



## DR. Vivek Sharma's Suggestions for Comprehensive Reforms invited under Hon'ble Supreme Court order dated 02/05/2024 in matter of SCBA vs B D Kaushik and thereof SCBA circular dated 22/06/2024

1 message

**DR Vivek Sharma AOR Supreme Court New Delhi** <drviveksharma.law@gmail.com> Fri, Jul 19, 2024 at 11:20 AM  
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Date- 18/07/2024

To,  
The President/Secretary and Executive Committee  
Supreme Court Bar Association  
New Delhi

Subject- DR. Vivek Sharma's Suggestions for  
Comprehensive Reforms invited under Hon'ble Supreme  
Court order dated 02/05/2024 in matter of SCBA vs B D  
Kaushik and thereof SCBA circular dated 22/06/2024

Sir,  
I state and suggest that-

1- Any increase in initial membership fee, annual subscription fees and election security amount/fee should be reasonable and affordable even by those advocates, who have to struggle for their livelihood also.

Besides a system should be developed so that the whole amount of election security deposit should be refunded to all the contesting candidates for all the posts. Election security deposit should not be a source of income for SCBA.

Election security fund can be developed by the donations of so called rich advocates and by those advocates, who are in favour of increasing the fee amount, so that election expenses can be met out.

**2- Opportunity and favorable environment should be available to new and struggling advocate-members to contest the SCBA elections.**

This favour should not be available to Senior Advocates as the German Historian **Friedric List** has said- "**Nurse the baby, Protect the child and Free the adult**".

SCBA or its' executive should not be converted into a Elite-class-club. It should reflect the common advocate aspirations and ambitions so that they may also get an opportunity to contest the bar elections.

**3- The eligibility of SCBA membership experience for President, Vice President and Senior executive members should not be more than Ten years from the date of being the member of SCBA.** Because minimum ten years practice experience is essential for being eligible for designation of Senior Advocate in Supreme Court and for the appointment of High Court Judge.

**The eligibility of SCBA membership experience for Secretary, Joint Secretary, Treasurer, Joint Treasurer and executive members should not be more than five years from the date of being the**

**member of SCBA.** Because normally, as a tradition, such posts are contested by those advocate-members, who are not senior designated advocates.

**4- The experience of membership should be counted from the date of being the member of SCBA without any consideration of temporary or permanent.** For the election experience purpose, the membership should not be divided into temporary or permanent. It will harass and stop the new advocates to enter into the election- battle-field.

It is to be noted that even in Government and private services, the ad hoc/ temporary/ probation period is always counted in the period of experience.

**5- Number of cases and number of appearances in the case should not be a criteria to contest the SCBA elections or being a good lawyer.**

It is because---

- (i)- All of us know How appearances are given in cases.
- (ii)- Many times, advocate is not coming in this court but may have hundreds of appearances in the cases.
- (iii)- An established advocate have good links may have hundreds of appearances without appearing in the court room.

But sometimes, the new and young advocates who want to establish themselves are not in a position that their appearances maybe given in the cases without appearing in the court-room.

**6- Reservation for women can continue.** But instead of being rotational, it can be made by creating additional posts of Vice- President (Women) , Joint- Secretary (Women) and two Senior member-executive (women) & three members-executive(women ) accordingly. As far the other posts are concerned, they should be general and anybody including women can also contest.

**7- The tenure of executive Committee of SCBA should remain the same ie. one year.**

It is the tradition and rule since independence and even before that.

If it is changed on the ground to provide sufficient time to work or any other ground also, then there will be no limitation to change it in future. Today, it maybe demanded for two years and tomorrow, it may be three, four or five years in future. It will create a gateway to increase the tenure of SCBA executive.

Besides, it may generate dictatorship also.

**8- Voting rights** of SCBA members should remain the same according to the judgment of Hon'ble Supreme Court in B. D. Kaushik case.

**9- Any representation for calling GBM** should be uploaded as it is ( along with signature and name of advocates) on SCBA website so that the members of General body may get an opportunity to know whether the advocates making representation are the members of GBM or not and whether the signatures are proxy or not.

Besides, our suggestions for reforms should also be uploaded on SCBA website as it is ( along with name of concerned advocate- member) to avoid any misunderstanding.

**10- A member of SCBA should hold and remain in executive committee of SCBA for a maximum period of Six years in his/her life time.**

( A) It is because

(i) - **As per existing rules, a member of SCBA can hold and remain in executive committee of SCBA for maximum 32 years in his life time.**

Such member of executive committee can remain for Four years to the position of executive member, Four

years at the position of joint treasurer, Four years at the post of treasurer, Four years at the post of Joint Secretary, Four years at the post of Secretary, Four years at the post of Senior Executive Member, Four years at the post of Vice- President and Four years at the post of post of President.

**(ii) Most of the members starts at the lowest position and slowly occupies the higher position in the executive Committee and remain in the executive committee for many years.**

**In this process, such members create lobby/group and become so powerful that after some time, they not only hold or occupy their own post but also decide that who will contest/win the other posts and position in executive committee. They influence the voters by their power, lobby and group.**

(iii) Such members with the power of lobby/group (which is developed as a result of remaining in executive committee for many years) sometimes targets even the opponents. Sometimes, by the virtue of their position and power of lobby/group, they try to dictate their terms and conditions on the bar in the disguised manner.

**(iv) For impartial, dignified, transparent bar, it is necessary that such group/lobby should be stopped.**

(B) If this suggestion is implemented, then it will provide following good results-

(i) It will break the collusion of those who want to occupy the SCBA executive post, **Number-wise ( एक बार मै, एक बार तुम)** leaving no possibility of winning for others.

(ii) It will provide an opportunity to new/young, common and other eligible members (who do not have the power of lobby) to come forward and contest/win the elections of SCBA.

(iii) It will also provide an opportunity to all the Senior designated advocate members of the bar ( who upto now have not contested elections of SCBA executive) to come forward to provide their services to the executive by contesting/winning.

(iv) It will provide the opportunity to maximum number of voters to contest/winning the elections of SCBA executive committee.

(v) It will reflect participation and empowerment of maximum voters in the SCBA Executive.

(vi) It will give a message that being in the executive is a service for the welfare of the bar. It will be a message for those also who want to remain in executive committee for many years and treat it as their full time business.

**उपरोक्त सुझाव "मै राजा बाकि सब प्रजा" की भावना को खत्म कर देगी।**

**यह इस व्यवस्था को प्रतिपादित करेगी कि सदस्य आगे आकर चुनाव लड़े, जीते, काम करे , जाये और दूसरों को आने दे। पद से चिपके नहीं, लोबी/ ग्रुप को प्रोत्साहित ना करें।**

Regards

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