

Court No. - 6

AFR

Case :- WRIT - C No. - 3389 of 2025

Petitioner :- M/S Rajdhani Inter State Transport Co. New Delhi Thru.
Auth. Signatory Mr. Sunil Kumar Magoo

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Prin. Secy. Labor
Deptt. Lko. And 3 Others

Counsel for Petitioner :- Tushar Mittal, Kartikey Dubey, Shrikant
Tripathi

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia, J.

1. In furtherance to the order dated 16.04.2025 wherein, this Court had noticed the grievances as raised by the petitioner with regard to the affidavit sworn before the Notary Public not being accepted and also with regard to the manner in which the amount of Rs.400/- to Rs.500/- was being charged from the litigants contrary to any provisions of law, the instructions were called and have been given by the counsel appearing on behalf of the High Court which are taken on record.

2. Heard Shri Tushar Mittal, learned Amicus Curiae appointed by this Court; Shri J.N. Mathur, learned Senior Advocate; Shri S.M. Singh Roykwar, learned counsel who has appeared to assist this Court; Shri Manoj Dwivedi, General Secretary of the Oudh Bar Association and Shri Gaurav Mehrotra, learned counsel appearing for the High Court.

3. Shri Gaurav Mehrotra, learned counsel, based upon instructions given to him by the Registrar General of this Court, straightway states that there is no proposal to reject the petitions, applications and other filing which are supported by the affidavit sworn by Notary Public. He states in very clear terms that any petition which is accompanied by an affidavit sworn before the Notary Public appointed under the Notaries Act is and shall be a valid document in respect of the petitions and other filings. With regard to the factum which has led to the disputes including

the charging of Rs.500/- for the photo identification both at Allahabad as well at Lucknow, it was stated that in Public Interest Litigation No.55060 of 2015, a Division Bench of this Court had considered the manner in which the affidavits are sworn before the Oath Commissioner appointed in terms of the High Court Rules. This Court was apprised of the manner in which the charges were being levelled from the clients for availing the facility of photo identification by the Bar Association and it was observed that the action of the High Court Bar Association in charging the amounts has no legal sanction and a restraint order was passed restraining the High Court Bar Association from acting in pursuance to their resolution dated 04.09.2015 unless and until the modalities have been submitted by the High Court Bar Association and are approved by the Hon'ble Chief Justice.

4. It is also brought on record that despite there being an order, as noticed above, still an amount of Rs.500/- was being charged, as such, the matter once again came up before a Division Bench of this Court in Writ – C No.33750 of 2022 (Abhishek Shukla v. High Court Bar Association & Anr.) in which the Court after observing the manner in which the fees of Rs.500/- being charged solely based upon the resolution passed by the Governing Council of the High Court Bar Association, proceeded to pass an interim order staying the resolution passed on 31.10.2022.

5. It is informed that despite there being restraint orders, as noticed above, the practice of charging Rs.500/- from the litigants solely for the identification of photos which are required for affixing on affidavits are continuing both at Allahabad and at Lucknow.

6. In response thereof, learned counsel for the High Court draws my attention to Chapter IV Rule 2 & Rule 3 of the Allahabad High Court Rules, which are as under:

“2. Fees.- Such fees shall be paid for the verification of affidavits before Oath Commissioners as may be prescribed from time to time by order of the Chief Justice.

3. Register.- Oath Commissioners shall maintain a register or registers which shall contain the following particulars with respect to each affidavit sworn before them, namely :-

- (a) serial number;
- (b) date and time of making affidavit;
- (c) particulars of the case to which affidavit relates;
- (d) full particulars of person making the affidavit;
- (e) particular of the person identifying him;
- (f) fee paid;
- (g) name of Oath Commissioner before whom affidavit, is sworn; and
- (h) signature of Oath Commissioner and remarks, if any

The Chief Justice may from time to time fix the number of registers to be maintained and add to or alter the particulars required to be entered therein. The registers shall be open to inspection by the Registrar.”

7. It is argued that in terms of the proviso to Rule 3, the Chief Justice is empowered to fix the number of registers to be maintained and add to or alter the particulars required to be entered therein.

8. In terms of the said powers, initially the Administrative Committee vide its meeting held on 06.10.2015 passed the following resolution:

“Agenda:

Re: Implementation of the procedure of photo affidavit system of the Hon'ble Court.

Consideration of letter dated 1 October 2015 of High Court Bar Association, Allahabad along with its enclosures and the order dated 29 September 2015 of the Hon'ble Court passed in Public Interest Litigation (PIC) No. 55060 of 2015 along with office note dated 11 September 2015 in the matter.

Resolution:

Considered the letter dated 1 October 2015 of High Court Bar Association, Allahabad along with its enclosures and order dated 29 September, 2015 of the Hon'ble Court passed in Public Interest Litigation (PIL) No. 55060 of 2015 along with office note dated 11 September 2015 in the matter.

Resolved that the following directions may be issued by the Chief Justice under Chapter IV Rule 3 of the Allahabad High Court Rules, 1952:

"(1) The Oath Commissioners shall maintain a register which shall contain the prescribed particulars with respect to each affidavit sworn;

(2) The deponent of every affidavit shall affix his or her passport size photograph together with the identification number issued by the Allahabad High Court Bar Association;

(3) For one particular case, one identification number shall be allocated to a person by the Allahabad High Court Bar Association which may be used for all subsequent affidavits to be filed by the same deponent in the same case;

(4) The identification number allocated to a particular deponent in a case shall also be specifically recorded in the register;

Provided that the above modalities shall not be insisted upon in regard to the affidavits to be filed by the officials of the State or Union Governments or on behalf of the instrumentalities of the State."

Further resolved that having due regard to the nature of the work which is to be carried out by the Allahabad High Court Bar Association and the administrative expenses involved, an amount of Rs. Seventy per identification number may be charged by the Bar Association. The amount so prescribed shall not be enhanced without prior approval of the Registrar General on the instructions of the Chief Justice."

9. Subsequently, an Office Memorandum was issued on 10.09.2018 by the Registrar General, which is extracted herein below:

HIGH COURT OF JUDICATURE AT ALLAHABAD

ADMIN, 'G-I' (AMENDMENT) SECTION

OFFICE MEMORANDUM

No.268/Admin. G-I/Allahabad:

Dated: September 10, 2018

In supersession of the earlier Office Memorandum No.763 /Admin. G-I/Allahabad: Dated: 30.08.2016, for implementation of the procedure of photo affidavit system of the Hon'ble Court, as per the provisions contained in Chapter IV Rule 3 of the Allahabad High Court Rules, 1952, Hon'ble the Court has been pleased to direct to issue hereby the new Office Memorandum to the effect that -

(1) The Oath Commissioners shall maintain a register which shall contain the prescribed particulars with respect to each affidavit sworn;

(2) The deponent of every affidavit shall affix his or her passport size photograph together with the identification number issued by the Allahabad High Court Bar Association or Advocates' Association for Allahabad and Oudh Bar Association for Lucknow Bench, Lucknow;

(3) For one particular case, one identification number shall be allocated to a person by the Allahabad High Court Bar Association or Advocates' Association for Allahabad and Oudh

Bar Association for Lucknow Bench, Lucknow which may be used for all subsequent affidavits to be filled by the same deponent in the same case;

(4) The identification number allocated to a particular deponent in a case shall also be specifically recorded in the register;

Provided that the above modalities shall not be insisted upon in regard to the affidavits to be filed by the officials of the State or Union Governments or on behalf of the instrumentalities of the State.

It is further directed that having due regard to the nature of the work which is to be carried out by the Allahabad High Court Bar Association or Advocates Association for Allahabad and Oudh Bar Association for Lucknow Bench, Lucknow and the administrative expenses involved, an amount of Rs. Seventy per identification number may be charged by the Bar Association or Advocates' Association for Allahabad and Oudh Bar Association for Lucknow Bench, Lucknow. The amount so prescribed shall not be enhanced without prior approval of the Registrar General on the instructions of the Chief Justice.

All concerned are directed to comply with aforesaid order with immediate effect.

By Order of the Court

*(Mohd. Faiz Alam Khan)
Registrar General*

10. Subsequently, vide Office Memorandum Dated 09.08.2023 issued by the Registrar General, the facility of photo identification number was extended to an AOR who is not a Member of the Bar Association. Further, by Office Memorandum Dated 22.11.2024, the photo affidavit rates were enhanced to Rs.125/-. The said Office Memorandum is extracted herein below:

HIGH COURT OF JUDICATURE AT ALLAHABAD

ADMIN, 'G-I' (AMENDMENT) SECTION

OFFICE MEMORANDUM

No.998/Admin. G-I/Allahabad:

Dated: November 22, 2024

In supersession of the earlier Office Memorandum No.805 /Admin. G-I/Allahabad: Dated: 09.08.2023, for implementation of the procedure of photo affidavit system of the Hon'ble Court, as per the provisions contained in Chapter IV Rule 3 of the Allahabad High

Court Rules, 1952, Hon'ble the Court has been pleased to direct to issue hereby the modified Office Memorandum to the effect that -

(1) The Oath Commissioners shall maintain a register which shall contain the prescribed particulars with respect to each affidavit sworn;

(2) The deponent of every affidavit shall affix his or her passport size photograph together with the identification number issued by the Allahabad High Court Bar Association or Advocates' Association for Allahabad and Oudh Bar Association for Lucknow Bench, Lucknow;

(3) For one particular case, one identification number shall be allocated to a person by the Allahabad High Court Bar Association or Advocates' Association for Allahabad and Oudh Bar Association for Lucknow Bench, Lucknow which may be used for all subsequent affidavits to be filled by the same deponent in the same case;

(4) The identification number allocated to a particular deponent in a case shall also be specifically recorded in the register;

Provided that the above modalities shall not be insisted upon in regard to the affidavits to be filed by the officials of the State or Union Governments or on behalf of the instrumentalities of the State.

Provided further that an Advocate who is having an AOR number issued by the Hon'ble High Court but is not a member of above associations, shall not be refused for photo identification number.

It is further directed that having due regard to the nature of the work which is to be carried out by the Allahabad High Court Bar Association or Advocates' Association for Allahabad and Oudh Bar Association for Lucknow Bench, Lucknow and the administrative expenses involved, an amount of **Rupees One Hundred Twenty Five** per identification number may be charged by the Bar Association or Advocates' Association for Allahabad and Oudh Bar Association for Lucknow Bench, Lucknow. The amount so prescribed shall not be enhanced without prior approval of the Registrar General on the instructions of the Chief Justice.

All concerned are directed to comply with aforesaid order with immediate effect.

By Order of the Court

(Rajeev Bharti)
Registrar General

11. He also places on record the letter dated 12.04.2019 whereby a shop was earmarked who is to carry out the work of photo identification to the Oudh Bar Association.

12. It is stated that drawing powers from Rule 2 and proviso to Rule 3, the charges for verification of an affidavit before the Oath Commissioner were earlier fixed at Rs.75/- and were subsequently enhanced to Rs.125/-. It is argued that the High Court either on its administrative side or the Hon'ble Chief Justice in exercise of powers, has never permitted the Bar Associations to charge any amount over and above the amount of Rs.125/-. It is argued that the photo identification work was assigned and was outsourced to be carried out by the Bar Associations who in turn have handed over the same to a third party and the same is beyond the control of the High Court.

13. With regard to the instructions of Shri Gaurav Mehrotra that there is no bar in an affidavit signed by the Notary Public, Shri Tushar Mittal and Shri J.N. Mathur draw the attention to the list of defects which are uploaded on the website of the High Court to argue that if the contention of Shri Gaurav Mehrotra is accepted, on account of the list of defects, which can be noticed by the Filing Section pertaining to affidavits, the actual filing of petitions, etc. supported by an affidavit sworn before Notary Public may not suffice and the inconvenience caused to the litigants would still continue.

14. Shri S.M. Singh Roykwar has extensively argued that access to justice is a right conferred by the Constitution and cannot be defeated in the manner in which the same is being disincentivized by charging an amount in the name of photo identification charges; the same, according to him, is contrary to the constitutional spirit of making the access to justice easy.

15. It is further argued that compelling litigants to pay a high amount of Rs.500/- in the name of Photo Affidavit Centre is neither sanctioned by any law nor does it work towards furtherance of the constitutional philosophy of making the access to justice easy. He further argues that the Bar Association is, neither entitled to accept any money from the litigants, nor is the same sanctioned by any constitutional provision

specifically when the same is related to the proceedings which are taken up before the High Court.

16. It is further argued that the charging of the money from the litigants is in violation of the interim directions passed by the two Division Benches, as noticed above. It is further argued that the charging of any amount is also violative of Rule 26, Chapter II of Part VI of Bar Council of India Rules framed in exercise of powers conferred by virtue of Section 49(1)(c) of the Advocates Act.

17. In short, it is argued that access to justice is being denied under the nose of the High Court itself without there being any statutory foundation for doing so. He also argues that for filing a petition, the High Court has uploaded a list of defects that can be highlight by the Stamp Reporting Section, which are 272 in number, which is a huge deterrent for the litigants approaching this Court in State of Uttar Pradesh where most of the litigants are poor.

18. Shri J.N. Mathur, learned Senior Advocate, highlights that as a result of 272 defects/objections which can be reported by the Stamp Reporter and the same are not even mentioned in the Allahabad High Court Rules young members of the Bar are spending their valuable time in running after the Registry for removal of the defects which cannot be the intent of making the justice accessible to all which, according to him, is the basic feature of Constitution.

19. Considering the submissions made at the Bar and recorded above, it is clear that access to justice is becoming increasingly cumbersome because of two things mainly: the first being, charging of amounts in the name of photo identification at the rate of Rs.500/- per affidavit and secondly, the number of list of defects which the Stamp Reporting Section is making in the petitions, applications, etc.

20. It is also argued by Shri Tushar Mittal that the High Court of Kerala has taken an extremely laudible step by amending their Rules and

providing OTP and Email notification based verification with a view to ensure that impersonation is ruled out; he states that a similar incorporation may be considered and done by amending the Rules appropriately.

21. It is clear in terms of the constitutional mandate that access to justice is a valuable right vested in citizens, in fact right to approach the Supreme Court under Article 32 is a fundamental right guaranteed under Part III of Constitution; the right to approach other Courts in the country is also a constitutional right. Once there is a right to avail judicial remedies being a constitutional right, the road to access justice has to be smooth and free of unwanted road blocks, lest it becomes road *less travelled*. The procedural requirements to achieve and ensure the access to justice has to be erased so that the constitutional right is not reduced to an empty provision. Procedures prescribed for access cannot be such that defeat the very purpose they seek to achieve. The procedures should be to lubricate the path instead of becoming a resistance. Procedures although essential are like friction which is a '*necessary evil*' but cannot be excessive lest it brings the entire machinery to a stand still.

22. Considering the submissions made at the Bar, it is essential to notice that Notaries Act was promulgated in the year 1952 with prescriptions for appointment of Notaries by the Central Government as well as by the State Government. The functions conferred upon the Notaries are specified in Section 8, and Section 8(1)(e) empowers the Notaries to administer oath to, or take affidavit from, any person.

23. Considering the submission of Shri Gaurav Mehrotra that the affidavits sworn before the Notary Public under the Notaries Act are accepted as valid affidavits, as an interim measure, it is directed that the Registry/Stamp Reporting Section shall accept all the petitions, applications, appeals etc., filed before the High Court, both at Allahabad and Lucknow and duly supported by the affidavits sworn before the

Notary Public appointed in the entire country of India as a valid affidavit in support of the petitions, applications, appeals, etc.

24. In view of the practical difficulties pointed out, it is further clarified that the list of defects pertaining to the affidavits shall not be raised by the Stamp Reporting Section in respect of petitions which are supported by affidavits sworn before the Notary Public.

25. Let a copy of this order be circulated by the Registrar General/Senior Registrar of this Court to the Stamp Reporting Section to ensure the compliance with directions that any violation would result in proceedings for contempt.

26. Coming to the second question with regard to the photo identification, the prescriptions as have taken place in the form of amendments are owing their genesis from Chapter IV Rule 3 of the Allahabad High Court Rules, however, it is high time in the era where the efforts are to promote digital India, continuing with a regressive practice of the litigants traveling from far off places solely for photo identification is on the face of it retrogressive. The same has also resulted in the High Court Bar Association as well as Oudh Bar Association charging amounts beyond the sanction of law solely based upon resolutions, and continuation of such practice is neither desirable nor does it goes augur well for the temple of justice which is to function with the active help of Bar Associations in furtherance of the constitutional goal of providing access to justice to all.

27. In view thereof and considering the laudable efforts taken by the High Court of Kerala, let the matter be placed before the Hon'ble Chief Justice to consider taking steps on the administrative side for suitably modifying the rules, as may be advised, so that the litigants do not suffer.

28. On perusal of the Allahabad High Court Rules, it is clear that Chapter IV Rule 1 prescribes for Appointment of Oath Commissioner and swearing of the affidavits; Chapter IX Rule 8 prescribed for

documents which are to accompany memorandum of appeal and writ petition; Chapter XI Rule 3 prescribes for the office report empowering the Registry to specify the defects that are specified in Chapter XI Rule 3 Clause (a) to (f).

29. Curiously enough, Chapter XXII which deals with Writ Petitions under Art. 226 and Art. 227 of Constitution, do not confer any power upon the Stamp Reporting Section to point out the defects apart from what are mentioned in Chapter XXII Rule 1, Clause (2) of Rule 1, Clause (3) of Rule 1 & Clause (3-A) of Rule 1 (in respect of PILs).

30. It is also essential to notice that for E-Filings, instructions have been issued by the High Court.

31. In the absence of any provisions contained in the Allahabad High Court Rules, *prima-facie*, the list of defects as notified being 272 in number, also do not appear to have any statutory basis.

32. The present issue of huge number of defects regularly being pointed by the Reporting Section is also required to be placed before the Hon'ble Chief Justice for his consideration and if deemed necessary, for adopting appropriate measures.

33. Let a copy of this order be placed before the Hon'ble Chief Justice for consideration.

34. As regard the charging of the amount of Rs.500/-, Shri Manoj Dwivedi, General Secretary of Oudh Bar Association apprises that in terms of their resolution, it is the lawyers who are depositing the said amounts which is thereafter paid to them in their account. The said submission is clearly an attempt to bypass the Division Benches orders. Although, the High Court Bar Associations have the power to take steps for welfare of their members, however, the same cannot be linked with the quantum of litigation that is filed in the form of petitions, applications, appeals, etc., before this Court. Linking of the welfare measures as argued by Shri Manoj Dwivedi with the affidavits is clearly

impermissible and contrary to law, as such, through this interim order, the High Court Bar Association and the Oudh Bar Association are directed to ensure that no amounts are charged from the litigants/advocates towards the photo identification at any rate whatsoever.

35. The Bar Associations would, however, are at liberty to take such welfare steps for their members as may be advised but cannot be coupled with any filings before this court.

36. Linking of the affidavits with the amounts collected would amount to Contempt of Court by the members of the Governing Body of the Bar Association.

37. Let a copy of this order be sent to the Governing Body of both the Bar Associations for its compliance.

38. It is further directed that the persons manning the Photo Identification Centre, either a firm or a company, would also be personally liable if it is brought to the notice of this Court that any amounts are being charged for photo identification over and above what have been sanctioned by the Hon'ble Chief Justice under Chapter IV Rule 3 of the Allahabad High Court Rules.

39. The issue stands ***disposed off*** with the said order. The writ petition shall continue to be listed for deciding the issue as raised in the writ petition.

Order Date :- 19.5.2025
nishant

[Pankaj Bhatia, J.]