

**Final Order dated 17.05.2023 regarding Nomination of one Working Journalist who is Editor u/s 5(3)(a) read with Section 6(6) of the Press Council Act, 1978 against a vacancy vice resignation of Mr. Vinod K. Jose.**

These proceedings were adjourned by me on 09.02.2023 *sine die* because Akhil Bharatiya Samacharpatra Association had challenged earlier Order dated 16.09.2022 in the Allahabad High Court. If the Allahabad High Court were to set aside order dated 16.09.2022 quashing the process initiated earlier the fresh process issued by the Secretariat would have fallen to the ground. Thus in my earlier order dated 09.02.2023 I had stated that present proceedings will abide by the final Order passed by the Allahabad High Court. I am informed by Akhil Bharatiya Samacharpatra Association vide its email dated 14.05.2023 that the Writ Petition filed in the Allahabad High Court has been withdrawn on 11.05.2023 and the Allahabad High Court has dismissed the same as withdrawn vide its order dated 11.05.2023. In the circumstances, final order can be declared now. Hence, I declare the order.

The 14<sup>th</sup> term of the Council was constituted vide Gazette Notification dated 06.10.2021 and names of 22 members were notified. From amongst these members, Mr. Vinod K. Jose, Executive Editor of 'Caravan' tendered his resignation on 23.10.2021 which was accepted by the then Chairman in pursuance of Section 6(5) of the Press Council Act, 1978(PC Act) on 25.10.2021. Thus vacancy arose in the category of Working Journalists who are Editors of Newspapers.

For filling up the said vacancy, the procedure laid down in law was followed. Vide letter dated 29.10.2021 panels of names were invited from notified Associations namely Akhil Bharatiya Samacharpatra Association, The Editor's Guild of India and Hindi Samachar Patra Sammelan. These Associations submitted two names each.

The representatives of all these three Associations were heard at length. Their responses were minutely read and final order was passed on 16.09.2022. In the ultimate analysis, it was found that the persons whose names were forwarded by The Editor's Guild of India and Hindi Samachar Patra Sammelan were not eligible to be nominated to the category of Working Journalists who are Editors of Newspapers as they were not Editors within the meaning of relevant provisions of the P.C. Act, and Press & Registration of Books Act, 1867 (PRB Act).

So far as the panel submitted by Akhil Bharatiya Samacharpatra Association is concerned, the said panel had to be rejected because a major flaw had vitiated the same. As per sub Rule 3 of Rule 3 of The Press Council (Procedure for Nomination of Members) Rules, 1978, the panels of names shall be signed by an office-bearer duly designated and authorised to do so by the Association or news agencies notified in this behalf under sub-section (4) of Section 5 of the PC Act. The person signing the panel of names has to do so on solemn affirmation before a

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Magistrate. So, the said office bearer must be duly designated and must be authorised to sign the panel of names. The use of the word shall in Sub-Rule 3 makes it clear that the authorisation is mandatory and, therefore, vide PCI's letter dated 29.10.2021, the three Associations were communicated that the panels of names should be signed by a duly authorised person of the respective Associations. This letter had also informed the Associations that the affidavit as per annexure 'D' sworn before a Magistrate to show that the designated officer is authorised to sign the panel of names on behalf of the respective Associations should be attached along with evidence of such authorisation. So far as Akhil Bharatiya Samacharpatra Association is concerned, there was no proof of authorisation attached to the affidavit filed by Mr. Shukla to establish that he is authorised to sign the panel. In the circumstances, the said panel was rejected.

The Secretariat of the Council was directed to start the process again and invite panels of names under Section 5(3)(a) of the P.C.Act, 1978. Pursuant to this direction on 4.10.22 the Secretariat of the Council vide letter dated October 4, 2022 invited fresh panels of names for filling up the vacancy of a member under section 5(3)(a) of the P.C Act, 1978. The last date for filing the panel of names was **11<sup>th</sup> November, 2022 by 6:00 p.m.** On 11.11.2022 fresh panels of names were filed by the three Associations i.e. Akhil Bharatiya Samacharpatra Association, Hindi Samachar Patra Sammelan and Editor's Guild of India in terms of Section 5(4) of the P.C Act. Following is the table showing names recommended by the three Associations:

1. <b><u>Akhil Bhartiya Samacharpatra Association</u></b>	
Mr. A.C. Shukla, Editor	Nav Durga Darshan (Indian Language, Hindi)
Mr. Sanjay Kumar Mishra, Editor	Jan Nirnay (Indian Language, Hindi)
2. <b><u>The Editor's Guild of India</u></b>	
Mr. Rajesh Ramchandran, Editor-in-Chief	The Tribune (English)
Mr. Parag Karandikar, Editor	Maharashtra Times (Indian Language, Marathi)
3. <b><u>Hindi Samachar Patra Sammelan</u></b>	
Mr. Rajesh Ramchandran, Editor-in-Chief	The Tribune (English)
Mr. Parag Karandikar, Editor	Maharashtra Times (Indian Language, Marathi)

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Procedure for nomination of members is laid down in the Press Council (Procedure for Nomination of Members) Rules 1978 (or the said rules) Rule 4(1) and (2) of the said rules are important. They read as under.....

**4. Procedure for nomination of members-** *From out of the panels of names recommended by the associations or, as the case may be, the associations and news agencies, under rule 3, the nomination of the members referred to in clauses (a),(b) and (c) of sub-section (3) of section 5 shall, subject to the provisions of that sub-section, be made in accordance with the following procedure, namely:-*

- (1) *Such person or persons as have been recommended by all respective associations or, as the case may be, news agencies shall first be nominated under clause (a), clause (b) or clause (c) of that sub-section:*

*Provided that if the number of persons so recommended exceeds the requisite numbers of members to be nominated in each of the categories, the requisite number shall be nominated by draw of lots from the persons so recommended:*

- (2) *Where, after following the procedure specified in clause (1), the requisite number of members to be nominated under clause (a), clause (b) clause (c) of sub-section (3) of section 5 could not be nominated, such person or persons as have been recommended by more than one association or news agency, but not by all the association or news agencies, shall be nominated in respect of the remaining membership in the order of the number of association or news agencies recommending them:*

*Provided that if the number of persons so recommended exceeds the requisite number of members to be nominated in each of the categories, the requisite number shall be nominated by draw of lots from the persons so recommended.*

From the plain reading of Sub-rule 1 aforesaid it is evident that nomination at the first instance is to be made of such persons who have been recommended by all the three Associations. No person has been recommended by all the three Associations and, therefore, Sub-rule 1 is not attracted. Sub-rule 2 aforesaid contemplates nomination of such person or persons who have been recommended by more than one Association but not all.

From the above quoted table it is evident that Mr. Rajesh Ramchandran and Mr. Parag Karandikar's names have been recommended by two Associations namely The Editor's Guild of India and Hindi Samachar Patra Sammelan. The question is whether as per Sub-rule 2 of Rule 4 of the said Rules Mr. Rajesh Ramchandran or Mr. Parag Karandikar can be nominated in the category of Working Journalists who are Editors of Newspapers.

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Akhil Bharatiya Samacharpatra Association has submitted its objections to the panels of names submitted by The Editor's Guild of India and Hindi Samachar Patra Sammelan vide its letter dated 5<sup>th</sup> December, 2022. The relevant portion of the said letter reads as under:-

1. "That the common name of Sh. Rajesh Ramchandran by The Editor's Guild of India and Hindi Samachar Patra Sammelan is shown Editor-in-Chief of The Tribune. The eligibility of such Sh. Rajesh Ramchandran is not as per requirements and regulations for this category. As per attached documents Sh. Rajesh Ramchandran is not an editor only but he is printer and publisher of The Tribune, English Daily Published from Chandigarh, Bhatinda, Gurgaon and Jalandhar. As such his eligibility is not fit for nomination in this category and is liable to be rejected.
2. That the second common name Sh. Parag Karandikar, Editor – Maharashtra Times, Marathi published from Mumbai is also not fit for nomination for this category working journalist who are Editor. As the imprint line of the newspaper clearly indicates that Sh. Parag Karandikar is not responsible for the selection of news. As per starred '\*' imprint Mr. Shrikant Bojevar (Nivasi Sampadak) is responsible for selection of news which is self-contradictory and against the Press and Books Registration Act, 1867.
3. According to PRB Act "Editor" means the person who controls the selection of the manner that is published in a newspaper. Sh. Parag Karandikar is not eligible for this category and liable to be rejected.  
Sh. Parag Karandikar is also involved in other publication activities and this matter is subject to detail inquiry.
4. The entire panel of names submitted by The Editor's Guild of India and Hindi Samachar Patra Sammelan are not fit for nomination as per rules and requirement. As the result of which all the names submitted by above mentioned both the associations may kindly be rejected."

The Editor's Guild of India has submitted two replies to the objections raised by Akhil Bharatiya Samacharpatra Association. In its reply dated 19.12.2022, It has responded as under:-

1. "With respect to the nomination of Mr. Rajesh Ramchandran, the objection is that his name is reflected as that of editor, printer, as well publisher, in the RNI declarations. We would like to state that Mr. Ramchandran has already submitted a sworn affidavit, wherein he has asserted that his name was mentioned as the printer and publisher, "by virtue of the decision taken by the Trust [which owns the paper]", and that his role, "is confined to Editorial and news selection and have no role in ownership and other related activities of the Tribune Trust". He has also sworn that he is, "responsible for selection of news being published in the newspaper".

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Therefore, it is our submission that Mr. Ramachandran is clearly eligible as per the rules spelled out in the Press Council Act, as he has no role in management or ownership of the paper, and he has given a sworn testimony to that effect. His name has been mentioned as printer and publisher merely for a statutory compliance purpose, and in effect as per his sworn affidavit, he is not discharging any roles that fall under the ambit of a printer and publisher.

2. With respect to the nomination of Mr. Parag Karandikar, the objection is that as per the imprint line, his name is not mentioned as responsible for the selection of news. Our submission is that Mr. Karandikar's name has clearly been mentioned as editor in the RNI declaration, and therefore by virtue of the same, he is in fact responsible for selection of news. It must be noted that Maharashtra Times is a large newspaper and has multiple editions, each with its own Resident Editor. So along with the editor, Mr. Parag Karandikar, each Resident Editor is also responsible for news selection for that edition, and therefore the name of Mr. Shrikant Bojever (Resident Editor) in the imprint line of the said edition.

Further, it must be noted that the stance now taken by Akhil Bharatiya Samacharpatra Association is itself contrary to the stance taken up by them in the objection letters they had filed in response to the earlier panel nominated by The Editor's Guild of India, wherein they had raised issues with the nominees' names not reflecting in the RNI declaration as editor."

In its reply dated 20<sup>th</sup> December, 2022 it has raised following objections to the nomination of Mr. Akhilesh Chandra Shukla, Editor-Nav Durga Darshan made by Akhil Bharatiya Samacharpatra Association.

"It has come to our recent notice that Mr. Shukla is a registered advocate in the Bar Council of Uttar Pradesh, Enrolment Number-UP03710/05 (attached herewith), which can also be confirmed by the Press Council of India. The rules framed by the Bar Council of India under the powers conferred by the Advocates Act 1961 and various orders of the Supreme Court expressly prohibit an advocate from engaging in any other employment or from being a whole-time employee of a firm.

Rule-49 of the Bar Council of India Rules states:

*"An Advocate shall not be a full-time salaried employee of any person, government, firm, corporation or concern, so long as he continues to practise, and shall, on taking up any such employment, intimate the fact to the Bar Council on whose roll his name appears and shall thereupon cease to practise as an advocate so long as he continues in such employment."*

Therefore, Mr. Akhilesh Chandra Shukla cannot be eligible for the Press Council of India, under the category of "Working Journalist who is Editor", as he cannot be employed as a whole-time editor responsible for selection of news, while also practicing and being actively enrolled as a member of the U.P.State Bar Council."

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Akhil Bharatiya Samacharpatra Association has submitted two more responses. In its response dated 12.1.2023, it is stated that Mr. Akhilesh Chandra Shukla is only registered with the Bar Council of Uttar Pradesh and he has not been in regular practice since registration. It is further stated that he is not holding any post of profit in any government, semi-govt. or autonomous body. It is further stated that publication of Nav Durga Darshan does not make Mr. Shukla a salaried employee of any person, govt., firm, corporation or concern. The said publication is governed by the PRB Act. Therefore, Rule 49 of the Bar Council of India Rules is not applicable to Mr. Shukla. It is further stated that Mr. Shukla being the sole editor is fully eligible for nomination as per the relevant provisions of law.

In its response dated 13<sup>th</sup> January, 2023 Akhil Bharatiya Samacharpatra Association has stated that Mr. Ramchandran being publisher and printer comes under Management category and hence he is not eligible for nomination as per the PRB Act. It is further stated that Mr. Parag Karandikar is also not fit for nomination because he is not responsible for any control of selection of the material that is published in the newspaper. It is stated that in the print-line there is star (\*) imprint for clarification that Mr. Bojevar (Resident Editor) is responsible for control and selection of material that is published in the newspaper as per provisions of the PRB Act. The print-line is self-explanatory and contradictory and, therefore, Mr. Karandikar's nomination will be totally against the provisions of the PRB Act. In fact, this is admitted by the management of the newspaper. According to Akhil Bharatiya Samacharpatra Association, therefore, Mr. Ramchandran as well as Mr. Karandikar are not eligible to be nominated and nomination of Mr. Shukla made by Akhil Bharatiya Samacharpatra Association deserves to be accepted.

Keeping the submissions of the parties in mind, I will first examine the case of Mr. Rajesh Ramchandran. In the RNI certificate record, Mr. Ramchandran is shown as publisher, printer and editor of the Tribune. The Tribune Chandigarh edition in its issue dated 31.10.2022 has, in print-line stated as follows "printed and published by Mr. Rajesh Ramchandran for the Tribune Trust". It is true that RNI record has sanctity and the fact that Mr. Ramchandran is shown therein as Editor is significant. At this stage, it is pertinent to note that first proviso to Section 5(3) of the P.C.Act, 1978 states that no working journalist who owns or carries on business of management of any newspaper shall be eligible to be considered for nomination to the category of Working Journalists who are Editors. It is, therefore, necessary to see whether Mr. Ramchandran who is also publisher of the Tribune can be said to be concerned with the business of management of the Tribune. If he is, his nomination will be hit by first proviso to Section 5(3) of the P.C.Act.

In exercise of the powers conferred by Section 20A of the PRB Act the Central Government has made the Registration of Newspapers (Central) Rules, 1956. Rule 8 thereof reads as under:-

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8. Particulars to be published in every newspaper—[(1)] The publisher shall publish in every issue of his newspaper the retail selling price of each copy, or, when there is no such selling price, shall publish in an appropriate place that it is for free distribution. The publisher shall also publish in the first issue after the last day of February of each year the particulars specified in Form IV.

[(2) Every copy of every newspaper shall have printed legibly on it the names of the printer, publisher, owner and editor and the place of its printing and publication in the following form:

Printed by .....and published by .....on behalf of.....(name of owner).....and printed at .....(place of printing).....and published at.....(place of publication)..... Editor.....

NOTE.-----This Form may be modified to suit the circumstances of each paper, for example, where the printer, publisher and owner are the same the imprint line can be: Printed, published and owned by .....The editor's name, however, should be given separately in every case.]

Form IV mentioned in Rule 8 reads as under:-----

Form IV  
(See rule 8)

STATEMENT ABOUT OWNERSHIP AND OTHER PARTICULARS ABOUT NEWSPAPERS (.....) TO BE PUBLISHED IN THE FIRST ISSUE EVERY YEAR AFTER THE LAST DAY OF FEBRUARY

1.	Place of publication	.....
2.	Periodicity of its publication	.....
3.	Printer's Name	.....
	Nationality	.....
	[(a) Whether a citizen of India?	.....
	(b) If a foreigner, the country of origin]	.....
	Address	.....
4.	Publisher's Name	.....
	Nationality	.....
	[(a) Whether a citizen of India?	.....
	(b) If a foreigner, the country of origin]	.....
	Address	.....
5.	Editor's Name	.....
	Nationality	.....
	[(a) Whether a citizen of India?	.....
	(b) If a foreigner, the country of origin]	.....
	Address	.....
6.	Names and address of individuals who owns the newspaper and partners or shareholders holding more than one per cent of the total capital.	.....

I,....., hereby declare that the particulars given above are true to the best of my knowledge and belief.

Date.....

Signature of publisher.....

The above provision namely Rule 8 indicates that the publisher is concerned with the price of the newspaper which undoubtedly relates to the business of management of a newspaper. Determination of price is an integral and important part of business of management of a newspaper. Form IV which is quoted hereabove is required to be signed by the publisher. Its contents show involvement of the publisher in the management of the newspaper. He has to focus his attention on various aspects of the newspaper such as ownership, partners or shareholders and percentage of their holding etc. Thus Mr. Rajesh Ramchandran is not concerned just with selection of news. He appears to control or guide the business of management of the Tribune.

**In R.Dalmia versus the Commissioner of Income Tax, New Delhi (1977)2 SSC 467** the Supreme Court was concerned *inter alia* with the question of the nature of benefits received by persons concerned in the management of the business of a company. It is not necessary to go into various provisions of the Income Tax Act 1992 which have been dealt with by the Supreme Court as they are not relevant for the present case. It will be useful, however, to see how the Supreme Court understood the term "manage". The relevant portion of the judgement of the Supreme Court reads as under:---

*"In the context of business "manage" means "to control, to guide, to administer, to conduct or direct affairs ; carry on 'business'" (Shorter Oxford Dictionary, Webster New World Dictionary). "Management" includes the act of managing by direction, or regulation, or administration or control or superintendence."*

The term management is defined in the Chambers Concise Dictionary as follows:-

**Management** 1 the skill or practice of controlling, directing or planning something, especially a commercial enterprise or activity. 2.the managers of a company etc. as a group. 3.the manner of directing, controlling or using something.

It is necessary now to see how the term publisher is defined. Chambers Concise Dictionary defines 'publisher' as under:

**Publisher** 1 a person or company engaged in the business of publishing books, newspapers, music, software, etc. 2 N Am a newspaper proprietor.

Concise Oxford English Dictionary, twelfth edition defines 'publisher' as under:

**Publisher** 1.a company or person that prepares and issues books, journals, or music for sale. 2 chiefly N.Amer a newspaper proprietor.

Thus as a publisher Mr. Ramchandran is concerned with the business of publishing newspaper. Mr. Ramchandran has filed an affidavit stating that he is responsible for selection of news being published in the Tribune and as such have been declared as Editor under the PRB Act which is a statutory requirement of the PRB Act; that by virtue of decision taken by the Trust, he has also been declared as printer and publisher of the Tribune which is also a statutory

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requirement under the PRB Act; that his role is confined to Editorial and news selection and he has no role in ownership and other related activities of the Tribune Trust. The Editor's Guild has also made the same submission. It is not possible to accept this submission. Internal arrangement between the Trust and Mr. Ramchandran is not relevant. Through the affidavit Mr. Ramchandran perhaps wants to suggest that though he is not the publisher the Trust has to meet requirements of law and hence has put him up as a publisher. Once he is shown as publisher it follows that he is concerned with the business of management of the Tribune and his nomination is hit by first proviso to Section 5(3) of the P.C.Act. Mr. Ramchandran, therefore, cannot be nominated to the category of Working Journalists who are Editors.

Case of Mr. Parag Karandikar, however, stands on a different footing. In the RNI certificate record he is shown as the Editor. In the print-line of Maharashtra Times, Mumbai edition dated 26.10.2022, he is shown as the Editor. Therefore, he can be nominated to the category of 'Working Journalists who are Editors', the requirement of that category being that the person must be an Editor. In the print-line Shrikant Bojevar is shown as the Resident Editor. Thereafter there is one bracket in which it is stated (Mumbai Edition). Thereafter there is another bracket in which it is stated as follows (Responsible for news selection as per PRB Act). It is contended by Akhil Bhartiya Samachar Patra Association that the bracketed portion indicates that Mr. Bojevar is responsible for news selection and there is a star imprint for this clarification. Therefore, as per PRB Act Mr. Karandikar cannot fall in the category of Editors. It is not possible to accept this submission. As stated by the Editors Guild in its response, Mr. Karandikar's name is clearly mentioned as Editor in the RNI certificate record. At the cost of repetition it must be stated that RNI record has sanctity. It is true that Mr. Ramchandran's name is also shown in RNI certificate record as Editor. But there is an additional role which is attributed to him. He is the publisher. For the reasons stated by me hereinabove between Mr. Ramchandran and Mr. Karandikar, Mr. Karandikar is preferable because he is not publisher. So far as Mr. Bojevar is concerned as Resident Editor he may also be concerned with news selection for Mumbai Edition. But by reason of definition of the term Editor contained in PRB Act Mr. Karandikar who has been mentioned as Editor in RNI certificate record as well as in print line of Maharashtra Times, must be considered fit for nomination. The star imprint does not make Mr. Bojevar the Editor. Mr. Bojevar has not been described as Editor in RNI certificate record which is an essential requirement for a person's name being nominated to the category of 'Working Journalists who are Editors'. It bears repetition to state that Mr. Karandikar is shown as Editor and is not concerned with publishing of the newspaper as is the case with Mr. Ramchandran.

Another objection of Akhil Bharatiya Samachar Patra Association is that Mr. Karandikar is also involved in other publication activities and detailed inquiry needs to be conducted. This submission is vague. It was for Akhil Bharatiya Samachar

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Patra Association to furnish material to substantiate its claim. It has not done that. It is not for the PCI to do a roving inquiry to find out whether Mr. Karandikar is involved in other publication activities.

Once Mr. Karandikar is nominated to the category of "Working Journalists who are Editors" as per law it is not necessary to go to the names suggested by the Akhil Bhartiya Samachar Patra Association.

Accordingly, Mr. Parag Karandikar is nominated to the category of "Working Journalists who are Editors of Newspapers". Secretariat shall process the matter further.

The Order be communicated to all concerned and put on the website of the Council.

*RP Desai*  
17.5.23

(Ranjana Prakash Desai)  
Chairperson