



ONE FEE FOR ALL: THE CASE OF GAURAV KUMAR.V. UNION OF INDIA

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INTRODUCTION

In a paradigm-shifting case, the bench led by the former chief justice of India D.Y. Chandrachud, Justice JB Paridwala, and Justice Manoj Misra has rendered a groundbreaking landmark judgment on 30th July 2024, on a writ petition directly approaching the Supreme Court of India under the article 32 of the constitution of India. The case significance lies in addressing the challenges posed by the varying and inconsistent enrolment fees, the fees are not uniform, Orissa Bar Council charges Rs 42,000 as enrolment fees; Bihar Bar Council charges Rs 35,000; Madhya Pradesh, Rs 20,000; Maharashtra and Gujarat, Rs 25,000¹ imposed by the state bar councils exceeded the statutory limit stipulated in the “Advocates Act 1961”, which fluctuate dynamically from state to state, creating substantial ramifications in the legal field. This epochal ruling has brought much-needed clarity and guidance, asserting that enrolment fees must be succinct, circumscribed, and heralded a new uniformly applied procedure across all state bar councils. The dynamic approach to enrolment fees is firmly rejected in Favor of a standardized structure. This pivotal ruling underscores the essence of judicial interpretation, vindicating constitutional principles while upholding fairness and equality in the legal profession.

CONTEXT OF THE CASE

The Advocates Act, 1961a, is a landmark legislation enacted to govern the legal profession in India and plays a pivotal role in shaping legal education and regulating the profession’s intricacies, as in the case of *Dr. Haniraj. L.Chullani.V. Bar Council of Maharashtra and Goa*² it was held that the Advocates Act 1961, acts as a complete code for regulating the professional qualifications of an aspirant seeking entry into the legal profession. The act controls various

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¹ Sheena Sachdeva ‘Meet the 26-year-old who moved Supreme court against ‘exorbitant’ bar council fees (2024) < <https://news.careers360.com/state-bar-council-fees-supreme-court-judgement-exorbitant-aibe-enrolment-delhi-odisha-lawyer-26-law-college-graduates>> accessed 10 January 2025

² *Dr. Haniraj. L.Chullani.V. Bar Council of Maharashtra and Goa* [1996] INSC 491(SC)

things and maintains multiple functions in it. The Advocates Act, 1961 specifically section 24(1)(f) has to be read conjointly with section 28(1)(d) and section 24(1)(e) all such prescribes a fee structure that has to be followed in the procedure of enrolment, the sections mandating the minimum amount to be collected during the enrolment processes that across the territory of India. However, the state bar councils have opted for varying enrolment fees the state bar council of Manipur charges Rupees “sixteen thousand six hundred rupees” as the enrolment fee for the General category and Rupees “sixteen thousand fifty rupees” for the SC/ST category such enrolment fee charged by the Manipur is explicitly against the legislative provision, often exceedingly more than the prescribed amount, leading to disparities from state to state. This rigid fee structure has resulted in significant issues for individuals enrolling in the legal profession, particularly those people belonging to the economically weaker sections who aren't able to admit their role in their respective state bar councils and face barriers, the petitioner challenged this structure as unfair and unjust also violative of the article 14 of the constitution of India, such fees imposed by the bar council is unreasonable restriction on the right to practice law enshrined under the article 19(1)(g) of the constitution of India, such are hindering the young lawyers to enter into the legal profession. Furthermore, it is contended that the “Advocates Welfare Fund Act, 2001” was put forth by the parliament for collecting the funds to support the legal community. The petitioner has argued such funds shouldn't be collected by levying the unfair enrolment fees. Invoking Article 32 of the constitution of India has sought judicial remedy, highlighting the statutory ramifications put forward by the state bar councils. The issue has sparked legal scrutiny across various high courts in India, which are presently deliberating the validity and constitutionality of the enrolment fee structure.

ISSUES RAISED

1. Whether the imposition of varying enrolment fees by state bar councils violates the principle guaranteed under Articles 14 and 19(1)(g) of the Constitution of India.
2. Whether the miscellaneous fees that are charged in addition to the enrolment fee at the time of enrolment can be considered as an enrolment fee.

A SUMMARY OF KEY ARGUMENTS

Petitioner's Pleadings: The prerogative power vested to the Bar Council of India and state bar council under the Advocates Act, 1961 must be exercised uniformly and it should not be contrary when there is an absence of an explicit sanction, the bar councils are prohibited

categorially to increase the enrolment amount as they deem fit, section 6 (2) of the act authorizes funds to be collected but it doesn't allow to collect funds by imposing additional charges as a mandatory enrolment precondition to get enrolled. Such imposing of uncertain fees is infringing of Article 14 and offending the constitutional principles.

RESPONDENT'S REASONINGS: The respondent representing the Union of India has put forward a point of commonality such enrolment fees levied by the bar councils are adequate and necessary the state bar councils rely on such one-time enrolment fees to cover various services including the certification, data processing fee, verification fee, identity card fee are impliedly coming under the section 24(1)(f) the respondent argued that this fee structure and it does not violate the section, as the rules implicitly granted the power of the state bar councils to levy charges for the services. Furthermore, the respondent claimed such charges are satisfying the test of "*quid pro quo*" and are reasonable and equivalent in value to the services provided.

COURT'S VERDICT

The Supreme Court upon analysing the pleadings, mentioned the issue as structural discrimination. It noted that the enrolment fee prescribed under section 24(1)(f) of the act was on the basis of the legislature in 1993 and remains unamended. The court emphasized that the fee posed by the state bar councils was requisite to meet the requirements of the bar council. However, the court rejected the additional services such as certification, application fee, processing fee, postal charge, police verification charge, and other implied costs as unnecessary and beyond the limits of the Advocates Act 1961³. These amounts were collected before the enrolment as ultra vires and contrary to the statutory provision as no provision in the act explicitly specified the services charge as a pre-condition for the enrolment. The court further held that the excessive charging has created financial barriers for young lawyers to get enrolled, particularly those from SEBC, thus violating article 19(1)(g)⁴ and article 14⁵, the court held that in the means of section 24(1)(f) the excessive charges as unconstitutional and that could not be as a mandatory requirement before enrolment. Consequently, in a powerful proclamation, the judgment rendered is to have a prospective effect.

³ *Agricultural Market Committee.V. Shaalimar Chemical Works Ltd* [1997] INSC 496 (SC)

⁴ Constitution of India, art 19(1)(g)

⁵ Constitution of India, art 14

LEGAL APPRAISAL

Section 28⁶ empowers the bar councils to frame the rules and regulations to regulate the idiosyncratic legal profession. However, it does not authorize the creation of financial barriers under the guise of enrolment pre-conditions, as such actions are against constitutional principles. In the case of *Joeph Shine.V. Union of India*⁷, it was held that substantive equality is aimed at eliminating individual, institutional, and systemic discrimination against disadvantaged groups effectively ensuring their full and equal participation in society at the social, economic, political, and cultural levels. The state bar councils must adhere to the legislative framework, ensuring their actions contribute to the creation of a unified bar across India and that is the reason behind the Advocates Act 1969, as upheld in the landmark case of *Mohindroo.V. Bar Council of Delhi*⁸. Furthermore, in the case of *Consumer Online Foundation.V. Union of India*⁹, it was held that limits are imposed on the public authority in levying fees, and the court emphasized that the power to levy charges must be explicitly sanctioned in the legislation, thus in this case the section 24(1)(f) did not explicitly authorize state bar councils mandating excessive charges before enrolment leading to indirect discrimination.

PRECEDENTIAL VALUE

“When we all see justice, then we’ll all see peace - Michael Franti”

1. This case Safeguards fundamental rights under Articles 14 (equality before the law) and 19(1)(g) (right to practice any profession), ensuring equal and fair access to the legal profession.
2. It Rejects excessive and arbitrary charges beyond the statutory limits, ensuring that fees are reasonable and aligned with the services provided.
3. This case Supports inclusivity by ensuring access to the legal profession for economically weaker sections, Scheduled Castes, and Scheduled Tribes, overcoming barriers that previously limited their participation.
4. It is acting as a pivotal legal precedent for future cases, fostering a more transparent, equitable, and uniform enrolment process across state bar councils.

⁶ Advocates Act 1961, S 28

⁷ *Joeph Shine. Union of India* [2018] INSC 898 (SC)

⁸ *Mohindroo.V. Bar Council of Delhi* [1968] INSC 1 (SC)

⁹ *Consumer Online Foundation.V. Union of India* [2018] INSC 646 (SC)

CONCLUSION

The landmark judgment in *Gaurav Kumar.V. Union of India* addresses a critical issue of excessive and inconsistent enrolment fees imposed by state bar councils, violating fundamental rights guaranteed under Articles 14 and 19(1)(g) of the Indian Constitution. The Supreme Court's decision reaffirms the legislative framework established by the Advocates Act, of 1961, emphasizing the need for uniformity and fairness in the enrolment process. By rejecting the imposition of additional service charges beyond the statutory limits, the court has set a precedent to eliminate financial and economic barriers, ensuring equitable access to the legal profession for all, including SEBC groups. This verdict serves as a meticulous step towards promoting equality and upholding constitutional principles, fostering a unified legal profession across India.