

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

FRIDAY, THE SEVENTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY SIX

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN**

WRIT APPEAL NO: 672 OF 2026

Writ Appeal under clause 15 of the Letters Patent Appeal Preferred Against the Order dated. 24-06-2026 in WP.No. 9805 of 2026. on the file of the High Court.

Between:

Sri. Wajeed Hussain, S/o. Abid Hussian, aged about 51 years, Occ. Advocate,
R/o. H.No.3-4-114, Renjal Base, Opp. Osmania Masjid, Bodhan Town and
Mandal, Nizamabad District.

...APPELLANT/RESPONDENT No. 3

AND

1. Sri.Samaiah P, S/o Late Chinnaiah, Aged about 41 years, Occ. Advocate, Rio.
H.No.8-12, Bellal Village, Bodhan Mandal, Nizamabad District.

.....RESPONDENT /WRIT PETITIONER

2. The District Registrar, Nizamabad District, Nizamabad
3. The Election Officer, Bodhan Bar Association Elections 2026-27, Bodhan Court,
Nizamabad District.

...RESPONDENTS /RESPONDENTS

I.A. NO: 2 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the

order passed in W.P. No. 9805 of 2026 dated. 24-06-2026 is pending disposal of the main Writ Appeal, in the interest of justice

**Counsel for the Appellant: SRI P. VISHNUVARDHANA REDDY REP
SRI. G DINESH PATIL**

Counsel for the Respondent No. 1: SRI. D JAGADESHWAR RAO

**Counsel for the Respondent No. 2: SRI MURALIDHAR REDDY KATRAM,
GP FOR STAMPS AND REGISTRATION**

Counsel for the Respondent No.3: Ms. MALLA REDDY GARI HARITHIKA

The Court made the following: ORDER

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**
THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT APPEAL No.672 of 2026

DATE: 17.07.2026

Between:

Wajeed Hussain

....Appellant

And

Samaiah and 2 others

....Respondents

JUDGMENT

Heard Mr. P.Vishnuvardhana Reddy, learned counsel representing Mr. G.Dinesh Patil, learned counsel for the appellant; Mr. D.Jagadeshwar Rao, learned counsel for respondent No.1 and Mr. Muralidhar Reddy Katram, learned Government Pleader for Revenue (Stamps and Registration) appearing for respondent No.2 and perused the record.

2. This writ appeal is preferred under Clause 15 of the Letters Patent, against the order dated 24.06.2026 passed by the learned Single Judge in W.P.No.9805 of 2026. By the said order, the learned Single Judge allowed the writ petition filed by respondent No.1 herein and declared him to have been duly elected as General Secretary of the Bodhan Bar Association for the year 2026-27, while setting aside the action of the Election Officer in invalidating one

ballot paper and directing a rotational tenure of six months each between the two contesting candidates.

Factual matrix

3. The Bodhan Bar Association is a Society registered under the Societies Registration Act, 2001, bearing Registration No.27 of 2003, and is governed by the approved Model Bye-laws framed by the State Bar Council. In accordance with the guidelines issued by the State Bar Council, elections to the Managing Committee of the Association for the term 2026-27 were scheduled to be conducted by the end of March, 2026. Pursuant thereto, the Managing Committee of the Association, by Resolution dated 05.03.2026, appointed Sri J. Nandakumar, Advocate, as the Election Officer (Respondent No.2 in the Writ Petition and Respondent No.3 herein) to conduct the elections.

4. The Election Officer issued the election schedule on 19.02.2026, and after completion of the election process, published the final voters' list on 05.03.2026. Polling was conducted on 26.03.2026. For the post of General Secretary, two candidates, namely, Sri Samaiah P. (the writ petitioner) and Sri Wajeed Hussain (the appellant herein), contested the election. Out of the total electorate of 120 members, 108 members exercised their franchise. Upon completion of counting, Sri Samaiah P. secured 53 valid votes and Sri Wajeed Hussain also secured 53 valid votes. One ballot cast

in favour of Sri Samaiah was, however, rejected by the Election Officer on the ground that the ballot bore a tick mark (✓) instead of the prescribed Swastik symbol.

5. Consequent upon the rejection of the said ballot, both the contestants were shown to have secured 53 votes each, resulting in a tie. The Election Officer thereupon recorded that on the oral consent of both the candidates, the office of General Secretary would be shared by them for a period of six months each and declared the election results on 26.03.2026.

6. Aggrieved by the rejection of the disputed ballot and the consequential declaration of a rotational tenure, Sri Samaiah submitted a representation dated 28.03.2026 before the Election Officer requesting reconsideration of the invalidated ballot. The Election Officer, however, endorsed the representation stating that the election results had already been declared on 26.03.2026 and, therefore, no further action could be taken.

7. Challenging the rejection of the disputed ballot, the endorsement dated 28.03.2026 and the decision of the Election Officer directing that the office of General Secretary be shared between the two candidates for six months each, Sri Samaiah instituted W.P.No.9805 of 2026 under Article 226 of the Constitution of India. By order dated 24.06.2026, the learned Single Judge allowed the Writ Petition holding, *inter alia*, that:

- i) the rejection of the disputed ballot paper was arbitrary and unsupported by the governing Bye-laws;
 - ii) the Election Officer had no jurisdiction to direct a rotational tenure for the office of General Secretary;
 - iii) the disputed ballot marked with a tick mark (✓) constituted a valid vote; and
 - iv) upon counting the said ballot, the writ petitioner was deemed to have secured 54 valid votes as against 53 votes secured by the appellant and was, accordingly, declared duly elected as the General Secretary of the Bodhan Bar Association for the year 2026-27.
- 8.** Aggrieved thereby, the appellant (respondent No.3 in the Writ Petition), has preferred the present Writ Appeal.

Submissions on behalf of the appellant

- 9.** Learned counsel appearing for the appellant, assailed the impugned order and has advanced the following submissions:
- i) That the Writ Petition itself was not maintainable, as the Bodhan Bar Association is a Society registered under the Societies Registration Act, 2001, and is neither a "State" nor an instrumentality of the State within the meaning of Article 12 of the Constitution of India. According to him, the Association is a voluntary body of Advocates and disputes relating to its internal elections are private in nature, which are not amenable to the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

- ii) That the writ petitioner had an efficacious and specific alternative remedy under Rule 25 of the Model Bye-laws framed by the State Bar Council, but had bypassed the said statutory mechanism and directly invoked the writ jurisdiction of this Court.
- iii) That the dispute raised by the writ petitioner squarely falls within the ambit of Rule 25, being a dispute arising "in connection with or in the course of election". Therefore, without exhausting the remedy specifically provided under the Bye-laws, the Writ Petition was not maintainable and ought to have been rejected at the threshold.
- iv) That the State Bar Council, being the authority which framed the Model Bye-laws and the authority before whom election disputes are required to be placed under Rule 25, is a necessary party to the proceedings. It was submitted that, in the absence of the Bar Council as a party respondent, the learned Single Judge ought not to have adjudicated upon the interpretation and application of the Model Bye-laws, and the impugned order is liable to be set aside on the ground of non-joinder of a necessary party.
- v) That the Election Officer had issued clear and specific instructions to all voters that votes were required to be cast only by affixing the prescribed Swastik symbol and that any

other marking would render the ballot invalid. According to him, the said instructions were duly communicated by displaying them on the Association notice board as well as through the official WhatsApp group of the Bar Association. It was further contended that the Writ Petitioner himself had canvassed amongst the members requesting them to cast their votes using the Swastik symbol and, having accepted and acted upon the prescribed procedure during the election process, he is estopped from subsequently contending that a ballot marked with a tick mark (✓) ought to have been treated as valid.

- vi) That, upon both candidates securing an equal number of votes, they had voluntarily agreed to share the office of General Secretary for a period of six months each. The Writ Petitioner had initially accepted the arrangement and had even made social media posts acknowledging the same. Having acquiesced in the arrangement, the Writ Petitioner is estopped from subsequently questioning the rotational tenure.
- vii) The learned counsel submitted that the election results, once declared by the Election Officer, attain finality and cannot be reopened except in the manner contemplated under the Bye-laws. It was contended that the learned Single Judge erred in

overlooking the finality attached to the declaration of results and in granting relief contrary to the scheme of the Bye-laws.

viii) That the impugned judgment would have far-reaching consequences on the conduct of elections to Bar Associations across the State. It was argued that permitting judicial interference in concluded elections on such grounds would unsettle election results declared by Election Officers, undermine the finality attached to the electoral process, and render the dispute resolution mechanism provided under the Model Bye-laws otiose, particularly in cases where the margin of victory is narrow.

ix) The learned counsel for the appellant has placed reliance on the said decisions hereunder:

- i. Adv.Sangeetha Lakshmana v. Registrar General and others¹
- ii. Sangita Rai v. New Delhi Bar Association and others²
- iii. Secretary Alipore Bar Association v. Subir Sengupta and others³
- iv. Rajghor Ranjhan Jayantilal v. Election Scrutiny Committee of Bombay Bar Association and another⁴
- v. P.Ganesh v. Bar Council of Telangana⁵

¹ 2026 SCC OnLine Ker 3532

² LPA 368/2024, CM APPL 27164/2024 & CM APPL 49413/2025 dated 16.01.2026

³ 2024 SCC OnLine Cal 3597

⁴ 2024 SCC OnLine Bom 1118

⁵ W.P.No.24596 of 2022 dated 15.06.2022

Submissions on behalf of the respondent No.1 (writ petitioner)

10. *Per contra*, learned counsel appearing for the respondent No.1 advanced the following submissions:

- i) That the rejection of the ballot paper bearing a tick mark (✓) was wholly arbitrary, unreasonable and unsupported either by the Model Bye-laws or by the election procedure, as neither the Model Bye-laws nor the specimen ballot paper prescribed that only a ballot marked with the Swastik symbol would be treated as valid. According to him, the note printed on the ballot paper merely stated that "Vote only up to seven candidates; if more than seven votes are pressed with Swastik symbol, the ballot paper shall be treated as invalid." The said note, according to the learned counsel, only regulated the number of votes that could be cast in respect of executive committee members and did not mandate the exclusive use of the Swastik symbol. It was further submitted that neither the specimen ballot paper nor the polling booth contained any instruction making the use of the Swastik symbol mandatory.
- ii) That the tick mark (✓) appearing against the name of the Writ Petitioner unequivocally reflected the intention of the voter and left no scope for ambiguity. He argued that in election law the paramount consideration is the intention of the voter, and where such intention is clear, a ballot paper ought not to be

rejected on hyper-technical or procedural grounds. It was contended that the Election Officer rejected the disputed ballot on his own volition despite objection being raised during the counting process.

- iii) That the Election Officer acted wholly without jurisdiction in directing that the office of General Secretary be shared between the two candidates for a period of six months each. According to him, the powers of the Election Officer are confined to those expressly conferred by the Model Bye-laws, and no provision authorises the Election Officer to divide the tenure of an elected office or introduce a rotational system. It was contended that such an arrangement is alien to the governing Bye-laws and contrary to settled democratic principles.
- iv) That the Writ Petitioner had never consented to the rotational arrangement. It was submitted that, apart from the bald assertion recorded by the Election Officer in the election result, there is no contemporaneous document, written consent, resolution or other material evidencing such alleged consent. It was further contended that even assuming, without admitting, that any such consent had been obtained, the same could not validate an act which was otherwise dehors the Bye-laws and beyond the jurisdiction of the Election Officer.

- v) That the representation dated 28.03.2026 submitted by the Writ Petitioner seeking reconsideration of the rejected ballot was mechanically disposed of by a cryptic endorsement stating that the election results had already been declared. It was argued that the Election Officer was under an obligation to objectively consider the representation and rectify an apparent illegality which materially affected the election result. The failure to do so disclosed complete non-application of mind and besides being arbitrary amounted to a violation of the principles of natural justice.
- vi) That had the disputed ballot been treated as valid and counted in favour of the Writ Petitioner, he would have secured 54 votes as against 53 votes secured by the appellant and would consequently have been declared duly elected as the General Secretary of the Bodhan Bar Association for the year 2026-27. Therefore, it was contended that the improper rejection of the disputed ballot materially affected the outcome of the election and resulted in grave prejudice to the Writ Petitioner.

11. We have taken note of the respective contentions urged and perused the material on record, including the written submissions.

Consideration by this Court

12. In regard to the question as to whether the Writ Petition instituted by the respondent No.1 was maintainable in the facts and

circumstances of the case or not, is concerned, it is to be noted that the Writ Petitioner invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution challenging the action of the Election Officer in rejecting a ballot paper stated to be cast in his favour and in directing that the office of General Secretary be shared between the two candidates for a period of six months each. The appellant has questioned the very maintainability of the Writ Petition on the ground that the Bodhan Bar Association being a society and not being 'State' or 'its instrumentality' is not amenable to writ jurisdiction and that the Writ Petitioner had an efficacious and specific alternative remedy under Rule 25 of the Model Bye-laws framed by the Bar Council of the State of Telangana.

13. It is to be noted that Bodhan Bar Association is a Society registered under the Societies Registration Act, 2001, and is essentially a voluntary association of advocates governed by the approved Model Bye-laws. It is neither a statutory authority nor a State or an instrumentality of the State within the meaning of Article 12 of the Constitution. The Election Officer was appointed by the Association for the limited purpose of conducting its internal elections. Ordinarily, disputes relating to the internal administration or election of office-bearers of such voluntary associations are not amenable to the writ jurisdiction under Article 226, unless the body is shown to be discharging a public duty or the impugned action bears sufficient public law elements.

14. At the same time, it is equally well settled that the ambit of Article 226 of the Constitution is wide in amplitude and the writ jurisdiction under Article 226 of the Constitution of India is not confined only to authorities falling within the ambit of Article 12 of the Constitution of India. A writ may, in an appropriate case, lie even against a private body if it discharges public functions or performs duties having a public character. Nevertheless, the mere existence of a public element does not, by itself, justify the exercise of writ jurisdiction where an efficacious and specific alternative remedy is available. The rule of alternative remedy, though one of self-imposed restraint and not a jurisdictional bar, ordinarily persuades the High Court to decline interference in the exercise of its discretionary jurisdiction.

15. In the present case, the more significant question is whether the Writ Petitioner ought to have first availed the remedy specifically provided under the Model Bye-laws. It is a settled principle that where a statute, rule or governing bye-laws provide an effective mechanism for adjudication of disputes, the High Court ordinarily refrains from entertaining a writ petition unless the case falls within the recognised exceptions.

16. Rule 25 of the Model Bye-laws framed by the Bar Council of the State of Telangana provides a complete mechanism for

adjudication of election disputes. In this regard, the Rule 25 is extracted hereunder for ready reference:

25. DISPUTES :

- (i) Any dispute arises in connection with or in the course of election, the Election Officer shall refer the same to the Bar Council of A.P. the Bar Council will constitute a Committee consisting of three senior members of the concerned Association to resolve the dispute and the decision of the said Committee shall be final.*
- (ii) The Committee shall dispose of the Election Petition within 45 days.*
- (iii) The Committee shall decide the Election Petition duly calling for remarks from the Election Officer and consider the material available on record.*
- (iv) However, the Elected Body shall be entitled to continue in office and no act, order or resolution of the Elected Body or any of its Committee shall be called in question on the ground that the Election is invalid.*

17. A plain reading of Rule 25 demonstrates that it provides a comprehensive mechanism for resolution of election disputes. It contemplates that:

- i) any dispute arising in connection with or in the course of an election shall be referred to the Bar Council;
- ii) the Bar Council shall constitute a Committee consisting of three senior members of the concerned Association to adjudicate the dispute;
- iii) the Committee is required to dispose of the Election Petition within forty-five days after obtaining remarks from the Election Officer and considering the material available on record; and
- iv) the decision of the Committee is declared to be final.

18. The dispute raised by the Writ Petitioner undoubtedly falls within the scope of Rule 25. The grievance pertains to the rejection of a ballot paper during counting, the validity of the tick mark (✓) placed on the ballot, the declaration of a rotational tenure by the Election Officer and, ultimately, the correctness of the election result. Each of these issues is clearly a dispute arising "in connection with or in the course of election" and is, therefore, one which the Bye-laws specifically require to be adjudicated through the mechanism contemplated under Rule 25. The contention of the learned counsel for the writ petitioner that the clause provides for reference to the Bar Council only by the Election officer cannot be countenanced. It is not the case of the writ petitioner that he has represented to the Election Officer requesting such a reference. A literal and a plain reading of the said clause 25 does not support the contention that the invocation of a reference before the Bar Council in respect of an election dispute can be made exclusively by the Election Officer.

19. However, instead of invoking the aforesaid remedy, the Writ Petitioner directly approached this Court under Article 226 of the Constitution. In **Whirlpool Corporation v. Registrar of Trade Marks, Mumbai**⁶, the Hon'ble Supreme Court recognised the well-established exceptions to the rule of alternative remedy, namely:

⁶ (1998) 8 SCC 1

- i) where the writ petition seeks enforcement of a fundamental right;
- ii) where there is a violation of the principles of natural justice;
- iii) where the impugned proceedings are wholly without jurisdiction;
- or
- iv) where the *vires* of a statute or delegated legislation are under challenge.

20. Examined in the light of the aforesaid principles, none of the recognised exceptions can be said to be attracted in the present case.

21. The learned Single Judge held that the Writ Petition could not be dismissed solely on the ground of availability of an alternative remedy, as the matter involved allegations of arbitrariness, jurisdictional error and violation of the principles governing a fair electoral process. While the legal proposition that the existence of an alternative remedy is not an absolute bar is trite, we are unable to agree with the application of that principle to the facts of the present case.

22. The exceptions carved out in ***Whirlpool Corporation*** (supra 1) are intended to be invoked only in exceptional cases. They cannot be applied mechanically so as to permit a litigant to bypass a specific and efficacious mechanism expressly provided under the governing Bye-laws. In the present case, Rule 25 provides a complete, expeditious and efficacious mechanism for adjudication of election disputes. The Committee constituted thereunder is empowered to obtain remarks from the Election Officer, consider the material

available on record and render a final decision within a stipulated period of forty-five days. In such circumstances, there was no compelling reason for the Writ Petitioner to bypass the remedy available under the Bye-laws. Therefore, the Writ Petitioner ought to have first availed the remedy under Rule 25 before invoking the extraordinary jurisdiction of this Court. The writ jurisdiction under Article 226 is intended to supplement, and not supplant, remedies specifically provided under the governing statutory framework or the applicable Bye-laws.

23. It is also to be noted that the Bar Council of Telangana ought to have been impleaded in the proceedings. Since the controversy centres around the interpretation and application of the Model Bye-laws framed by the Bar Council, and Rule 25 itself contemplates constitution of a Committee by the Bar Council for adjudication of election disputes, its presence would have facilitated a complete and effective adjudication of the issues arising in the writ proceedings.

24. Having held that the Writ Petition was not maintainable in view of the efficacious alternative remedy available under Rule 25 of the Model Bye-laws, it would ordinarily be unnecessary to examine the merits of the controversy.

25. This Court finds no infirmity in the conclusion of the learned Single Judge that the Election Officer lacked the authority to direct that the office of General Secretary be shared between the two

candidates for six months each. The Election Officer can exercise only such powers as are expressly conferred by the Model Bye-laws, which neither envisage nor authorise division of the tenure of an elected office. Consequently, the arrangement directing rotational tenure, even if based on the candidates' oral understanding, cannot derive legal validity, as consent cannot confer jurisdiction where none exists.

26. However, having held that the disputed ballot ought to have been treated as valid, the learned Single Judge proceeded to declare the Writ Petitioner duly elected as General Secretary. In our considered view, such a course was unwarranted. Since the dispute concerning the validity of the ballot paper and the correctness of the election result squarely falls within the ambit of Rule 25 of the Model Bye-laws, those issues ought to have been adjudicated by the Committee constituted thereunder. By deciding the election dispute on merits and granting a declaration in favour of the Writ Petitioner, the learned Single Judge effectively exercised a jurisdiction which the Model Bye-laws reserve for the Committee under Rule 25. Consequently, the grant of such declaratory relief, without first requiring exhaustion of the prescribed remedy, cannot be sustained.

Conclusion

27. For the foregoing reasons this Court is of the considered view that the that the Writ Petition was not maintainable in view of the

efficacious remedy available to respondent No.1 under Rule 25 of the Model Bye-laws for Bar Associations framed by the State Bar Council. Consequently, the learned Single Judge erred in entertaining the Writ Petition and adjudicating the election dispute on merits. While we concur with the finding that the Election Officer lacked the authority to direct a rotational tenure, the dispute relating to the validity of the disputed ballot, the election result, and all consequential issues ought to have been relegated to the forum constituted under Rule 25.

28. Accordingly, the Writ Appeal is allowed. The judgment and order dated 24.06.2026 passed by the learned Single Judge in W.P. No.9805 of 2026 are hereby set aside. The respondent No.1 is granted seven (07) days from the date of receipt of a copy of this judgment to avail the remedy under Rule 25 of the Model Bye-laws. Upon receipt thereof, the Bar Council shall, within a period of fifteen (15) days, constitute a Committee of three senior members of the Bodhan Bar Association in terms of Rule 25. The Committee shall adjudicate the election dispute in accordance with Rule 25 after considering the remarks of the Election Officer and the relevant election records, including the disputed ballot paper. Till such adjudication, the election result with respect to the office of General Secretary shall be kept in abeyance, subject to the final decision of the Committee. It is clarified that all issues on merits are left open

for consideration by the Committee, uninfluenced by any observations contained in the order of the learned Single Judge or in this judgment, except on the issue of maintainability.

As a sequel, miscellaneous petitions, pending if any, stand closed. No costs.

SD/- K.SRINIVASA RAO
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The District Registrar, Nizamabad District, Nizamabad
2. The Election Officer, Bodhan Bar Association Elections 2026-27, Bodhan Court, Nizamabad District.
3. One CC to SRI. G DINESH PATIL Advocate [OPUC]
4. Two CCs to GP FOR STAMPS AND REGISTRATION High Court for the State of Telangana, at Hyderabad [OUT]
5. One CC to SRI. D JAGADESHWAR RAO Advocate [OPUC]
6. One CC to Ms. MALLA REDDY GARI HARITHIKA Advocate [OPUC]
7. Two CD Copies

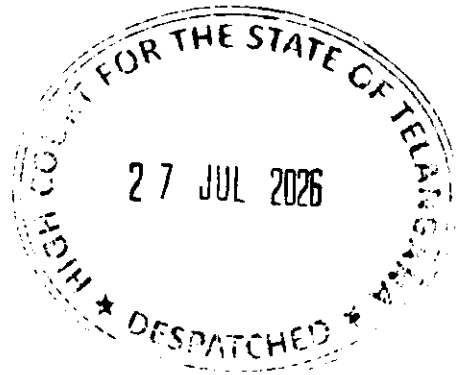
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HIGH COURT

DATED: 17/07/2026

JUDGMENT
WA.No.672 of 2026



ALLOWING THE WRIT PETITION WITHOUT COSTS

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24/7/26