avenue Institutional Area,  
  
Near Bal Bhawan,  
  
New Delhi – 110 002.

(2) Chairman,  
Bar Council Of Delhi  
  
2/6, Siri Fort Institutional Area,  
  
Khel Gaon Marg, New Delhi-49

Dear Sir,

Sub: Urgent Appeal for reduction of enrolment fees.

Ref: (1) Judgment of the Supreme Court in Bar Council of India v. Bonnie Foi Law College reported in [2023 SCC OnLine SC 130]

(2) Interim order dated 15.02.2023 passed by the Kerala High Court in the Bar Council Of Kerala Vs Akshai M. Sivan [W.P. (C) No. 3068 OF 2023(G)]

We write to you requesting for immediate steps to reduce the prohibitively high enrolment fees borne by young law graduates. Recently, the Hon'ble Chief Justice of India, while speaking at a public programme, referred to the need for democratization of the legal profession by removing feudalistic remnants like monetary barriers and access to equal opportunity for first generation lawyers, and specifically addressed his serious concern regarding the surging

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*enrolment fee when opining as follows: "It's very costly to enrol. The bar council should relook at what they charge for enrolment".<sup>1</sup>*

The legal profession, an integral part of the Indian justice system, has a vital role in the upholding of rule of law and the pursuit of justice. However, despite its importance, the legal profession is not immune to the issues of inequality and discrimination that exist in our society. As such there are serious hurdles faced by members of historically marginalised communities particularly Dalits and Adivasis, and women, as also those from minority and economically weaker sections, to enter, progress and succeed in this profession.

One of these hurdles is the prohibitively expensive enrolment fees imposed by State Bar Councils (a chart of varying enrolment fees prepared by the legal portal, Live Law<sup>2</sup>, is enclosed along with this representation). For instance, in Karnataka it is Rs. 15,900/- for General Candidates and Rs. 12,900/- for SC/ST Candidates. This imposes a significant financial burden on the law graduates from the abovementioned disadvantaged sections, and their families, who already face economic hardship and limited opportunities. The Bar Council has the duty to promote diversity by taking proactive steps in encouraging students belonging to these abovementioned disadvantaged sections to pursue a legal education and its practice, including by substantively reducing the exorbitant enrolment fees, among other forms of support to ensure that all students have equal opportunities to pursue their goals.

The Supreme Court of India in its landmark judgment in **Bar Council of India v. Bonnie Foi Law College<sup>3</sup>**, while upholding the holding of the AIBE, took strong exception to the non-uniform pattern of enrolment fees as follows: *"We also have one caveat arising from the plea that different State Bar Councils are charging different fees for enrolment. This is something which needs the attention of the Bar Council of India, which is not devoid of the powers to see that a uniform pattern is observed and the fee does not become oppressive at the threshold of young students joining the Bar"*. Thereafter, a PIL<sup>4</sup> came to be filed in the High Court of Punjab and Haryana challenging the exorbitant enrolment fees while relying on the abovesaid decision of the Supreme Court. The same was disposed vide judgment dated 27.03.2023 recording the submission of the Bar Council of India that *"they would be taking up the necessary steps*

<sup>1</sup> <https://www.livelaw.in/top-stories/supreme-court-exorbitant-enrolment-fees-charged-by-state-bar-councils-225895>

<sup>2</sup> [https://www.livelaw.in/pdf\\_upload/enrolment-fee-chart-430318.pdf](https://www.livelaw.in/pdf_upload/enrolment-fee-chart-430318.pdf)

<sup>3</sup> 2023 SCC OnLine SC 130

<sup>4</sup> Pardhuman Garg vs. Bar Council of India and another (CWP-PIL-100-2020)



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*pursuant to the directions of the Supreme Court and appropriate decision in the matter shall be taken expeditiously and in view of the judgment of Supreme Court in Bar Council of India".*

Please note that the Hon'ble Kerala High Court of Kerala in The Bar Council Of Kerala Vs Akshai M. Sivan<sup>5</sup>, has passed interim order dated 15.02.2023 as follows: *"In that view of the matter, there will be a direction to the respondent Bar Council to receive applications from the petitioners with a fee of Rs.750/-"*. Incidentally in the appeal by the BCI against this interim order, the Division Bench vide order dated 16.03.2023 has taken judicial notice of BCI's submission that it is to convene a meeting for fixing a uniform fee for enrolment applicable to all Bar Councils in India, which Bar Council of Kerala also attend, and that the BCI would take an appropriate decision thereafter.<sup>6</sup> Vide Order dated 12.06.2023, the Division Bench has directed the Bar Council of Kerala to collect only Rs.750/- as enrolment fee from law graduates wishing to enrol, while the Bar Council of India considers a uniform fee structure as directed by the Supreme Court. Thus, in Kerala, any fresh law graduate will not only pay Rs. 750/- as enrolment fees.<sup>7</sup>

There are similar petitions pending before the Odisha High Court<sup>8</sup> and Bombay High Court<sup>9</sup>. Recently PIL has been filed before the Supreme Court (Gaurav Kumar vs Union of India | W.P.(C) No. 352/2023), challenging the different enrolment fees being charged by different state bar councils as exorbitant, in which the Supreme Court has issued notice vide order 10.04.2023.<sup>10</sup> The matter thereafter came up on 12.05.2023, and the Supreme Court has directed the State bar Councils which have not filed their replies already to do so within a period of four weeks, failing which, their right to reply shall stand forfeited and the petition shall proceed on the basis that they have nothing further to add. Importantly, during the hearing the Supreme Court orally observed that the BCI has to intervene because the State Bar Councils are charging huge amounts for enrolment and pondered about how a Dalit student or a student from rural background afford this.<sup>11</sup>

<sup>5</sup> W.P. (C) No. 3068 OF 2023(G)

<sup>6</sup> <https://www.livelaw.in/news-updates/kerala-high-court-enrolment-fee-bar-council-of-kerala-state-bar-councils-224007>

<sup>7</sup> <https://www.livelaw.in/high-court/kerala-high-court/kerala-high-court-directs-bar-council-kerala-collect-rs-750-enrollment-fee-until-uniform-fee-structure-fixed-by-bci-230770>

<sup>8</sup> <https://www.livelaw.in/news-updates/orissa-high-court-state-bar-council-enrolment-fees-law-graduates-206499>

<sup>9</sup> <https://www.livelaw.in/news-updates/lawyer-challenges-bar-council-of-maharashtra-and-goas-100-per-cent-enhancement-on-enrolment-charges-despite-objections-179454>

<sup>10</sup> <https://www.livelaw.in/top-stories/supreme-court-exorbitant-enrolment-fees-charged-by-state-bar-councils-225895>

<sup>11</sup> <https://www.livelaw.in/top-stories/supreme-court-exorbitant-enrollment-fees-by-bar-councils-advocates-act-228590>



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In this context, we are duty bound to highlight the illegalities in the charging of exorbitant and varying enrolment fees by the various State Bar Councils and the need for the BCI and State Bar Councils to immediately reduce enrolment fees.

The law governing Admission and Enrolment of Advocates is contained in Chapter III of the Advocate's Act 1961 in sections 16 to 28. Section 24(1)(f) mandates enrolment fees of Rs. 750/-. Thus, when the amount of enrolment fee to be collected is specifically provided the Act itself at section 24(1)(f), it is needless to add that the same can be altered only by way of amendment to the Act, which is not the case. This is the law laid down by the High Court of Bombay in **Bar Council of Maharashtra v. Union of India**<sup>12</sup>. challenged the constitutional validity of Section 24(1)(f) of the Advocates Act, 1961 and seeking to be allowed to charge such annual fee as the Bar Council of India may decide from time to time in consultation with the other State Bar Councils. The Court held as follows:

"3... While making a provision about the qualification of the persons who may be admitted as Advocate on State roll, one of the conditions prescribed under Clause (f) of sub-section (1) of Section 24 is that such person who has applied for his admission as an Advocate must have paid an enrolment fee payable to the State Bar Council. Though initially under clause (f) of sub-section (1) of section 24, the enrolment fee payable by the persons seeking admission to the Bar Council was fixed at Rs. 250/-, by way of amendment by Act No.70 of 1993, such enrolment fee payable to the State Bar Council has been increased from Rs. 250/to Rs. 600/. It would be thus seen that Parliament had been alive to this problem and by Act No. 70 of 1993 the enrolment fee has been almost increased by more than double. We are afraid, if we accept the submission of the Bar Council that the provision of Section 24(1)(f) is unconstitutional, the net result would be that Bar Council shall not be entitled to recover enrolment fee at all. **As it is, we do not find any constitutional vice in fixing the enrolment fee to the extent it has been fixed by Parliament. If the Bar Council finds that the sum of Rs. 600/- now fixed under Clause (f) of sub-Section (1) of Section 24 is inadequate the remedy of Bar Council lies elsewhere.** The Bar Council may take up the matter with the Central Government for taking appropriate steps in the amendment of the concerned provisions..."

A Division Bench of the Kerala High Court vide judgment dated 12.04.2018 in **Bar Council of Kerala v. T. Koshy and Others**<sup>13</sup>, also held as follows:

<sup>12</sup> AIR 2002 Bom 220

<sup>13</sup> W.A. No. 2170 of 2017



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"5. Evidently, therefore, enrolment fee payable by an applicant for enrolment with a Bar Council of the State has been statutorily prescribed by the Legislature in exercise of its power under section 24(1)(f) of the Advocates Act...

7. Thus the surviving question is whether the fixation of special fee is encompassed by the conditions which the Bar Council is entitled to prescribe in the rules made by it in view of section 24(1)(e) and section 28(2)(d). **As we have already seen and as found by the learned single Judge, in section 24(1)(f), the Legislature itself has prescribed the enrolment fee payable by a candidate applying for enrolment with a Bar Council of a State.** Once the legislature has prescribed enrolment fee, another fee, be it called a special fee or anything else, can legitimately be prescribed by a State Bar Council or any other authority only if there is an express legislative sanction therefor. In so far as section 24(1)(e) is concerned, all that it empowers the State Bar Council is to specify in the rules made by it under Chapter III of the Act the other conditions that a candidate should fulfill for enrolment. That rule making power also finds reflection in section 28(2)(d) which provides for the power of the Bar Council to make rules prescribing the conditions subject to which a person could be admitted as an advocate on its rolls. These provisions, in our view, only deal with the eligibility conditions and those conditions do not empower the Bar Council to prescribe any fee for the enrolment, either in the form of enrolment fee or special fee. Therefore, the prescription of special fee as done by the Bar Council of Kerala is totally ultra vires its powers as conferred under the Advocates Act, 1961."

The Special Leave Petition<sup>14</sup> preferred by the BCI against the abovesaid judgment came to be dismissed by the Supreme Court vide order dated 11.01.2019.

It is a well settled proposition that when law prescribes the manner in which an act has to be performed, it has to be performed in that manner or not at all. Thus, when the law prescribes enrolment fees of Rs. 750, the State Bar Councils do not the necessary competence to mandate enrolment fees. Any rules made by the State Bar Councils arrogating to itself the authority to stipulate enrolment fees other than which is prescribed in Section 24(1)(f) is beyond the scope of its rule making powers.

<sup>14</sup> SLP (Civil) Diary Nos. 43266/2018



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Needless to add the stipulation of enrolment fees by the State Bar Councils, other than what is prescribed under section 24(1)(f) is in blatant violation of the right to equality and equal treatment before the law guaranteed to law students and graduates as enshrined in Article 14. This is also discriminative of law students from historically oppressed and other disadvantaged sections of society by erecting a substantial financial barrier for entry to the profession for many aspiring Advocates.

In light of the above, it is imperative that:

- the BCI immediately take steps to ensure that all State Bar Councils limit the enrolment fees to Rs. 750/- until the Courts take a final decision in the matter.
- The State Bar Council immediately limits enrolment fees to Rs. 750/- for all fresh law graduates.

Regards,

*Vertika Mani Tripathi*

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D/3221/2021