

WPIL No. 71 of 2019

Hon'ble Ramesh Ranganathan, C.J.

Hon'ble Alok Kumar Verma, J.

Mr. Kartikey Hari Gupta and Ms. Pallavi Bahuguna, learned Advocates for the petitioner.

Mr. Paresh Tripathi, learned Chief Standing Counsel assisted by Ms. Pooja Banga, learned Brief Holder for the State of Uttarakhand/respondent No.1.

Mr. Piyush Garg, learned Advocate takes notice on behalf of the third respondent.

Mr. B.S. Adhikari, learned Advocate for respondent No.4.

The petitioner, a senior member of the Kotdwar Bar Association, has invoked the writ jurisdiction of this Court complaining of the resolution passed by the Kotdwar Bar Association that no body should represent the accused in Case Crime No. 281 of 2017.

Howsoever, heinous the crime may be, every accused is entitled for legal representation. While the choice of whether or not to appear on behalf of the accused lies with the Advocate who is approached by the accused, the Bar Association cannot, by way of a resolution, prevent an Advocate from appearing on his behalf. The alleged resolution, passed by the Kotdwar Bar Association, is *prima facie* illegal since, by way of the said resolution, the Bar Association has already determined the guilt of the accused in Case Crime No. 281 of 2017, though such a conclusion can only be arrived at by a competent court, that too after completion of a free and fair trial. It is the obligation of an Advocate, subject to his being paid the fees he is entitled to, to represent the accused, and in case the accused is not able to afford legal representation then the State is obligated to provide him legal aid.

We are disturbed by the resolution passed by the Kotdwar Bar Association in directing its members not to provide legal representation to the accused. If the

contents of the affidavit are true, the State Bar Council may need to take action against the concerned members of the Advocates Association, who were responsible for such acts.

Both Mr. Piyush Garg, learned Standing Counsel appearing on behalf of the third respondent and Mr. B.S. Adhikari, learned counsel appearing on behalf of the fourth respondent, seek time to obtain instructions.

Mr. Kartikey Hari Gupta, learned counsel for the petitioner, is permitted to take out notice on the second respondent by dasti, and to file proof of service by 17.06.2019.

Post this case as a “fresh admission” matter on 18.06.2019 in the daily cause list.

(Alok Kumar Verma, J.) (Ramesh Ranganathan, CJ.)

13.06.2019

Sanjay/JKJ