



2025:AHC:228478-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 44696 of 2025

Fakhruddin Ali Ahmad

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Manish Singh, Sushma Singh
Counsel for Respondent(s)	: Ashok Kumar Tiwari, C.S.C., Sai Girdhar

Court No. - 4

HON'BLE AJIT KUMAR, J.

HON'BLE SWARUPAMA CHATURVEDI, J.

1. Heard Sri Manish Singh, learned counsel for the petitioner, Sri Ashok Kumar Tiwari, learned counsel for respondent-Uttar Pradesh Bar Council, Sri Sai Girdhar, learned counsel for respondent-Bar Council of India, learned Standing Counsel for the State and perused the record.
2. By means of this writ petition filed under Article 226 of the Constitution, petitioner has questioned the nomination of one Advocate namely, Naresh Chandra Tripathi for contesting the election on the post of Member of Uttar Pradesh Bar Council which are scheduled to be held soon.
3. It is contended on behalf of the petitioner that the said Naresh Chandra Tripathi, Advocate already stood convicted by a seven Judges Bench of this Court in the matter of Public Interest Litigation (P.I.L.) No. 15895 of 2015 and the matter was referred for registering the proceedings of contempt by getting a Bench constituted in the matter only for a limited purpose of awarding sentence.
4. Learned counsel for the petitioner vehemently urged before the Court

that the observations made by the seven Judges Bench in penultimate paragraph of order dated 07.04.2023 is clearly indicative of the conviction being awarded by the Bench and therefore, the principles of criminal law if applied, conviction and sentence are two different things and also under the Contempt of Court Act, firstly the court convicts the contemnor and thereafter awards sentence. He argues that in such matters after the conviction is recorded by the Court, the Court can always further defer the matter to invite response from the contemnor/convict to place his defense so as to the award of sentence which could be the maximum or could be lesser as prescribed under the relevant Act.

5. *Per contra*, learned counsel for respondent-Uttar Pradesh Bar Council submits that the order was passed by the seven Judges Bench on 07.04.2023 not in any criminal proceedings but in the matter of Public Interest Litigation (P.I.L.) No. 15895 of 2015 in *suo moto* exercise of power by the then Hon'ble Chief Justice to constitute a larger Bench, as at that point of time the matter of public interest got involved due to continued strike by the lawyers in Civil Court, Kanpur. He further submits that the observations made by the seven Judges Bench regarding conduct of lawyers can only be taken as *prima facie* view because the seven Judges Bench had clearly observed that for drawing the proceedings case of contempt was to be registered and necessary orders may be obtained from Hon'ble the Chief Justice on administrative side. He submits that in the mater of contempt even where the *ex facie* contempt is noticed by a court of law, a party aggrieved is required to be heard in the matter by asking it to furnish show cause. In the circumstances, therefore, it is argued that after the proceedings of contempt were duly registered, the explanation was required to be called

for. He submits that subsequent to the order passed by the seven Judges Bench, the then Hon'ble the Chief Justice had assigned the matter to a Division bench to hear the criminal contempt on the charges framed by it. However, no final order has been passed by the said Bench in the pending proceedings till date.

6. Having heard the learned counsel for respective parties and having perused the record, in order to appreciate the legal position as has been advanced by way of argument at the instance of learned counsel for the petitioner and the defence being taken by learned counsel for respondent-Uttar Pradesh Bar Council, we reproduce the relevant part of the seven Judges Bench's order dated 07.04.2023 mentioning charges as 1, 2 and 3, as under:-

"In the light of aforesaid, the following charges are framed against the aforesaid noticees as well as other office bearers present in the Court today.

1. You the noticees, Sri Naresh Chandra Tripathi, President, Kanpur Bar Association, Sri Anurag Srivastava, General Secretary, Kanpur Bar Association, Sri Sharad Kumar Shukla, General Secretary, the Lawyers' Association Kanpur Nagar and Sri Sarvesh Yadav, Vice President, the Lawyers' Association, Kanpur Nagar (in the capacity of President, the Lawyers' Association, Kanpur Nagar) and other office bearers present in the Court, namely, Sri Anoop Kumar Shukla, Vice President, Kanpur Bar Association and Sri Ajay Pratap Singh Chauhan, Secretary, Kanpur Bar Association, by your conduct, have wilfully and deliberately committed the contempt of Court by interfering in the administration of justice, calling illegal strike since 16.3.2023 and thereby paralysing the judicial work at the District Judgeship at Kanpur Nagar.

2. You the noticees, Sri Naresh Chandra Tripathi, President, Kanpur Bar Association, Sri Anurag Srivastava, General Secretary, Kanpur Bar Association, Sri Sharad Kumar Shukla, General Secretary, the Lawyers' Association Kanpur Nagar and Sri Sarvesh Yadav, Vice President, the Lawyers' Association, Kanpur Nagar (in the capacity of President, the Lawyers' Association, Kanpur Nagar) and other office bearers present in the Court, namely, Sri Anoop Kumar Shukla, Vice President, Kanpur Bar

Association and Sri Ajay Pratap Singh Chauhan, Secretary, Kanpur Bar Association, by your conduct and statements, have wilfully and deliberately committed the contempt of the order dated 6.4.2023 of this Court, by restraining the lawyers from performing the judicial work in the district Court at Kanpur Nagar, affixing a hand written notice dated 6.4.2023 reiterating the resolution dated 25.3.2023 for an indefinite strike, and threatening the lawyers with adverse consequences in case any one of them attends the court proceedings.

3. You the noticees, Sri Naresh Chandra Tripathi, President, Kanpur Bar Association, Sri Anurag Srivastava, General Secretary, Kanpur Bar Association, Sri Sharad Kumar Shukla, General Secretary, the Lawyers' Association Kanpur Nagar and Sri Sarvesh Yadav, Vice President, the Lawyers' Association, Kanpur Nagar (in the capacity of President, the Lawyers' Association, Kanpur Nagar) and other office bearers present in the Court, namely, Sri Anoop Kumar Shukla, Vice President, Kanpur Bar Association and Sri Ajay Pratap Singh Chauhan, Secretary, Kanpur Bar Association, by using abusive unparliamentary language and outrageous behaviour during the strike period in district court, Kanpur Nagar, scandalized and lowered the authority of the Court and undermined the sanctity of the Institution and the dignity of the entire district judiciary, have committed the contempt of Court.

Office to register the proceedings of contempt as a separate case and obtain orders from the Hon'ble Chief Justice on the administrative side, for its listing before the appropriate Bench.

The aforesaid noticees and the other office bearers to file their reply/defence."

7. Upon careful reading of the relevant charges, we find that the larger Bench proceeded to frame the charges against the alleged contemnors/lawyers which included the name of Sri Naresh Chandra Tripathi. Upon bare reading of charges we find that these alleged contemnors were only charged in a proposed proceedings of contempt to be formally drawn by constituting a Bench on administrative side by Hon'ble the Chief Justice. The charge no. 3 is quite indicative of a fact that the lawyers mentioned therein were charged to have committed contempt. This according to us is not the finding part of the order of the full Bench, as the lawyers were charged with the act of contempt only in

prima facie view of the Court. The charges itself cannot amount to a finding because after the Bench was constituted under the orders of Hon'ble the Chief Justice on its administrative side, these alleged contemnors were required to furnish their respective explanation to meet the charges. As we have been informed at the bar that the Division bench was constituted but no final orders have been passed in the matter of criminal contempt proceedings, the stage of proceedings are to be taken to have continued at the stage of trial only. A mere framing of charge does not amount, in our considered view, to conviction under Contempt of Courts Act.

8. In the circumstances, therefore, the argument as advanced by learned counsel for the petitioner appears to be highly misplaced and deserves to be rejected. The petition is accordingly held to be devoid of merits and is hereby **dismissed**.

(Swarupama Chaturvedi,J.) (Ajit Kumar,J.)

December 18, 2025

#Vikram/-