

News

The Bar Council transfer fee for attorneys moving their practices to Maharashtra is overturned by the Bombay High Court.



In response to a lawyer's request to change his enrollment from Uttar Pradesh to Maharashtra, a bench consisting of Justices Suman **Shyam** and **Shyam Chandak** issued the ruling.

The transfer fee that the Maharashtra and Goa Bar Councils charge to move an advocate's enrollment from another State Bar Council to Maharashtra is unlawful and a clear violation of Section 18(1) of the Advocates Act, 1961, according to a recent ruling by the Bombay High Court [**Devendra Nath Tripathi and Ors v Union of India and Ors**].

In response to a lawyer's request to change his enrollment from Uttar Pradesh to Maharashtra, a bench consisting of Justices Suman **Shyam** and **Shyam Chandak** issued the ruling.

The amount that Respondent No. 1 (Centre) charged to transfer the petitioner's enrollment cannot be deemed legally valid in light of the facts of this case when the ratio established in the Gaurav Kumar (above) decision is applied. The Court stated in its August 21 judgment that "therefore, it is declared illegal on the grounds that it violates the mandate of Section 18(1) of the Act of 1961."

In 2003, Devendra Nath Tripathi, the petitioner, became a member of the Uttar Pradesh State Bar Council.

On September 25, 2013, he submitted an application to transfer his enrollment to the Bar Council of Maharashtra and Goa after moving to Mumbai.

Nevertheless, he was assessed ₹15,405 in transfer fees, ₹1,900 to the Uttar Pradesh Bar Council, ₹11,490 to the Maharashtra and Goa Bar Council, and ₹2,015 to the Indian Bar Council.

Although the price was computed retroactively from 2003, the transfer was completed in 2014.

In his in-person appearance, Tripathi contended that such transfers must be completed without any fees due under Section 18 of the Advocates Act.

He said that the fees were assessed in accordance with Resolution No. 112 of 2010, which was approved by the Maharashtra and Goa Bar Council and allowed for such payments.

He said that this was wholly unlawful and that the Supreme Court's ruling in Gaurav Kumar v. Union of India & Ors., in which the highest court addressed the extent of State Bar Councils' fee collection, supported his position.

The Central government's counsel said he would not object to the plea if the petitioner's main complaint was about the transfer fee being realized, as long as the court's ruling was implemented going forward.

Neither the Bar Council of India nor any other responders made an appearance.

The Court ruled that the fee was unlawful, but pointed out that the petitioner was just requesting that the fee mechanism be quashed through prayer.

The Court made it clear that its ruling would be effective going forward and only granted the petition to that extent.

With the assistance of advocate DV Saroj, advocate Devendra Nath Tripathi made an in-person appearance.

Yogendra Rajgor, an advocate, represented the Union of India.

Lawread