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Chhattisgarh High Court

Case No: Writ Petition (C) No. 4416 Of 2021

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| Badshah Prasad Singh (B.P.Singh) | APPELLANT |
| Vs | |
| High Court Of Chhattisgarh | RESPONDENT |

Date of Decision: Feb. 8, 2024

Acts Referred:

- Constitution of India, 1950 - Article 14, 32, 141, 226
- High Court of Chhattisgarh (Designation of Senior Advocates) Rules, 2018 - Rule 3, 4, 5, 5(i), 6, 7
- Advocates Act, 1961 - Section 16, 16(2), 35

Hon'ble Judges: Ramesh Sinha, CJ; Ravindra Kumar Agrawal, J

Bench: Division Bench

Advocate: Rajesh Kumar Kesharwani, Sumesh Bajaj, Shashank Thakur, Prasoon Bhaduri, Ghanshyam Patel, Aman Pandey, Navin Shukla, K.R.Nair, Sabyasachi Bhaduri, Pankaj Singh, Sourabh Sahu, Dhiraj Wankhede, Chandresh Shrivastava, Vikram Sharma, Kanwaljeet Singh Saini, Archi Agrawal, Atul Kumar Kesharwani, Anis Tiwari, Prateek Tiwari, Hariom Rai, Devershi Thakur

Final Decision: Dismissed

Judgement

Ramesh Sinha, CJ

1. Heard Mr.Rajesh Kumar Kesharwani, learned counsel for the petitioner. Also heard Mr.Sumesh Bajaj & Mr.Shashank Thakur, learned counsel for

respondent No.1, Mr.Prasoon Bhaduri & Mr.Ghanshyam Patel, learned counsel for respondent No.2, Mr.Aman Pandey, learned counsel for

respondent No.3, Mr.Navin Shukla, learned counsel for respondent No.4, Mr.K.R.Nair, learned counsel for respondent No.5, Mr.Sabyasachi Bhaduri

& Mr.Pankaj Singh, learned counsel for respondent No.6, Mr.Sourabh Sahu, learned counsel for respondent No.8, Mr.Dhiraj Wankhede, learned

counsel for respondent No.9, Mr.Chandresh Shrivastava & Mr.Vikram Sharma, learned counsel for respondent No.10, Mr.Kanwaljeet Singh Saini &

Ms.Archi Agrawal, learned counsel for respondent No.11, Mr.Atul Kumar Kesharwani, Mr.Anis Tiwari & Mr.Prateek Tiwari, learned counsel for

respondent No.12, Mr.Hariom Rai, learned counsel for respondent No.13 and Mr.Devershi Thakur, learned counsel for intervener-Mr.T.K.Tiwari.

2. By way of this writ petition, the petitioner has prayed for following reliefs:-

â€œ10.1 That this Honâ€™ble Court may kindly be pleased to set aside the notification no.5333/SCDSA/2021 dated 14.06.2021 (Annexure

P-3) in respect of R.2 to R.13 in the interest of justice.

10.2 That this Honâ€™ble Court may kindly be pleased to call for entire records pertaining to this petition.

10.3 That this Honâ€™ble Court may kindly be pleased to defer the status of the Designation of Senior Advocate i.e. for R.2 to R.13 until

the pendency of this petition in the interest of Justice.

10.4 That this Honâ€™ble Court may kindly be pleased to pass any other suitable order/orders, relief/reliefs which this Honâ€™ble Court

may find fit and proper in favour of the petitioner safeguarding his interest.â€

3. The respondents have filed preliminary objection with regard to maintainability of writ petition stating inter-alia that the petitioner has apparently

filed this writ petition in his personal capacity and not as a PIL. He has only challenged the notification designating the private respondents as Senior

Advocates. Even if the petitioner was to succeed, he having not claimed any relief for himself, the whole exercise would be academic and futile. Such

a petition is not maintainable in law. Designation of Senior Advocate is the prerogative and power of the High Court under Section 16(2) of the

Advocates Act read with Rule 3 & 7 of the High Court of Chhattisgarh (Designation of Senior Advocates) Rules, 2018 (hereinafter called as

â€˜Rules of 2018â€™). There is neither any fundamental nor legal right vested in any Advocate to be designated as Senior Advocate. Once there is

consideration by the designating authority in accordance with the procedure laid down and the decision is arrived, no further legal right accrues to

challenge the same.

4. It is further submitted that if the petitioner wishes to claim that the petitioner also deserves to be designated as Senior Advocate, this would also not

provide any cause of action to the petitioner to challenge the designation of private respondents as Senior Advocates because there is no inter-relation

between the designation of respondents No. 2 to 13 as Senior Advocate with the designation or non-designation as Senior Advocate of the petitioner.

It is also submitted that so far as the selection process is concerned, the petitioner has no right to challenge the same after taking part in the process,

therefore, the present writ petition may be dismissed on singular count that the petition as framed and filed by the petitioner is not maintainable for

want of locus standi of the petitioner. The petitioner has not challenged the recommendation of the committee and decision of respondent No.1 of not

finding the petitioner suitable for designation as Senior Advocate. Even assuming that the process and the decision is open to judicial review, it is

submitted that the petitioner cannot seek judicial review. The petition does not prima facie disclose any cause of action for entertaining the writ petition

and the same deserves to be dismissed in limine as not maintainable without entering to any further issues.

5. The issue which has been raised by the petitioner in this writ petition with respect to transparency in designation of Senior Advocates in the High

Court of Chhattisgarh and to give the sanctity, the matter requires consideration by this Court. Hence, the preliminary objection raised by respondents

No.2 to 13 is rejected. We proceed to hear the matter on merits.

6. Brief facts necessary for disposal of this writ petition are that respondent No.1-High Court of Chhattisgarh had invited applications for designation

of Senior Advocate as per the notification dated 08.04.2021. The petitioner has filled an application form for the same and later interview call letter

was issued to him and date of interview was scheduled to be held on 07.05.2021, but due to COVID- 19 situation, it was extended vide notification

dated 05.05.2021 and was finally held on 21.05.2021 during the pandemic situation. The petitioner has appeared in the interview and at the time of

applying for designation of Senior Advocate has supplied all the relevant documents along with various judgments as per requirement by the

committee. Vide notification dated 14.06.2021, selection list of designated Senior Advocates was published and then it came to the knowledge of the

petitioner that his name was not considered for designation of Senior Advocate and by applying pick and choose method, designation of various Senior

Advocates had been done in an arbitrary manner, which suffers from bias, favouritism and gross violation of settled legal principles of law.

7. The Committee constituted for designation of Senior Advocate has completely ignored the evaluating criteria for the said designation and was not

fair enough and from each step of the proceeding, only the principle of favouritism was adopted only to accommodate their preferred sonsâ€™ and

blood related advocates and their juniors and bypass the principle laid down in the matter of Indira Jaising v. Supreme Court of India reported in (2017)

9 SCC 766. The designation of Senior Advocate has now become an arbitrary practice by those in power and in the present case also, some persons

who were in power and were also a member of committee has been designated as Senior Advocate.

8. It is submission of the petitioner that designation of Senior Advocate shall not only be decided on some relations rather than profound domain

knowledge in the field of law as well as conduct outside the Court. The lawyers having domain expertise seem to be discriminated due to arbitrariness

of process for designation of Senior Advocate. It is pertinent to mention here that not only years of practice, but also having overall experience in all

the Courts, Tribunals, District Courts and overall knowledge of law shall be taken into consideration for designation of Senior Advocate.

9. The petitioner submits that there are Advocates including the present petitioner who are having PIL work experience and overall domain knowledge

at Bar have not been considered by the committee due to arbitrariness of the Committee. Some Advocates who were also working in Advocate

General office were also in the Committee which was not earlier notified as the present Advocate General was also designated as Senior Advocate.

Some relatives and kith and kin of the Committee who are blood relatives of Committee member have also been designated as Senior Advocates

which clearly shows the arbitrariness of the Committee and how prejudice the Committee was that they could not appoint another member for

interview of the blood relatives and juniors of the committee member. There are some designated Senior Advocates who have been earlier deferred

by the Collegium of the Supreme Court to be appointed as High Court Judge, but those designated senior members have been now selected due to

arbitrariness and favouritism of the committee member.

10. It is humble submission of the petitioner that the petitioner via RTI has asked for the process of designation of Senior Advocate of selected

designated member, which was rejected by respondent No.1. It is submitted that if the post is open to the Bar for the designation of Senior Advocates

based on relevant years of practice and fulfilling other criteria, then why those documents cannot be termed as public documents.

11. It is pertinent to mention that neither any resolution of corrigendum was passed by the Committee to substitute Advocate General who was then

sitting member for other candidates and during his time of interview any person or even the Additional Advocate General can sit on his behalf which

clearly shows that the office of the Advocate General and Committee members were indulged in gross abuse of power of office of the Advocate

General and Committee and thus, the notification for designation of Senior Advocate prima facie and per se is illegal, unconstitutional and suffers from

favouritism and also bypasses the intention of the Hon'ble Supreme Court to remove favouritism from the legal fraternity.

12. The petitioner filed a representation for Demand of Justice dated 16.09.2021 before then Hon'ble Acting Chief Justice of High Court of

Chhattisgarh, but till date no any decision is being taken, which amounts to miscarriage of justice and also the failure of justice to fair and just

appointment of Senior Advocates. The petitioner has filed an application on 07.09.2021 to obtain the copy of proceedings, but the same has been

denied stating that it cannot be provided, which shows the adamant view taken by respondent No.1 because of the reason that the applications were

called for by respondent No.1 and then the Advocates concerned have applied for the same and then interview letter was issued for the said purpose

and all the information comes under the public domain because it was published officially in the website of this Court and thus all the documents and

proceedings come under the criteria of public documents, but even then the same was not provided to the petitioner which shows the inaction and

illegality committed by the Committee constituted for the said purpose. The petitioner humbly submits that arbitrariness, bias, nepotism, illegal,

unconstitutional process for designation of Senior Advocate and publication of list based on the same process is clear violation of Article 14 as

enshrined in the Constitution of India. Hence, this petition.

13. Mr.Rajesh Kumar Kesharwani, learned counsel for the petitioner submits that action of the Committee constituted for designation of Senior

Advocate is arbitrary, illegal, unconstitutional and thus, the same is liable to be set aside. The petitioner has filed an application on 7.9.2021 to obtain

the copies of proceedings, but the same was denied stating that it cannot be provided which shows the adamant view taken by respondent No.1

because of the reason that the applications were called for by respondent No.1 and then the advocates concerned have applied for the same and then

interview letter was issued for the said purpose and all the information comes under the public domain because it was published officially in the

website of this Court and thus, all the documents and proceedings come under the criteria of public documents, but even then the same was not

provided to the petitioner which shows the inaction and illegality committed by the Committee constituted for the said purpose. Moreover, the

petitioner was applied for certain information and documents on 29.09.2021 and finally the same was rejected by respondent No.1, thereby the foul

play is being played by the Committee in the said process and serious illegality has been committed by them with an ulterior motive for accommodating

their relatives, Kith and kin and juniors. He further submits that designation of Senior Advocate is Pious Process and looking to the conduct of the

Advocate concerned inside and outside the Court, designation of Senior Advocate is conferred to them and if it is found that the integrity of the

Advocate concerned is doubtful, the same cannot be considered for designation of Senior Advocate, but in the present case, the Committee

constituted for designation of Senior Advocate has completely ignored the evaluating criteria for the said designation. The Committee constituted for

that purpose was not fair enough and from each step of the proceeding only the principle of favouritism was adopted. He also submits that designation

of Senior Advocate shall not only be decided on some relations rather than profound domain knowledge in the field of law as well as conduct inside

and outside the Court. The lawyers having domain expertise seem to be discriminated due to arbitrariness of the process for designation of Senior

Advocate. He contended that if the designation of Senior Advocate is based on relevant years of practice and fulfilling other criteria, then why those

documents cannot be termed as public documents. Some of the designated Senior Advocates are not competent to argue the matter before this Court

as well other forums and their confidential reports are very bad, even then the committee accommodated those Advocates which shows favouritism

towards them. He lastly contended that arbitrariness, bias, nepotism, illegal and unconstitutional process for designation of Senior Advocate and

publication of list based on the same process is clear violation of Article 14 as enshrined in the Constitution of India. As such, the writ petition

deserves to be allowed and the impugned notification dated 14.06.2021 (Annexure P-3) in respect of respondents No.2 to 13 deserves to be set aside.

He would rely upon the judgments of the Supreme Court in the matters of A.K.Kraipak and others v. Union of India and others reported in AIR 1970

SC 150 (para-15), IL and FS Tamil Nadu Power Company Limited v. T. Muruganandam reported in AIRONLINE 2023 SC 123 (para-9), Madan Lal

and others v. State of J & K and others reported in (1995) 3 SCC 486 (paras 9 & 14), Dr (Major) Meeta Sahai v. State of Bihar and others reported

in (2019) 20 SCC 17 (paras-15 to 19), Uma Nath Pandey and others v. State of Uttar Pradesh and another reported in (2009) 12 SCC 40 (paras 13 to

15), Rattan Lal Sharma v. Managing Committee, Dr Hari Ram (Co-Education) Higher Secondary School and others reported in (1993) 4 SCC 10

(paras 10 to 12) and Union of India and others v. Ram Lakhan Sharma reported in (2018) 7 SCC 670.

14. Mr.Devershi Thakur, learned counsel appearing for intervener- T.K.Tiwari, submits that the grievance of the applicant-intervener is similar, as the

applicant is also the regular practitioner of this Court who had also submitted an application to be designated as Senior Advocate on the basis of

requisite experience and other criteria fixed as per the rules framed by this Court i.e. HIGH COURT OF CHHATTISGARH (DESIGNATION OF

SENIOR ADVOCATE) RULES 2018. Rule 4 of the Rules of 2018 provides motion for designation as Senior Advocate which states as under:-

â€œ4. Motion for designation as Senior Advocate:-

(i) Designation of an advocate as Senior Advocate by the High Court of Chhattisgarh be considered on the written proposal made by:

(a) the Chief Justice or any sitting Judge of the High Court of Chhattisgarh; or

(b) the Advocate General of the State of Chhattisgarh; or

(c) three Senior Advocates of the High Court of Chhattisgarh;

Provided that every such proposal shall be made, as far as possible, in Form No.1 of Appendix â€˜Aâ€™ appended to these Rules and shall carry a

written consent of the Advocate concerned to be designated as Senior Advocate.

(ii) Designation of an Advocate as Senior Advocate by the High Court of Chhattisgarh may also be considered on the written application of the

Advocate concerned that shall be made, as far as possible, in Form No.2 of Appendix â€˜Aâ€™ appended to these Rules.

(iii) Along with the proposal or application, as the case may be, the Advocate concerned shall append his certificate that he has not applied to any

other High Court for being designated as Senior Advocate and that his application has not been rejected by the High Court within a period of two

years prior to the date of the proposal or application.â€

Rule 5 of the Rules of 2018 provides Permanent Committee for Designation of Senior Advocate:-

â€œ5 Permanent Committee for Designation of Senior Advocate:-

(i) All the matters relating to designation of senior advocate in the High Court of Chhattisgarh shall be dealt with by a permanent committee (to be

known as â€œcommitteeâ€ for designation of senior advocateâ€) which will be headed by the Chief Justice and consist of:-

a) To senior most sitting judges of the High Court of Chhattisgarh.

b) The Advocate General of State of Chhattisgarh; and

c) A member of Bar to be nominated by other members in the first meeting of the committee.

(ii) The committee constituted under sub rule 1 above shall have secretariat, the composition of which will be decided by the Chief Justice of the High

Court of Chhattisgarh in consultation with other members of the committee.

(iii) The committee may issue such directions from time to time as deemed necessary as regards functioning of the secretariat, including the manner in

which, and the sources from which, the necessary data and information are to be collected, complied and presented.â€

Rule 6 of the Rules of 2018 provides the procedure for designation:-

â€œ6 Procedure for designation:-

(i) All the application and written proposals for designation of an Advocate as Senior Advocate shall be submitted to the Secretariat.

(ii) On receipt of any application or proposal for designation of an Advocate as Senior Advocate, the Secretariat shall compile the relevant data and

information with regard to the reputation, conduct, integrity of the Advocate concerned including his participation in pro-bono work; reported judgment

for the last five years in which the concerned Advocate has appeared and actually argued.

(iii) the Secretariat will publish the application/proposal for designation of a particular Advocate as Senior Advocate in the official website of High

Court of Chhattisgarh, inviting the suggestions/views of other stakeholders in the proposed designation within such time as may be directed by the

Committee.

(iv) After the data-base in terms of above is complied and all such information as may be specifically directed by the Committee to be obtained in

respect of any particular candidate is collected; and the suggestions/views of the other stakeholders have been received, the Secretariat shall put up

the case before the Committee for scrutiny.

(v) Upon submission of the case by the Secretariat, the Committee shall examine the same in the light of the data provided and shall interview the

concerned Advocate; and shall, thereafter, make its overall assessment on the basis of the point-based format provided in Appendix â€˜Bâ€™

appended to these Rules.

(vi) After the overall assessment by the Committee, all the names before it will be submitted to the Full Court along with the assessment report.

(vii) Voting by secret ballot will not be normally resorted to in the Full Court except when unavoidable. In the event of resort to secret ballot, decision

will be carried by a majority of the Judges who have chosen to exercise their preference/choice.

(viii) On the approval of the Full Court, An advocate shall be designated as Senior Advocate.â€

He further submits that Conduct of Advocates has been defined in Section 35 of the Act of 1961 which states as under:-

â€œ35. Punishment of Advocates for misconduct.-(1) Where on receipt of a complaint or otherwise a State Bar Council has reason to believe

that any advocate on its roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee.

(1A) The State Bar Council may, either of its own motion or on application made to it by any person interested, withdraw a proceeding pending before

its disciplinary committee and direct the inquiry to be made by any other disciplinary committee of that State Bar Council.

(2) The disciplinary committee of a State Bar Council shall fix a date for the hearing of the case and shall cause a notice thereof to be given to the

advocate concerned and to the Advocate-General of the State.

(3) The disciplinary committee of a State Bar Council after giving the advocate concerned and the Advocate-General an opportunity of being heard,

may make any of the following orders, namely:--

(a) dismiss the complaint or, where the proceedings were initiated at the instance of the State Bar Council, direct that the proceedings be filed;

(b) reprimand the advocate;

(c) suspend the advocate from practice for such period as it may deem fit;

(d) remove the name of the advocate from the State roll of advocates.

(4) Where an advocate is suspended from practice under clause (c) of sub-section (3), he shall, during the period of suspension, be debarred from

practising in any court or before any authority or person in India.

(5) Where any notice is issued to the Advocate-General under sub-section (2), the Advocate-General may appear before the disciplinary committee of

the State Bar Council either in person or through any advocate appearing on his behalf.â€

15. He also submits that application for misconduct was pending before the State Bar Council against respondent No.10, which was challenged by him

in writ petition through Advocate Dr.Nirmal Shukla, who was also a member of the Committee, against which also, an application for misconduct was

pending before the State Bar Council. He contended that the conduct of the Permanent Committee itself is contrary to the settled principle of law

because whenever the relatives of one of the member of the Permanent Committee were candidate, then he should not be the member of the

Permanent Committee. So the process adopted by the Permanent Committee regarding designation of Senior Advocate itself is questionable and the

list of designated Senior Advocates Annexure P-3 dated 14.06.2021 deserves to be set aside. He further contended that the extension of time for

submitting application time to time after 1st publication of the notice regarding inviting applications by the committee is questionable and prima-facie

evident that the Permanent Committee had exercised its power contrary to the object of the Rules of 2018. Respondent No.10 was himself a

candidate who had submitted an application for designation as Senior Advocate, then how he could be the member of the Permanent Committee. He

has also been designated as Senior Advocate. He also contended that respondent No.2 has admitted in para 8 of his reply that he himself was one of

the member of the Permanent Committee for designation of Senior Advocate. Further he himself has admitted that he was one of the applicant for

designation of Senior Advocate though he had tried to justify that when his name was taken into consideration, he himself has withdrawn from the

Permanent Committee. If this statement is considered, then all process relating to designation of Senior Advocate is null and void. Thus, designation of

respondent No.10 and all others deserves to be set aside. He lastly contended that respondent No.10 has stated regarding the points, which were to be

given to the applicants who had submitted an application for designation of Senior Advocate. The conduct of the Permanent Committee is very

objectionable as well as questionable because most of the respondents had submitted the applications after intentionally extended time period and they

are designated as Senior Advocates. As such, his application may be allowed and the applicant/intervener may be permitted to assist this Court in the

present petition as petitioner in the interest of justice.

16. On the other hand, Mr.Sumesh Bajaj & Mr.Shashank Thakur, learned counsel for respondent No.1 submits that the allegations made by the

petitioner are absolutely vague involving disputed questions of fact which cannot be decided in writ jurisdiction under Article 226 of the Constitution of

India which is discretionary and equitable. The suitability of an Advocate for designation as Senior Advocate cannot be judged by the candidate

himself; it is always subjective satisfaction of the Committee. There is a Permanent Selection Committee manned by Advocate General and other

members headed by Honâ€™ble the Chief Justice and above all, there is a Full Court of the High Court which ultimately decides the matter. The

decision of the Permanent Selection Committee is based on consensus of the Committee so also the decision of the Full Court. They further submit

that the provisions contained in Section 16 of the Act of 1961 deals with Senior and other Advocates. Sub-section (2) of Section 16 of the Act of 1961

states as under:-

â€œ(2) An advocate may, with his consent, be designated as senior advocate if the Supreme Court or a High Court is of opinion that by virtue of his

ability, standing at the Bar of special knowledge or experience in law he is deserving of such distinction.â€

They also submits that the Rules of 2018 for designation of Senior Advocate have been framed in accordance with the provisions as contained in

Section 16 of the Act of 1961. In fact, for purposes of judging the suitability and worthiness of an Advocate transparent numerical assessment method

has been prescribed. There are 75 marks allocated on documents to judge his knowledge in various disciplines of law, standing at the Bar and

publications and only 25 marks in the interview to judge his personality and suitability and objective method of assessment for an advocate to be

designated as Senior Advocate. They contended that on receipt of the applications, the Secretariat processes them in accordance with the Rules of

2018. Thereafter, the Committee constituted under Rule 5(i) examines the matter in light of data provided and calls the applicants for interview on the

date fixed and interviews the eligible candidates and makes independent overall assessment of the individual candidate on the basis of the point-based

data provided for the purpose and it is on overall assessment by the Committee that the names listed before it are submitted to the Full Court along

with the assessment report and the Full Court of the High Court then, by majority, on scrutiny of the documents finalizes the matter. Thus, the process

of selection for designation as Senior Advocates is full transparent and there is hardly any scope for arbitrariness or favouritism at any level. They

further contended that the date of interview scheduled to be held on 7.5.2021 had to be postponed but because of widespread pandemic, Bilaspur was

declared as containment Zone and resultantly, the High Court suspended its normal functioning and switched over to minimal functioning from

14.4.2021 and the respondent could not make arrangements as per â€˜Covid appropriate behaviourâ€™ because of the pandemic. Ultimately,

interview was scheduled for 21.5.2021, after making fresh arrangements, for which notices were given to one and all. In addition, the

advocates/applicants were also informed telephonically about the date of interview. Surprisingly, the petitioner questioned this part of the process as

favouritism. Furthermore, the fact that the petitioner duly attended the interview dated 21.05.2021 cannot be lost sight of while attending the

allegations levelled by the petitioner in this regard. Similarly, one stray allegation levelled by the petitioner related to procedural irregularity is that the

cut-off date was extended in an arbitrary manner and which creates serious doubts on the conduct of the Committee. In this regard, it is submitted

that this allegation is baseless and the correct fact is that as the applications of the learned Advocates kept pouring in and it was not practically

possible to consider an application which would have been received just prior to the interview date, therefore, respondent No.1 issued a notice on

11.05.2021 stating that the applications would be considered drawing a cut-off date till December 31st to be processed in the first quarter of the next

year. Thus, this so-called extension had nothing to do with the present process in question and the allegation of the petitioner in this regard is not

maintainable. They also contended that marks were allocated on number of years of practice (20), judgment reported and unreported, domain

expertise of the advocate in various branches of law such as Constitutional law, Criminal Law, Arbitration, Corporate Law, Family Law, Human

rights, PIL, International Law, Law relating to women, Customary Laws in the State pro-bono work, etc. (40), publication by the Advocate-applicant

(15) and Test of personality and suitability of the candidate on the basis of interview/interaction (25). The overall assessment of an individual-applicant

was accordingly done by the Permanent Committee and then the matter was placed before the Full Court of the High Court for consideration. Having

perused all the documents and the assessment done by the Permanent Committee, the Full Court took a final decision in the matter and approved the

names of the advocates for designation as Senior Advocates and the notification in this behalf was issued on 14.06.2021. They submit that if any

applicant appeared for interview having relationship with or association with or once a junior of any of the Members on the Committee, the particular

member left the Board or recused himself from the process on-spot leaving other members of the Committee to decide. To illustrate, the A Shri

dvocate General himself was a candidate in the interview, when his turn came, he left the Board and other members of the Committee took a decision

about him. Thus, the interview was conducted fairly, keeping in view the principles of natural justice and fair play. There was no scope for any

favouritism in any manner whatsoever. This could have been the most transparent and apt mode and conduct in the given scenario as the marks were

awarded on average basis and therefore all the aspiring candidates, successful or unsuccessful, remained on the same pedestal and were evaluated on

equal parameters. They further submit that the Advocate General is the Ex-officio Member on the Permanent Committee constituted for the purpose

of designation of Senior Advocate in the High Court under the Rules of 2018 and therefore, in such a case, the doctrine of necessity would apply. But,

then he did not participate in the proceeding when his turn came for consideration. The other four members, as per constitution of the Committee,

considered his candidature for designation. In the case of selection by a High Power Permanent Committee chaired by Honâ€™ble the Chief Justice

& other two Honâ€™ble Senior Judges of the High Court, frivolous and generalised allegations or apprehension of bias, favouritism or arbitrariness

are to be brushed aside. Mere allegations of bias, arbitrariness or favouritism are not enough. The petitioner is under an obligation to place the material

on record. In fact, there should be specific pleading regarding the person against whom such allegation has been made and how he was in a position to

dominate others in their decision. There is nothing on record in this behalf and such allegations are just to be rejected with admonition. They relied

upon the judgments of the Supreme Court in the matters of Ashok Kumar Yadav v. State of Haryana reported in AIR 1987 SC 454 and Chandra

Prakash Singh v. Purvanchal Gramin Banik reported in (2008) 12 SCC 292. As such, the writ petition deserves to be dismissed.

17. Mr. Prasoon Bhaduri and Mr.Ghanshyam Patel, learned counsel appearing for respondent No.2 rely upon the order passed by the Honâ€™ble

Supreme Court on 02.09.2022 in Patitapaban Panda v. Orissa High Court represented through its Registrar General & Ors. (writ petition (s) Civil)

No.390/2022) likewise same facts and circumstances, there also the allegation was of the same nature, in which it has been observed by the

Honâ€™ble Supreme Court as under:-

â€œIt is submitted that the details of these 40 Advocates ought to have been placed before the Full Court and the final call had to be taken by the Full

Court, which requirement was not fulfilled in the instant case.

3. Mr.Sibo Sankar Mishra, learned Advocate appearing for the Orissa High Court, has invited our attention to the affidavit in reply filed on behalf of

the Orissa High Court, in which it is categorically asserted that the names of all persons, including those who were not recommended to be designated,

were also considered by the Full Court before the final resolution was adopted by the Full Court.

4. In the circumstances, we see no reason to entertain this writ petition. The writ petition is dismissed.â€

They submit that this is an order under Article 32 of the Constitution of India and is binding to this Court under Article 141 of the Constitution of India.

They further submit that interview call letter of the petitioner is very much on record of the writ petition itself, so his all credentials were before the

Committee, the Screening Committee and the Full Court also. They adopted the reply of respondent No.1 and submit that the judgment relied upon by

them i.e.Patitapaban Panda (supra) is completely covered the issue.

18. Mr.Chandresh Shrivastava, learned counsel appearing for respondent No.10 submits that the Permanent Committee for designation of Senior

Advocates was constituted for Chhattisgarh High Court comprising (1) Honâ€™ble the Chief Justice of High Court, (2) Honâ€™ble Shri Justice

â€œAâ€, (3) Honâ€™ble Shri Justice â€œBâ€ and (4) Shri Satish Chandra Verma, Advocate General were members and said 4 members

enumerated Senior Advocate Dr.Nirmal Shukla as 5th Member of that Committee. He further submits that respondent No.10 who is also Advocate

General of the State was also one of the applicant for designation of Senior Advocate. At the time when his name was being considered by the

Permanent Committee, he himself had withdrawn from the said Committee. He also submits that serious allegations are made against the Committee

without disclosing the name and relation. Since respondent No.10 is also one of the member of the Permanent Committee and the witness of the entire

recommendation process and therefore, he submits that the entire process was fair, which is evident from the fact that Honâ€™ble Shri Justice

â€œBâ€ had withdrawn from the selection process while names of Shri Ashish Shrivastava, Shri Rajeev Shrivastava and Shri Abhishek Sinha were

under consideration. Similarly, Honâ€™ble Shri Justice â€œAâ€ withdrawn himself from the selection process when name of Shri Vivek Ranjan

Tiwari was under consideration and respondent No.10 himself had withdrawn from the Committee when his name was under consideration. Since the

points assigned to the candidates are assigned on the basis of average points calculated for him/her, therefore, the element of bias has no role to play

and all designations have been considered by the Full Court and the Full Court resolved to designate the status of Senior Advocate to these persons.

He contended that the petitioner has not brought the entire facts before this Court in the correct prospect. Whatever the learned counsel for the

interverner is stating it is stating on oral instructions. He himself was a party on 17.07.2020 and the entire case has already been quashed by this Court

in WPC No.1084 of 2020 and after that this designation procedure has been completed. All the allegations which the intervener is making here have

not been disclosed before this Court in writ petition. He further contended that with regard to maintainability of this writ petition as well as the

application for intervention itself, both these things are not maintainable. From the very first day, they were aware of the Rules of 2018. Sections 4, 5

and 6 of the Rules 2018 specifically provide who all are the members of that particular committee, they all were aware of the fact that who are

participants in that entire selection process and they participated in entire proceedings and these Rules itself are not under challenge. He also

contended that the petitioner has filed transfer petition before the Honâ€™ble Supreme Court making certain allegations regarding this petition itself

and the Honâ€™ble Supreme Court has dismissed that transfer petition with cost of Rs.25,000/-. As such, the writ petition and intervention application

deserve to be dismissed

19. We have heard learned counsel for the parties and perused the records with utmost circumspection.

20. From perusal of the records, it transpires that the Rules of 2018 for designation as Senior Advocate have been framed in accordance with the

provisions contained in Section 16 of the Act. There are 75 marks allocated on documents to judge his knowledge in various disciplines of law,

standing at the Bar and publications and only 25 marks in the interview to judge his personality and suitability on the basis of interview. On receipt of

the applications, the Secretariat processes them in accordance with the Rules of 2018. Thereafter, the Committee constituted under Rule 5(i)

examines the matter in light of data provided and calls the applicants for interview on the date fixed and interviews the eligible candidates and marks

independent overall assessment of the individual candidate on the basis of the point-based data provided for the purpose. It is on overall assessment by

the Committee that the names listed before it are submitted to the Full Court along with the assessment report and the Full Court of the High Court,

then by majority, on scrutiny of the documents finalizes the matter. Thus, the process of selection for designation of Senior Advocate is fully

transparent and there is hardly any scope for arbitrariness or favouritism at any level. It also transpires from the record that if any applicant appeared

for interview having relationship with or association with or once a junior of any of the members on the Committee, the particular member left the

Board or recused himself from the process on-spot leaving other members of the Committee to decide. The Advocate General himself was a

candidate in the interview, but when his turn came, he left the Board and other members of the Committee took a decision about him. Thus, the

interview was conducted fairly, keeping in view the principles of natural justice and fair play. There was no scope for any favouritism in any manner

whatsoever. It also transpires from the record that the Advocate General is the Ex-officio Member of the Permanent Committee constituted for the

purpose of designation of Senior Advocate in the High Court under the Rules of 2018, but he did not participate in the proceeding when his turn came

for consideration and other four members, as per constitution of the Committee, considered his candidature for designation. Mere allegations of bias,

arbitrariness or favouritism are not enough. The petitioner is under obligation to place the material on record. In fact, there should be specific pleading

regarding the person against whom such allegation has been made and how he was in a position to dominate others in their selection. There is nothing

on record in this behalf and such allegations deserve to be rejected. The names of all persons, including those who were not recommended to be

designated, were also considered by the Full Court before the final resolution was adopted by the Full Court. Serious allegations are made against the

Committee without disclosing the name and relation. Respondent No.10 is also one of the member of the Permanent Committee and the witness of the

recommendation process and entire process was fair which is evident from the fact that Honâ€™ble Justice â€œBâ€ had withdrawn from the

selection process while names of Shri Ashish Shrivastava, Shri Rajeev Shrivastava and Shri Abhishek Sinha were under consideration. Similarly,

Honâ€™ble Shri Justice â€œAâ€ withdrawn himself from the selection process when name of Shri Vivek Ranjan Tiwari was under consideration and

respondent No.10 himself had withdrawn from the Committee when his name was under consideration. Since the points assigned to the candidates

are assigned on the basis of average points calculated for him/her, therefore, the element of bias has no role to play and all designations have been

considered by the Full Court of High Court of Chhattisgarh and resolved to designate the status of Senior Advocate to these persons.

21. So far as the contention of the petitioner with regard to non-supply of documents under the RTI by the Public Information Officer (hereinafter

called as â€˜PIOâ€™) of the High Court is concerned, it is evident that the same has been rejected vide order dated 05.10.2021 on the ground that

internal working papers would not serve any larger public interest in view of Central Information Commission Ruling CIC/SM/A/2013/ 000740/SS

dated 20.03.2014. The appeal filed by the petitioner against the said order was partly allowed to the extent that the PIO will provide only the copy of

the Rules of 2018, as per Rules. Thereafter, the second appeal preferred by the petitioner before the State Information Commission has been filed i.e.

closed by the Commission vide order dated 26.10.2022.

22. In the present case, the petitioner has raised serious doubts regarding selection process and transparency in designation of Senior Advocate by the

Permanent Committee levelling allegations of arbitrariness, bias, nepotism, illegal and unconstitutional process and he is also aggrieved with the

process of the Permanent Committee as some documents which he had demanded, have not been supplied to him by the respondent No.1. In this

regard, it would be appropriate to mention here that this Court, without drawing any adverse inference against the Permanent Committee for

designation of Senior Advocate, as an abundant caution and to consider the apprehension raised by the petitioner with respect to non-compliance of

the established procedure, we have also gone through the minutes of the meeting of the Permanent Committee for designation of Senior Advocate i.e.

respondents No.2 to 13 and find that all the Rules of 2018 for designation of Senior Advocate were strictly adhered to by the Permanent Committee of

the High Court and allegations levelled by the petitioner against the said Committee is absolutely baseless and wholly unwarranted and has no legs to

stand.

23. The judgments cited by the learned counsel for the petitioner are not helpful to the petitioner and are distinguishable to the facts of the present

case.

24. Considering the submissions advanced by the learned counsel for the parties, also considering the reply filed by respondent No.1-High Court of

Chahttisgarh, further considering the Rules of 2018, particularly Rule 5 and 6 and considering the documents and material placed before them, also

considering the reply filed by other private respondents and the material available on record, we do no not find any merit in this writ petition.

25. Accordingly, the writ petition being devoid of merit is liable to be and is hereby dismissed. No cost(s).

26. Before parting with the case, the Court would like to observe that in future, in order to bring more transparency in the process of designation of

Senior Advocate, in case it is found in the Permanent Committee of the High Court that the Advocate General is also one of the candidate for being

designated as Senior Advocate, then in that circumstances, the High Court would ensure that appropriate steps are taken and in place of the Advocate

General, any other person who may be deemed fit be a member of the Permanent Committee and in this regard, if the Rules of 2018 requires any

modification, suitable measures be taken by the High Court / respondent No.1.