



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.3581 OF 2024

Smt Manjeet Kaur D/o Late Govind Singh Tak,
Aged about 47 years, Occupation-Legal Practitioner,
R/o Guru Nanak Nagar, Nava Nakasha,
Lashkaribagh, Nagpur

... Petitioner

-vs-

1. Bar Council of Maharashtra & Goa
Through Secretary, Bombay High Court Extension,
2nd floor, Fort, Mumbai

2. Bar Council of India
Through the Chairman
Adv. Ravi Prakash Jadhav, (S.C.B.A.)
(President, All India Federation of Advocates
and Associations)
21, Rouse Avenue, Institutional Area,
Near Bal Bhavan, Delhi.

... Respondents

Smt Manjeet Kaur, petitioner/Advocate in person.
Shri K. S. Narwade, Advocate for respondent No.1.

CORAM : NITIN W. SAMBRE AND MRS VRUSHALI V. JOSHI, JJ.

DATE : October 21, 2024

Oral Judgment : (Per : N. W. Sambre, J.)

1. Heard finally by consent.
2. The petitioner, a lawyer registered with the Bar Council of Chattisgarh received accordingly a Sanad on 05/05/2013, copy of which is produced at page 208 of the petition. Since the Sanad was issued after 2009-2010, the same is required to be verified pursuant to provisions of Rule 8.1, Chapter IV of the Bar Council of India, Notification dated 12/01/2015 which reads thus :

8.1 : An advocate graduating in law in academic year 2009-2010 (1st July, 2009 to 30th June, 2010) and thereafter, enrolled on the "Roll of Advocates" on or after June 12, 2010, is required

to apply for issuance of “Certificate of Practice” under All India Bar Examination Rules, 2010 and for verification of such “Certificate of Practice” from the State Bar Council in which he/she is enrolled as an advocate under Rule 9.

In this backdrop, the petitioner has prayed this Court for following relief :

(a) Direct the Respondent No.01 to provide the “Sanad” and “Enrollment No.MAD/167/2013” to the petitioner who are eligible “Other Senior Advocates” under section 16 of the Advocate Act, 1961 on the basis of her practices/ability and the Bar of Special Knowledge or experience of Law.

(b) Direct the Respondent No.01 and 02 to accept the form-E, in which to the “Other Senior Advocates” Section 16 of the Advocate Act 1961 on the basis of her practices/ability and the Bar of Special Knowledge or experience of Law.

Direct the “Administrative Committee”, the petitioner enrolled on the “Enrollment No.MAD/167/2013” in which “Object Petition” under Rule 14.6, Explanation, within 15 days.

3. The petitioner is claiming that she is entitled to be conferred with the designation of ‘Senior Advocate’ in lieu of she having completed 10 years practice pursuant to the registration referred above and the mandate provided under Article 51A of the Constitution of India. According to the petitioner, a female lawyer is entitled for such benefit as the petitioner cannot be treated unequally and the mandate under Article 51A contemplates fundamental duties to be discharged by the Authorities including that of the respondents.

4. As far as the aforesaid relief claimed in the petition is concerned, the counsel for the respondents would urge that the same cannot be granted as it is not within the purview of this Court. According to him, the issue is

squarely covered by the Division Bench Judgment of the Karnataka High Court in case of *T. N. Raghupathy & Ors. vs. High Court of Karnataka through its Registrar General and ors.* **2020 SCC OnLine Kar 93.**

5. We have appreciated the aforesaid submission.

The claim of the petitioner is for conferring designation of 'Senior Advocate' which powers are exclusively vested in the High Court.

The foremost authority on the designation of Senior Advocate is the Apex Court Judgment in the matter of *Indira Jaisingh vs. Supreme Court of India, Through Secretary General and ors.* **2017 9 SCC 766**, wherein the Supreme Court has laid down the guidelines which govern the designation of Senior Advocates by the Supreme Court and all High Courts in the country. In paragraphs 73 and 74 of the said judgment it is observed thus :

“ 73. *It is in the above backdrop that we proceed to venture into the exercise and lay down the following norms/guidelines which henceforth would govern the exercise of designation of Senior Advocates by the Supreme Court and all High Courts in the country. The norms/ guidelines, in existence, shall be suitably modified so as to be in accord with the present.*

73.1. *All matters relating to designation of Senior Advocates in the Supreme Court of India and in all the High Courts of the country shall be dealt with by a Permanent Committee to be known as “Committee for Designation of Senior Advocates”;*

73.2 *The Permanent Committee will be headed by the Hon’ble the Chief Justice of India and consist of two senior-most Judges of the Supreme Court of India (or High Court(s), as may be); the learned Attorney General for India (Advocate General of the State in case of a High Court) will be a Member of the Permanent Committee. The above four Members of the Permanent Committee will nominate another Member of the Bar to be the fifth Member of the Permanent Committee;*

73.3 *The said Committee shall have a permanent Secretariat the composition of which will be decided by the Chief Justice of India or the Chief Justices of the High Courts, as may be, in consultation with the other Members of the Permanent Committee;*

73.4 *All applications including written proposals by the Hon’ble Judges will be submitted to the Secretariat. On receipt*

of such applications or proposals from Hon'ble Judges, the Secretariat will compile the relevant data and information with regard to the reputation, conduct, integrity of the Advocate(s) concerned including his/her participation in pro-bono work; reported judgments in which the concerned Advocate(s) had appeared; the number of such judgments for the last five years. The source(s) from which information/data will be sought and collected by the Secretariat will be as decided by the Permanent Committee;

73.5 The Secretariat will publish the proposal of designation of a particular Advocate in the official website of the Court concerned inviting the suggestions/views of other stakeholders in the proposed designation;

73.6 After the database in terms of the above is compiled and all such information as may be specifically directed by the Permanent Committee to be obtained in respect of any particular candidate is collected, the Secretariat shall put up the case before the Permanent Committee for scrutiny;

73.7 The Permanent Committee will examine each case in the light of the data provided by the Secretariat of the Permanent Committee; interview the Advocate concerned; and make its overall assessment on the basis of a point-based format indicated below:

<i>Sr. No.</i>	<i>Matter</i>	<i>Points</i>
<i>1.</i>	<i>Number of years of practice of the Applicant Advocate from the date of enrolment.</i> <i>[10 points for 10-20 years of practice; 20 points for practice beyond 20 years]</i>	<i>20 points</i>
<i>2.</i>	<i>Judgments (Reported and unreported) which indicate the legal formulations advanced by the Advocate concerned in the course of the proceedings of the case; pro bono work done by the advocate concerned ; domain expertise of the applicant advocate in various branches of law, such as Constitutional law, Inter-State Water Disputes, Criminal law, Arbitration law, Corporate law, Family law, Human Rights, Public Interest Litigation, International law, law relating to women, etc.</i>	<i>40 points</i>
<i>3.</i>	<i>Publications by the applicant advocate</i>	<i>15 points</i>
<i>4.</i>	<i>Test of Personality and suitability on the basis of interview/interaction</i>	<i>25 points</i>

73.8 All the names that are listed before the Permanent Committee/cleared by the Permanent Committee will go to the Full court.

73.9 Voting by secret ballot will not normally be resorted to by the Full Court except when unavoidable. In the event of resort to secret ballot, decisions will be carried by a majority of the Judges who have chosen to exercise their preference/choice.

73.10 All cases that have not been favourably considered by the Full Court may be reviewed/reconsidered after expiry of a period of two years following the manner indicated above as if the proposal is being considered afresh;

73.11 In the event a Senior Advocate is guilty of conduct which according to the Full Court disentitles the Senior Advocate concerned to continue to be worthy of the designation, the Full Court may review its decision to designate the concerned person and recall the same;

74. We are not oblivious of the fact that the guidelines enumerated above may not be exhaustive of the matter and may require reconsideration by suitable additions/deletions in the light of the experience to be gained over a period of time. This is a course of action that we leave open for consideration by this Court at such point of time that the same becomes necessary.

6. Pursuant to paragraph 74, the Apex Court has revised the guidelines laid down in *Indira Jaising (2017) 9 SCC 766* in *Indira Jaising vs. Supreme Court of India (2023) 8 SCC 1*.

7. The Karnataka High court in *T. N. Raghupathy* (supra), in view of the law laid down in *Indira Jaising (2017) 9 SCC 766*, has summarized the procedure prescribed in the matter of designation of 'Senior Advocate'. Paragraph 151 is relevant which is reproduced as below :

“ 151. Now we summarise only some of the conclusions:

(a) The directions contained in paragraphs 73 to 73.11 of the Apex Court in the case of *Indira Jaising* (supra) are the directions issued in exercise of its power under [Article 142](#) of the Constitution of India and, therefore, the same are binding on all the High Courts;

(b) ... (c) ... c-(i)) ...

(d) The power to designate an Advocate as a Senior Advocate vests only in a Full Court of a High Court;

(e) The Chief Justice of High Court, the two senior most judges and the Advocate General of the State are ex-officio members of the Permanent committee and they cannot be replaced by anyone else, so long as the directions contained in Indira Jaising (supra) are not modified or amended;

(f) The function of the Permanent Committee Constituted by the High Court is firstly, to direct its Permanent Secretariat to collect certain information/data from certain sources about the Advocates who have applied for designation, if the Permanent Committee finds it necessary. The second function of the Permanent Committee is to examine each case in the light of the data complied by the Secretariat of the Permanent Committee, hold interactions/interviews with each candidates and to make overall assessment of all candidates by assigning points/marks out of 100, as provided in the table, forming a part of paragraph 73.7 of the directions issued by the Apex Court, The Apex Court has not conferred any specific power on the Permanent Committee to make any recommendation of any particular candidate. At highest, the points assigned by the Permanent Committee to the candidates will constitute its recommendation;

(g) The overall assessment made by the Permanent Committee in respect of every candidate shall be placed before the Full Court for decision, as the decision making authority vests in the Full Court;

(h) The Full Court is not bound by the overall assessment or points/marks assigned by the Permanent Committee. The Full Court may agree or may not agree or may partially agree with the overall assessment made by the Permanent Committee. The members of the Full Court can always ignore the point based overall assessment of the Permanent Committee and call for the records of each candidate and take appropriate decision;

(i) As per the directions of the Apex Court, the Permanent Committee is required to make a broad or overall assessment by assigning points out of 100. The exercise undertaken by the Permanent Committee cannot be treated as a conduct of an examination of the candidates or conduct of a selection process. The interview/interaction conducted by the Permanent Committee cannot be treated as a vivo voce conducted for the purposes of a selection process. The interview/interaction is not vitiated only because it is done for few minutes or only because few questions were asked during interaction;

(j) A writ Court, while exercising its power of judicial review under [Article 226](#) of the Constitution, cannot go into the correctness or merits of the marks or points assigned to the candidates unless the process is vitiated by gross illegality or proved bias or mala fides or the assessment is so arbitrary or capricious that no reasonable person can make such an assessment. The writ Court cannot sit over in appeal on the point based overall assessment made by the Permanent Committee;

(k) The decision of the Full Court on the question of granting designation or declining to grant designation is not taken in exercise of quasi judicial or judicial power. The Full Court is not supposed to conduct an examination of the candidates or to conduct a selection process. The decision of the Full Court is based on the formation of an opinion in accordance with sub-section (2) of [Section-16](#) of the Advocates Act, 1961 that by virtue of his ability, standing at the Bar or special knowledge or experience in law, a particular Advocate deserves designation. The formation of opinion must be based on materials. The Full Court is not bound to record reasons for grant of designation or for declining to grant designation;

(l) When a writ Court is called upon to exercise its power of judicial review under Article-226 of the Constitution of India against the decision of the Full Court, it cannot go into the merits of the decision and it can examine only the decision making process . Unless the decision is vitiated by gross illegality apparent on the face of the record or it is a case of established mala fides or established bias, a writ court cannot interfere. A writ Court can interfere when the decision is so capricious or arbitrary that no reasonable person can arrive at such a decision. The test is not what the Court considers reasonable or unreasonable. While exercising its power under Article-226, the High Court has to keep in mind that the decision is taken by the constitutional functionaries, namely, the Judges of the High Court. A writ Court cannot go into the adequacy of material before the Full Court;

*(m) ... (n) ... (o) ... (p) ... (q) ... (r) ... (s)
... (t) ... (u) ... (v) ...*

(w) We reject the contention that the directions issued by the Apex Court in the case of Indira Jaising (supra) are per incuriam. We hold that the directions of the Apex Court being issued in exercise of power under [Article 142](#) of the Constitution of India, no High Court can tinkle with any of the directions issued thereunder.”

8. Therefore, it is no more *res integra* that the power to designate an Advocate as a ‘Senior Advocate’ vests only in a Full Court of a High Court and the procedure laid down in both the aforesaid judgments of *Indira Jaising* (supra) has to be strictly complied with in conferment of such designation. The petitioner has not taken recourse to the said procedure which is prescribed in accordance with law.

9. In that view of the matter, the relief claimed cannot be granted. The petition is accordingly dismissed. No order as to costs.

(Mrs Vrushali V. Joshi, J.)

(Nitin W. Sambre, J.)