

**CASE ANALYSIS – GAURAV KUMAR V. UNION OF INDIA, 30 JULY 2024**

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**Babita Tiwari\*****INTRODUCTION**

The case of Gaurav Kumar vs. Union of India (UOI) raises very important legal issues concerning administrative powers and fundamental rights, governed by the legal framework regarding professional practices. The judiciary accounted for critical aspects of law with wider ramifications on individual rights, particularly those relating to the legal profession. Specific details related to facts, legal arguments presented, judicial reasoning, and final judgment are researched in the present case.

**OVERVIEW OF THE CASE****• Facts of the Case**

The case involves issues related to exorbitant enrolment fees charged by different SBCs across the country. Gaurav Kumar has questioned this fee and contended that the amount of Rs 15,000 to Rs 42,000 was overpriced and against the Advocates Act, 1961. As explained by Kumar such fees segregate barriers to entry for qualification into the legal profession and are bound to be quite unfair to the marginalized and poor sections.

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**• The Advocates Act, 1961**

The Act regulates the legal profession in India. It gave legal recognition to the SBCs and the Bar Council of India (BCI). The said councils are engaged in the admission of advocates, maintain the rolls, and deal with misconduct, etc. Section 15 of the said Act empowers the SBCs to make rules for effectively carrying out the purposes of the said Act. This rule-making power of the SBCs, however, extends only to the subjects falling under Chapter II of the said Act.<sup>2</sup>

In Section 24(1)(f) of the Advocates Act, 1961 it is prescribed that the fee for the enrolment of advocates is Rs 600, and for the Bar Council the fee is Rs 150, totaling Rs 750. Other than that, In the case of candidates belonging to Scheduled Castes or Scheduled Tribes, the fee is Rs 100

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\*LLB, THIRD YEAR, CHANDIGARH UNIVERSITY.

with an addition of Rs 25 for the BCI, totalling Rs 125. These fees are intended to cover all functions relating to enrolment by the SBCs and the BCI.<sup>2</sup>

- **Legal Provisions Involved**

Article 19(1)(g) of the Indian Constitution guarantees the right to practice any profession or carry on any occupation, trade, or business.<sup>1</sup>

Section 24(1)(f) of the Advocates Act, 1961: prescribes the enrolment fee for the advocate.

Article 14 of the Indian Constitution: guarantees equality before the law.<sup>1</sup>

- **Effects of Highly Overpriced Fees**

- **Barriers to Entry:** High enrolment fees charged by SBCs act as formidable barriers for persons from marginalized and economically weaker sections. Such fees, while facially neutral in word and intent, perpetuate the systemic exclusion of law graduates from entry into the profession.
- **Economic Disparities:** The cost of legal education, besides other expenses needed to pursue internships and other co-curricular activities, is detrimental to students who enter the legal profession from less privileged backgrounds.
- **Challenges Faced by Young Lawyers:** Young lawyers have to face cross burnings, inadequate stipends, and waiting time before establishing themselves. The problem is more complicated in the case of a candidate from a marginalized community or first-generation learners.
- **Inequality in Practice Opportunities:** The intrinsic flaw of the legal profession is in the fact that people from marginalized communities are always at a disadvantage and face problems especially in practice in the higher courts due to language barriers and lack of social capital.
- **Legislative Context:** In this, the enrolment fees charged by the SBCs are abysmally varying and contrary to the basic legislative policies aimed at assisting economically weaker sections. It reduces the fees payable for candidates of Scheduled Castes and Scheduled Tribes, but this reduction falls far short of the financial realities of such candidates.

- Manifest Arbitrariness: The Court held that the exorbitant fees charged by SBCs run diametrically opposite to the legislative design and are manifestly arbitrary, acting as unjust barriers to entry, therefore eroding the principle of substantive equality.
- Article 19(1)(g) and Article 19(6): The practice of Advocates is an occupation and, therefore, a fundamental right under Article 19(1)(g) of the Constitution of India subject, however, to reasonable restrictions. Regulation of entry into the profession shall not be arbitrary or unreasonable.<sup>1</sup>

## **JUDGMENT**

The Court held that the SBCs could not demand enrolment fees over and above the fee allowed by Section 24(1)(f) of the Advocates Act.<sup>2</sup> In this judgment, it has come out that SBCs have been collecting more fees under different miscellaneous heads, such as verification and registration fees, which amount to collecting fees other than under the Advocates Act.

Such exorbitant fees, the Court held, ran afoul of not only Article 14 but also of Article 19(1)(g) of the Constitution.<sup>1</sup> It has underscored that legislation and rules must not result in systemic malpractices or inequality and have thus resounded the principle of substantive equality.

The Court has emphasized that whatever fee is to be charged by the SBCs should be reasonable and with legitimate legal authority.

## **PROSPECTIVE OPERATION**

While the judgment was passed in favour of the petitioner, the Court ordered that the judgment would operate prospectively. In other words, SBCs cannot collect excessive fees for the future but cannot be made to refund the fee it has collected before the date of this judgment.

## **CONCLUSION**

The case of Gaurav Kumar vs. Union of India presents a landmark judgment on basic issues like fairness, equality, and regulatory body functions in India. The imposition of such exorbitant fees by the State Bar Councils implies that the Supreme Court has taken away hyper-inflationary enrolment fees from the State Bar Councils in view of adherence to the statutory limits for safeguarding the rights of individuals under the Constitution.

This larger implication of the judgment indeed will affect young law graduates and those from marginalized communities who cannot afford to enter the legal profession. The Court has contributed immensely by ensuring that the enrolment fee structure is at reasonable rates within the legal framework to make the legal profession inclusive and open to everybody.

It further involved the commitment of the judiciary to strike a proper balance between regulatory powers and individual rights. It reconfirmed that any restriction on the fundamental rights, which include the right to practice a profession, needs to be justified, reasonable, and in the interest of the public. This decision will act as a landmark for further cases where administrative actions have to be adjudged to have overstepped beyond their authority and limits prescribed under the law.

It also sends a strong signal to the relevant regulatory bodies across professions that they are not at liberty to do whatever they want in exercising their powers; this must be done in observance of the rule of law. It brings about transparency and accountability in the regulatory practices so as not to become instruments of oppression or exclusion.

Basically, Gaurav Kumar vs. Union of India represents a victory not only for the petitioner but also for all those who believe in a just and fair system of law. It embodies the goal of protection of individual rights, within the bounds of sustaining integrity in professional standards. This judgment is a significant step toward an equitable legal landscape of India in that opportunity shall not be denied because of economic constraints. The judgment in prospect looks at the pragmatic approach of the Court, which weighs the need for reform against the realism meted out to the regulatory bodies.

As this judgment is considered jurisprudence, it has left the legal community contemplating and an impetus to continually strive toward a system where justice is truly available for all, and the rights provided under the Constitution are upheld without compromise. Setting a bar for all future legal reforms ensures their path to professional success would be a meritocracy, based on fairness rather than capability to pay.

# REFERENCE

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1. Constitution of India: Legislative Department: India (no date) Legislative Department | India. Available at: <https://legislative.gov.in/constitution-of-india/>
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