

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 745 OF 2018

GOPAL JHA

.....APPELLANT(S)

VERSUS

THE HON'BLE SUPREME COURT OF
INDIA

.....RESPONDENT(S)

W I T H

WRIT PETITION (CIVIL) NO. 772 OF 2018

WRIT PETITION (CIVIL) NO. 844 OF 2018

WRIT PETITION (CIVIL) NO. 917 OF 2018

WRIT PETITION (CIVIL) NO. 854 OF 2018

WRIT PETITION (CIVIL) NO. 975 OF 2018

WRIT PETITION (CIVIL) NO. 947 OF 2018

WRIT PETITION (CIVIL) NO. 941 OF 2018

WRIT PETITION (CIVIL) NO. 998 OF 2018

WRIT PETITION (CIVIL) NO. 997 OF 2018

WRIT PETITION (CIVIL) NO. 1063 OF 2018

WRIT PETITION (CIVIL) NO. 1058 OF 2018

A N D

J U D G M E N T

A.K. SIKRI, J.

The petitioners in these writ petitions are the practicing advocates who also claim that they are regularly practicing and appearing in the Supreme Court. Some of them are advocates on record (AOR), while others do not fall under this category. They are not designated senior advocates either and, therefore, can be put in the category of 'other advocates'/'non-advocate on record'. All these petitioners are desirous of getting a chamber in the Lawyers Chamber Block in the Supreme Court.

- 2) This Court, on administrative side, has framed Supreme Court Lawyers' Chambers (Allotment and Occupancy) Rules (hereinafter referred to as the 'Chamber Allotment Rules') which govern the procedure for allotment of chambers within the compound of Supreme Court. These rules lay down the eligibility criteria for allotment of chambers. In accordance with these rules, the Hon'ble Chief Justice of India (CJI) has also constituted the Judges' Allotment Committee. It comprises of Hon'ble Judges of

this Court, nominated by CJI. There is another Committee as well, which is headed by the Attorney General for India and office bearer of the Supreme Court Bar Association (SCBA) as well as Supreme Court Advocate on Record Association (SCAORA). On the basis of recommendations of the Allotment Committee(s), the CJI ordinarily allots chambers to the advocates.

- 3) In the year 1995, a recommendation was made by the Allotment Committee for allotment of chambers to AOR, non-advocates on record (other advocates) and senior advocates in the ratio of 7:2:1. This recommendation was accepted by the CJI on August 29, 1995. Since then, allotment is made in the aforesaid ratio to the aforesaid three categories of advocates.
- 4) Relevant Chamber Allotment Rules, with which we are concerned in these petitions, may be reproduced below:

“2. Allotment of Chambers shall be made by a Committee appointed by the Chief Justice of India and all such allotments shall be subject to the approval of the Chief Justice of India.

3. Allotment shall be made to such advocates of the Supreme Court as are members of the Supreme Court Bar Association who regularly practice in the Supreme Court and who reside in Delhi or New Delhi.

4. Allotment of chambers to applicants, who are members of the Supreme Court Bar Association, shall

be made in the following order:

- (i) Advocates-on-Record who are regularly practising in this Court;
- (ii) Non Advocates-on-Record resident in Delhi/New Delhi and who are mainly and regularly practising in this Court; and
- (iii) Senior Advocates resident in Delhi/New Delhi and who are mainly and regularly practising in this Court.

Provided, however, that allotment shall be made in accordance with the roster maintained in the following order:

The first four vacancies be allotted to Advocates-on-Record, the fifth vacancy to the Non Advocates-on-record, sixth, seventh and eighth vacancies to Advocates-on-Record, ninth vacancy to the Non Advocates-on-Record and tenth vacancy to Senior Advocates and the cycle shall be repeated in the above order.

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18. The Chief Justice may in his discretion cancel any allotment where an allottee infringes any condition of allotment or violates any rule governing the allotment or for any other reason.

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20. The allotment shall terminate:

- (a) On its cancellation by the Chief Justice of India; or
- (b) On its surrender by the allottee concerned; or
- (c) On the allottee failing to pay the licence fee and other charges for the two successive months; or
- (d) On the allottee ceasing to be a member of the

Supreme Court Bar Association; or

(e) On the allottee's name being removed from the Roll of a State Bar Council; or

(f) On an allottee of a chamber not complying with the orders of the Allotment Committee, as approved by the Hon'ble Chief Justice of India; or

(g) On the death of an allottee; or

(h) On the allottee being elevated to the Bench of the High Court/Supreme Court.

Provided, however, that the allottees' name shall be put first in the respective category of the waiting list, if such member on his/her retirement joins back the practice and is made active member of Supreme Court Bar Association on his/her application for allotment.

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23. The Chief Justice of India may from time to time make such amendments and additions to these Rules as may be necessary and expedient.

24. If any question arises as to the interpretation of these Rules, the decision of the Chief Justice of India shall be final."

- 5) It may be mentioned that the allotment to these chambers is made on the availability thereof and, at that time, applications for allotment of chambers are invited. This exercise was conducted last time in the year 2004. Thereafter, i.e. after a gap of thirteen years, the Supreme Court invited applications for allotment of Lawyers' chambers on October 31, 2017 and May 16, 2018 vide

Notice inviting applications where eligibility criteria was also stipulated. In the notice dated October 31, 2017, following eligibility criteria was mentioned:

“Online Applications are hereby invited from Senior Advocates, Advocates-on-Record who are members of the Supreme Court Bar Association and fulfill the following eligibility criteria for updating the existing Panels for allotment of Lawyers Chambers:

1. SENIOR ADVOCATES

(a) Who are mainly and regularly practising in the Supreme Court.

(b) Who must have minimum of 50 appearances (Admission and regular hearing matters excluding I.A.s/Cr.M.P.s) each year for any two consecutive years between 01.06.2011 and 30.06.2016. (Registrar's Court Appearance shall not be taken into consideration).

(c) Subject to the above two requirements being complied with, the allotment shall be made based on priority of the date of their being designated as Senior Advocate.

2. ADVOCATES-ON-RECORD

(a) Who must have filed (or entered appearances on behalf of respondents) on an average 20 cases per annum (i.e. admission/regular matters and not I.A.s/Cr.M.P.s and Government Filing) in the course of any two consecutive years between 01.06.2011 and 30.06.2016 (a batch of cases shall be treated as a single case).

(b) Subject to the above requirements being complied with, the allotment shall be made according to the date of seniority i.e. the date of registration as AOR.

3. JUNIOR ADVOCATE (NON ADVOCATE-ON-RECORD)

(a) Who are mainly and regularly practising in the Supreme Court.

(b) Who must have put in not less than fifty appearances (Admission and regular hearing matters excluding I.As. and Cr.M.Ps.) each year for any two consecutive years between 01.06.2011 and 30.06.2016.

(c) Subject to the above two requirements being complied with, the seniority of such persons shall be based on the date of their present admission to the active membership of the Supreme Court Bar Association.”

- 6) As is clear from the above, one of the eligibility conditions for AOR was filing of twenty cases per annum in the course of any two consecutive years between June 01, 2011 to June 30, 2016 and for other advocates, 50 appearances each year for any two consecutive years between June 01, 2011 to June 30, 2016. Further, as far as seniority is concerned, in respect of AOR, it was to be from the date of registration as AOR. For other advocates, seniority is to be based on the date of their admission to the active membership of SCBA. For senior advocates, allotment is to be made on priority on the date of their being designated as senior advocates.
- 7) Some advocates including the petitioners herein felt aggrieved by

one or the other eligibility conditions, depending upon the category in which they fall. They sent representations to SCBA as well as Secretary General, Supreme Court of India, requesting for change of criteria for eligibility of allotment of chambers. Specific grievance was with respect to the fixation of block period between June 01, 2011 to June 30, 2016 for which the requirement of filing and/or appearance has to be fulfilled. As per the petitioners, the matter was dealt with by the Chamber Allotment Committee headed by the Attorney General and some amendments were carried out. On that basis, SCBA issued circular for its members on March 15, 2018 mentioning the changes, accepted by the Chamber Allotment Committee. This circular reads as under:

“The Letter dated 09.01.2018 was discussed at length in today’s Chambers Allotment Committee Meeting and the recommendations made therein have been accepted by the Committee to the extent detailed below:

(i) Calendar Year now will be January to December instead of June to May.

(ii) The period of eligibility for filing/appearances shall be from 01.01.2004 to 31st December 2017 (Two consecutive years).

(iii) Self Attested proceedings print out from the website i.e. www.sci.gov.in shall be sufficient compliance for consideration for Chambers Allotment, instead of certified copy.

(iv) Self Attested proceedings shall be filed along with prescribed notarized format (Registry shall inform the format in due course).

(v) Complete set of application in physical form be submitted in the Registry besides online applications which may be submitted by the applicants, if they so opt.

(vi) Filing of Government cases is also included as eligibility criteria for Central Government as well as State Government Standing Counsels.

(vii) Interlocutory Application (I.A.) or Criminal Misc. Petitions (Crl.M.P.) are also included towards appearance as well as filing, as the case may be.

(viii) Further, in case of Company of two or more AORs, all AOR partners will separately be entitled for allotment of Chambers with separate set of cases (with the consent of other partners that they shall not use the same set of cases for their individual allotment).

(ix) Members who were Voters of SCBA from 2012 till the last election i.e. December, 2017, based on B.D. Kaushik's Judgments passed by the Hon'ble Supreme Court of India, shall also be entitled to apply for Chambers Allotment (in any year within the above mentioned period).

(x) Fresh Vakalatnama after obtaining NOC from the previous/earlier AOR shall also be counted separately for the subsequent AOR.

(xi) Filing of Caveat is not to be counted.

(xii) The use of word "Junior Advocate" for Non AOR shall not be used in any proceeding/notification. Categories may be referred to as "Senior Advocate", "Advocate on Record" and "Advocate".

(xiii) Further time has been extended for submission of applications for Chambers Allotment till 30th April

2018. (Notification shall be issued in due course).

(xiv) Appearance before Mediation Committee shall not be counted."

- 8) However, the opinion of the Judges' Allotment Committee was at variance with some of the aforesaid suggestion. It was considered at the appropriate level and a decision was taken.
- 9) Thereafter, revised notice dated May 16, 2018 was issued by the Administration General Branch of the Supreme Court for inviting applications for allotment of Lawyers Chambers and the eligibility criteria for three category of advocates was stated in the following terms:

"1. SENIOR ADVOCATES

(a) Who are mainly and regularly practising in the Supreme Court.

(b) Who must have minimum of 50 appearances (Admission and regular hearing matters excluding I.A.s/Cr.M.P.s save and except interim applications in Public Interest Litigations which are *substantive applications and decided by the Court and such petitions like Special Leave Petitions filed with applications for condonation of delay and listed in Court with Diary Number and disposed of with diary number by the Court) each year either for any two consecutive years between 01.06.2011 and 30.06.2016 or for any two non-consecutive years between 01.06.2011 and 30.06.2016 provided the Advocate/Applicant concerned availing the option of appearances during two non-consecutive years has been on the Voters' list of Supreme Court Bar Association for the entire block period. (Registrar's

Court Appearance shall not be taken into consideration).

(c) Subject to the above two requirements being complied with, the allotment shall be made based on priority of the date of their being designated as Senior Advocate.

2. ADVOCATES-ON-RECORD

(a) Who must have filed (or entered appearances on behalf of respondents) on an average 20 cases per annum (i.e. admission/regular matters and not I.A.s/Cr.M.Ps and Government Filing save and except interim applications in Public Interest Litigations which are *substantive applications and decided by the Court and such petitions like Special Leave Petitions filed with applications for condonation of delay and listed in Court with Diary Number and disposed of with diary number by the Court) each year for any two consecutive years between 01.06.2011 and 30.06.2016 or for any two non-consecutive years between 01.06.2011 and 30.06.2016 provided the Advocate/Applicant concerned availing the option of filing during two non-consecutive years has been on the Voters' list of Supreme Court Bar Association for the entire block period (a batch of cases shall be treated as a single case).

(b) Subject to the above requirements being complied with, the allotment shall be made according to the date of seniority i.e. the date of registration as AOR.

3. NON-ADVOCATE-ON-RECORD

(a) Who are mainly and regularly practising in the Supreme Court.

(b) Who must have put in not less than fifty appearances (Admission and regular hearing matters excluding I.As. and Cr.M.Ps. save and except interim applications in Public Interest Litigations which are *substantive applications and decided by the Court and such petitions like Special Leave Petitions filed

with applications for condonation of delay and listed in Court with Diary Number and disposed of with diary number by the Court) each year either for any two consecutive years between 01.06.2011 and 30.06.2016 or for any two non-consecutive years between 01.06.2011 and 30.06.2016 provided the Advocate/Applicant concerned availing the option of appearances during two non-consecutive years has been on the Voters' list of Supreme Court Bar Association for the entire block period.

(c) Subject to the above two requirements being complied with, the seniority of such persons shall be based on the date of their present admission to the active membership of the Supreme Court Bar Association.

*(For illustration, substantive applications may be referred to such interim applications by the project proponent or the applicant itself as are filed in Public Interest Litigation entitled 'T.N. Godavarman Thirumalpad v. Union of India & Ors.' and decided by the Court as Such)"

- 10) As demand of the advocates, particularly with respect to block period was not met, the SCBA took up the matter again by addressing communication dated July 18, 2018 to CJI wherein it was stated that following provisions pertaining to allotment of chambers were not incorporated in the notice dated May 16, 2018 which was issued for inviting applications for allotment of chambers:

"1. Eligibility of Advocates who had requisite number of filing/appearances from Calendar year January – December 2004 to December 2017 instead of May 2011 to June 2016.

2. Requisite Calendar year shall be 1st January to 31st December instead of filing/appearance year 1st July to 30th June.

3. Number of filing by Advocates-on-Record of Government/State Cases shall be counted for the purpose of eligibility criteria.

4. Non-Advocates-On-Record satisfying the appearances criteria, becoming Advocates-On-Record in 2016 onwards not satisfying the filing criteria in less than 2 years, be included in the panel of Advocates-On-Record in order of their seniority as Advocate-On-Record.

5. Similarly, AORs and Non-AORs subsequently designated as Senior Advocates from 2016 onwards, satisfying the eligibility norms as Advocates-On-Record/Non Advocates-On-Record be included in the panel of Senior Advocates in chronology of being designated as Senior Advocate.”

11) Some of the petitioners herein also made representations to the Supreme Court raising their specific grievances *qua* the aforesaid notice dated May 16, 2018. As per them, since their grievance have not been redressed, these petitions have been filed.

12) At this stage, we may mention in tabular form, the grievances, which are made by each of the petitioners in these writ petitions:

Sl. No.	Cause Title	Relief Sought
1	Gopal Jha, WP(C) No. 745/2018	Change of block period from 01.06.2011-30.06.2016 to 01.01.2005 to 17.10.2017/16.05.2018.
2	Anirudh Sanganeria, WP(C) No. 772/2018	Calendar year to be taken as January-December instead of June

		to June and the cut-off period of eligibility for filing appearances to be modified to 31.12.2017 instead of 30.06.2016.
3	Kumar Ranjan, WP(C) No. 854/2018	Change of block period from 01.06.2011-30.06.2016 to 01.01.2005 to 31.12.2017.
4	V. Shyam Mohan, WP(C) No. 844/2018	Challenged Clause 3 of the Lawyers Chambers (Allotment and Occupancy) Rules as it violates of Article 14, 19(1)(c) and Article 19(1)(g) as it mandates that applicant should be a member of SCBA.
5	Sahdev Singh, WP(C) No. 941 of 2018	Take into consideration period from 01.01.2004 – 31.05.2011 in the Block Period.
6	Shirin Khajuria, WP(C) No. 917/2018	(i) AOR should be permitted to apply in the category of Non-AOR. (ii) Third category to be renamed as Advocate.
7	V. Mohana, WP(C) No. 997/2018	Extend cut-off date from 31.06.2016 and in the alternative quash notice dated 16.05.2018, on the ground that Clause 3B is violative of Article 14 and 19.
8	R.K. Singh, WP(C) No. 975/2018	Block date to be taken as 01.01.2004 – 31.12.2017
9	Jaikriti S. Jadeja & Ors., WP(C) No. 947/2018	Cut-off period be extended till 31.12.2017.
10	M.R. Shamshad, WP(C) No. 998/2018	Quashing of Condition 2(a) of revised notice inviting applications for allotment of Lawyers Chambers dated 16.05.2018.
11	Vikram Gulati, WP(C) No. 1063/2018	(i) Change of block period from 01.06.2011-30.06.2016 to 01.01.2004 to 31.12.2017. (ii) To not insist on the condition of his name being on voters list of SCBA and to include NCR to the place of residence. (iii) Calendar year to be from

		January to December instead of June to May and the cut-off period be extended till 31.12.2017.
12	Divyesh Pratap Singh, WP(C) No. 1058/2018	Cut-off period be extended till 30.08.2018.

13) From the aforesaid, it can be seen that following issues have been raised in these writ petitions:

(i) Change of Block Period: Notice dated May 16, 2018 mentions the block period from June 01, 2011 to June 30, 2016. Different petitioners have suggested different block periods which are: (a) block period should be January 01, 2005 to October 17, 2017/May 16, 2018; (b) January 01, 2005 to December 31, 2017; (c) Period from January 01, 2004 to May 31, 2011 should also be taken into consideration; and (d) January 01, 2004 to December 31, 2017.

(ii) Calendar year mentioned in notice dated May 16, 2018 is from June to June. The suggestion is that it should be taken as January to December.

(iii) Clause 3 of the Allotment Rules as per which allotment can be made to those advocates only who are members of SCBA is challenged *inter alia* by contending that apart from SCBA, there is an association of AOR as well, known as SCAORA and it should be sufficient when a person is a member of SCAORA.

(iv) Requirement of minimum filings of AOR and appearances by senior advocates and other advocates is also questioned.

Main contention in this behalf is that, in the year 2004, when the applications were invited, the requirement was different and it should not be changed.

(v) An incidental issue is also raised as to whether Supreme Court should invite the applications for allotment of chambers by issuing specific notices from time to time or it should be a continuous process.

- 14) Notices in these petitions were issued. Registrar, Supreme Court of India has filed reply affidavits in some of these writ petitions which cover all the issues raised. It is, *inter alia*, stated that Chamber Allotment Committee consisting of the learned Attorney General for India, as a Chairman and the Presidents, Vice-Presidents and Hony. Secretaries of SCBA and SCAORA as Members, in its meeting held on November 18, 2015, approved the draft notification inviting applications for empanelment of lawyers for allotment of chambers vide Agenda Item No. 10. Vide this resolution, it was, *inter alia*, agreed that the block period should be from January 01, 2009 to December 31, 2014. Soon after the aforesaid recommendations, a number of

letters/representations from the advocates were received by the Registry praying for change in the block period. The Chamber Allotment Committee headed by the learned Attorney General for India again convened a meeting on May 11, 2016 and after consideration, the requests of the advocates vide Agenda Item No. 2, *inter alia*, resolved in connection with the block period as under:

“The Committee perused the aforesaid letters vis-a-vis the Office Report and resolved that since the year 2015 has already gone by, the earlier approved Block Period (01.01.2009 to 31.12.2014) may now be changed to new Block Period (01.01.2010 to 31.12.2015) so that more and more eligible Advocates may apply.”

- 15) The aforementioned recommendations were placed for approval and orders before the Hon'ble Judges Committee for approving allotment of Lawyers Chambers and thereafter, were also placed before the CJI. The comments made by the Registry in this regard were also placed before the Hon'ble Judges Committee on July 11, 2016. Considering the comments made by the Registry that chambers in Pragati Maidan will be available sometime in the end of 2017 and if block period is confined to the year 2015 as resolved by the Chamber Allotment committee headed by the learned Attorney General for India, advocates who may complete

minimum number of appearances after 2015 may not apply for allotment and, therefore, it was submitted for consideration, if the block period should be upto December 31, 2015 or June 30, 2016 or some other dates.

- 16) The Hon'ble Judges Committee, *inter alia*, recommended that the block period may be changed so as to make it from June 01, 2011 to June 30, 2016. The same was also approved by the then CJI vide order dated July 28, 2016. Accordingly, notification dated October 31, 2017 inviting online application for empanelment of Lawyers for allotment of chambers was issued.
- 17) Since, representations were received against this notification also from certain advocates and even SCBA. These representations were placed before Chamber Allotment Committee headed by the learned Attorney General for India in its meeting dated March 15, 2018 wherein recommendation was made, as already noted above. It was placed before the Judges Committee on March 27, 2018. The Judges Committee, however, did not accept the same in its entirety. The earlier block period already notified i.e. June 01, 2011 to June 30, 2016 was recommended to be retained as unaltered while some of the recommendations were accepted.

However, before the aforesaid recommendation of the Judges Committee could be considered by the CJI, the SCBA again reiterated its request. Because of this reason, Judges Committee again assembled on May 9, 2018 wherein hearing was given to the President and Hony. Secretary of SCBA. The Judges Committee, however, did not agree to change the block period, but recommended the following changes:

“In addition to the requirement of having minimum number of filings and or appearances in two consecutive years in the block period of five preceding years, an applicant who otherwise fulfills the criteria of requisite number of filings and or appearances even in two non-consecutive years in the block period of preceding five years shall also be eligible provided he was on the voters’ list of Supreme Court Bar Association for the entire block period of five years.”

“...that such petitions which are disposed of with diary number by the Court may also be reckoned for computing the requisite number of filings and or appearances.”

“...that interim applications in Public Interest Litigations which are substantive applications and decided by the Court as such shall also be counted towards the requisite number of filings and or appearances.”

- 18) This led to the issuance of the revised notice dated May 16, 2018. SCBA made another representation dated July 18, 2018. In the meantime, certain writ petitions were also filed in which notice was issued. Accordingly, Judges Committee resolved in its

meeting held on July 30, 2018 as under:

“The Committee understands that the issue regarding allotment of chambers is pending consideration before the Bench presided over by Hon’ble Mr. Justice A.K. Sikri. Following order was passed by the Bench today:-

‘Issue notice, returnable in two weeks.

Dasti, in addition, is also permitted.

The respondents shall endeavour to file their reply before the next day of hearing.

We are informed that 31.07.2018 is the last date for making application for allotment of chambers. The petitioners herein may make their applications which may be received/accepted provisionally and kept separately.’

In the circumstances, the Committee feels it would be inappropriate to deal with the matter till the pending matter is disposed of on the judicial side.”

19) On one hearing, when the matters came up before the Court, Mr. Maninder Singh, learned ASG, appearing for the Supreme Court, made a statement that he along with President, SCBA and office bearers of SCAORA would deliberate on the issues raised and shall try to arrive at a consensus.

20) When the matters were taken up on October 4, 2018, the learned ASG submitted note proposing the solution to the various issues. The suggestion given in the said 'Note' are as under:

“1. ...
(i) The consideration of the request for allotment of

chambers to the members of SCBA belonging to the above mentioned all the 3 categories should be for all those who fulfil individual respective criteria in the above mentioned 3 categories by **30th September, 2018.**

(ii) In other words, any member advocate, who fulfils the requirement of 50 appearances per year by 30th September, 2018, would become entitled for submitting an application for allotment of chamber to the Registry of the Supreme Court and every such application shall be accepted. The Registry would consider a period of 730 days (a continuous period of 2 years) at any time before 30th September, 2018 and on being satisfied of the fulfilment of the relevant criteria, shall accept the application for consideration of allotment of chamber.

2. Similarly, for all Member AORs who wish to submit their application by 30.9.2018 would be required to fulfil minimum of 20 filings or 50 appearances in a period of one year for two years, would have to satisfy the Registry of minimum 40 filings or 100 appearances in a period of 730 days of any period as on 30th September, 2018. Such applications would also be accepted by the Registry of the Supreme Court for allotment of chambers. It is clarified that the submission of application for allotment of chamber by a member of the SCBA can be on any of the criteria for eligibility chosen by the concerned member. In that, notwithstanding that the member is an AOR or a designated Sr. Advocate, the application for allotment of chamber can be submitted on any of the criteria, namely, criteria of eligibility for non-AOR, criteria for eligibility of AOR and criteria for eligibility of a Sr. Advocate. However, the allotment of chamber to any such member shall be from the quota of 7:10 or 2:10 or 1:10, as the case may be, on the basis of the status held by the member in presenti.

3. Similarly, this cut-off date of 30.9.2018 would apply to the category of Member Senior Advocates for applying, with the criteria for that category.

4. This cut-off date of 30.9.2018 shall be subject to

any modification which may be made by the Hon'ble Supreme Court, either in the hearing scheduled for 20.9.2018 or any date thereafter. In other words, the last cut-off date proposed as 30.9.2018 would get substituted by the date so decided by the Supreme Court. The period of 730 days for fulfilment of the eligibility criteria in the above mentioned separate categories of advocates shall be counted from the last cut-off date in 2004 till 30th September, 2018 or any other date which may be decided by the Supreme Court.

5. It is the firm suggestion on behalf of the SCBA that the process for lodging/submitting applications for allotment of chambers by Members of SCBA, in any of the above mentioned 3 categories, should be a continuous process, i.e., whenever any member of the SCBA belonging to any of the 3 categories fulfils the requirement of the criteria prescribed for becoming eligible for consideration for allotment of chamber by the Supreme Court, his/her application shall be accepted by the Registry. This would completely eliminate the uncertainty with regard to opening of the period for inviting such applications. The procedure/mechanism of accepting applications throughout the year, on continuous basis, is the norm which is being followed almost in every High Court. Adoption of such a mechanism/methodology of such a process to remain operative continuously would be beneficial to the members of the SCBA and would also remove possible anomalies and irritants in this entire process.

6. Insofar as the AORs are concerned who have acted as AOR for any State Government etc., filing for the respective State Government would also be taken towards fulfilment of the criteria for 20 filings annually.

7. Similarly, all those Member Advocates (Non-AORs), who have remained with Government Panels, their appearances in the Government matters would also be counted for the fulfilment of eligibility of 50 appearances in a year for becoming eligible for allotment of chambers.

In both these cases, filings for the Government and/or appearances for the Government, filing of IAs and appearances in IAs shall not be counted. Similarly, appearances before the Ld. Registrar or before the Hon'ble Chamber Judge would also not be counted.

8. In relation to all those Member Advocates who have already lodged/submitted their applications for allotment of chambers as advocate (Non-AOR) on the basis of the criteria of 50 appearances in a given year for 2 years and have now qualified in the AOR examination, they shall be held to be eligible for allotment of chambers in the AOR category and the allotment of chamber in their favour shall be only from the quota of 7:10 chambers meant for the AOR quota.

9. Similarly, all those Member Advocates who had submitted their applications for allotment of chambers at an earlier occasion, either in the category of AOR or in the category of Advocate (Non-AOR) and have been subsequently designated as Senior Advocates, they shall be held to be eligible for allotment of chamber on those basis – 1:10 quota chambers for Senior Advocates and shall be considered accordingly. Any allotment of chamber to them will have to be allotment from the quota of 1:10 in the Senior Advocates category, even when their eligibility for consideration for allotment of chambers had been achieved either as an AOR or as an advocate member of the SCBA in the non-AOR category.”

21) Insofar as challenge to Rule 3 of the Allotment Rules, namely, pre-condition of being a member of SCBA before consideration of allotment of chambers in any of the three categories is concerned, it is pleaded that the same be retained as, according to them, there is no merit in the said contention.

22) After hearing the counsel for the parties as well as Mr. Maninder

Singh, learned ASG and Mr. Vikas Singh, President, SCBA, we deem it appropriate to accept the suggestions contained in Paras 1, 2, 3 and 6 to 9 of the aforesaid 'Note' of suggestions.

23) This leaves us to decide the following issues:

- (a) Change of block period.
- (b) Validity of condition of membership of SCBA contained in Rule 3 of the Allotment Rules.
- (c) Validity of condition of resident of an advocate in Delhi/New Delhi contained in Rule 3.

24) Change of Block Period: We have already accepted the suggestions 1, 2 and 3 of the Note. The paragraph 4 of the Note, however, mentions that period of 730 days for fulfillment of the eligibility criteria shall be counted from the last cut-off date in 2004 till September 30, 2018. This suggestion cannot be accepted as it is way too off the mark and may have no connection with the active practice requirement of an advocate, having proximity with the date when the applications for allotment are invited. It hardly needs to be emphasised that pre-requisite for allotment of chamber is that the concerned advocate should be in active practice. That is why the eligibility criteria for member advocates

is the requirement of 50 appearances per year in the block year; for AORs, it is minimum of 20 filings or 50 appearances in a period of one year for two years and minimum 40 filings or 100 appearances in a period of 730 days. However, if the cut-off date starts from the year 2004, this purpose may be lost in many cases, resulting in allotting the chambers to those who may be non-active as of today. There may be cases where a non-AOR or AOR may fulfil conditions of appearances/filing in first 730 days starting from the year 2004 i.e. during the year 2004-2005 and thereafter he may not have any appearances or filings, or such appearances/filings may be negligible. Still he/she would become entitled to allotment of chamber. This would bring in such advocates who may not be in active practice in recent past. Such a situation cannot be countenanced. We, therefore, find rationale in the decision taken by the Judges' Allotment Committee for fixing the block period from June 01, 2011 to June 30, 2016 as contained in the revised notice dated May 16, 2018 viz. fixing the block period which is proximate to the notice for making application for the allotment. Therefore, starting of cut-off date from the year 2004 is unacceptable.

25) Since, sometime has elapsed when the block period was fixed by

the Judges' Allotment Committee and we have extended the date for making application, the only modification which can be done is to put the block period from October 01, 2013 to September 30, 2018. It is during this period the applicant shall have to satisfy the criteria and appearances or filing as indicated above.

26) We are also not accepting the suggestion given in Para 5 of the Note that the allotment of chambers should be a continuous process. There has been a consistent practice in the past of inviting applications from time to time whenever lawyers' chambers become available for allotment. It should be maintained as there is no reason to depart from the same. Otherwise, the purpose of fixing proximate block period shall also get defeated. At the same time, we also find that last such applications were invited in the year 2004 and considerable period has lapsed thereafter. Therefore, in order to ensure that such situation does not occur in future, we are of the opinion that Notice inviting such applications should be at least once in three years.

27) Validity of Rule 3 of the Allotment Rules: As per this rule, the membership of SCBA is essential to apply for allotment of

chambers. Those petitioners who have challenged the validity of this rule submit that this eligibility criteria is discriminatory and violates the fundamental rights guaranteed to them under Articles 14, 19(1)(c) and 19(1)(g) of the Constitution. Expanding this argument, Mr. Gopal Sankaranarayanan, who appeared for writ petitioner in Writ Petition (Civil) No. 844 of 2018 submitted that SCAORA is also a represented body like SCBA and, therefore, membership of anyone of these bodies should be enough for making a person eligible to be considered for allotment of chambers. It was argued that SCAORA was also a vibrant body which was formed for the welfare of AOR. Therefore, the measure in the allotment of Lawyers' Chambers Rules that restricts eligibility for allotment of chambers to members of the SCBA and excludes those who are members only of the SCAORA is manifestly arbitrary. Reliance is placed in this regard on the judgment of this Court in ***Shayara Bano v. Union of India***¹, where it was held as follows:

“87. The thread of reasonableness runs through the entire fundamental rights chapter. What is manifestly arbitrary is obviously unreasonable and being contrary to the rule of law, would violate Article 14. Further, there is an apparent contradiction in the three-Judge Bench decision in *McDowell [State of A.P. v. McDowell and Co., (1996) 3 SCC 709]* when it is said that a

¹ (2017) 9 SCC 1

constitutional challenge can succeed on the ground that a law is “disproportionate, excessive or unreasonable”, yet such challenge would fail on the very ground of the law being “unreasonable, unnecessary or unwarranted”. The arbitrariness doctrine when applied to legislation obviously would not involve the latter challenge but would only involve a law being disproportionate, excessive or otherwise being manifestly unreasonable. All the aforesaid grounds, therefore, do not seek to differentiate between State action in its various forms, all of which are interdicted if they fall foul of the fundamental rights guaranteed to persons and citizens in Part III of the Constitution.”

28) According to the petitioners, this provision violates Article 14 as well as it created unreasonable classification. The consequences of this unreasonable classification would be as follows:

(i) As a result of the judgment of this Court in ***Supreme Court Bar Association & Ors. v. B.D. Kaushik***², only certain members of the SCBA are permitted to vote in elections, as they are treated as serious and regular practitioners in the Supreme Court. However, Rule 3 of the Allotment of Lawyers’ Chamber Rules makes no such distinction and, therefore, those members of the SCBA who are ineligible to vote in their own association are eligible to be allotted chambers of the Supreme Court.

(ii) If an SCBA member were to be expelled for any reason, for example, if an SCBA member did not participate in the call for an

² (2011) 13 SCC 774

illegal strike by the SCBA on the grounds that it would be contrary to the judgment of a Constitution Bench of this Court in ***Ex-Capt. Harish Uppal v. Union of India & Anr.***³, such a member would be ineligible to apply for a chamber in the Supreme Court, whose very judgment he/she has sought to adhere to.

(iii) The petitioners have contended that the allocation of chambers is a privilege afforded by the Supreme Court of India to those advocates practicing before it. When both the SCBA and the SCAORA have been recognised as advocates' associations of equal importance, it would be inappropriate to extend such a privilege only to the members of one association and not the other.

- 29) It was also submitted that such a classification that excludes the association of those advocates as prescribed under Article 145(1) (a) of the Constitution of India read with the Supreme Court Rules, 2013 is unreasonable and has no rational nexus with the object sought to be achieved, i.e., the allotment of chambers to the regular practitioners of the Supreme Court. Mr. Sankaranarayanan went to the extent of contending that given the role of AOR in the administration of justice by the Supreme Court,

³ (2003) 2 SCC 45

it was more important in nature than even SCBA. It was submitted that AOR are given pre-eminence position as they:

- (i) Undertake an examination administered by the Supreme Court;
- (ii) Are the only advocates authorised to act on behalf of a client in the Supreme Court;
- (iii) Adhere to strict stipulations regarding office location, maintenance of accounts and filing of returns, unlike any other class of advocates.
- (iv) Are recognized as such by judgments of this Court from 1964 onwards. This is even acknowledged by the Chamber Allotment Rules which earmarks nearly 70% of the chambers of the AOR.

30) He further argued that the impugned Rule amounts to a compulsion for AOR to become a member of the SCBA, which would make an inroad into the rights under Article 19(1)(c) of the Constitution of India, of such advocates who are already members of SCAORA by compelling them unreasonably to become members of another Court-affiliated organization.

31) Mr. Vikas Singh, learned senior counsel, who appeared in the

capacity as President of SCBA as well as Mr. Maninder Singh, learned ASG defended Rule 3 of the Allotment Rules. It was submitted that SCBA is an umbrella association which represents the interests of all its members. Membership of SCBA was open to all advocates, irrespective of their category, namely, senior advocates, advocates, AOR as well as other advocates. It was also argued that as a representative body for all the members, it is SCBA which has discussions with the CJI and/or Judges on various issues and problems which may occur from time to time, to find mutual acceptable solution to such problems and issues.

- 32) It was further argued that this fact of SCBA, being an umbrella association, was even recognised by SCAORA itself which was reflected in the Rules and Regulations of SCAORA. Attention was drawn, in this behalf, to Rule 4 of the said Rules and Regulations which deals with admission and qualification for membership and prescribes that in order to become a member of SCAORA, it is necessary to have the membership of SCBA.

Relevant portion of this Rule reads as under:

“4. ...

A. An advocate may be considered for enrolment as Member of the Association if -

(i) he is an Advocate-on-Record and Member of the Supreme Court Bar Association.

(ii) he undertake to subscribe to the objects of the Association and abide by the rules and regulations framed by the Association from time to time; and

(iii) he is considered suitable for Membership by the Executive Committee.”

33) Based on the aforesaid provisions, they argued that AOR cannot be a member of SCAORA unless he is a member of SCBA and, therefore, entire issue raised by the petitioners was academic in nature, since the contention of the petitioners proceeds on the basis that insofar as AOR is concerned, membership of SCAORA should be sufficient.

34) It was also submitted that nobody has any right to get allotment of chamber, much less a fundamental right and, therefore, the petitioners cannot invoke the provisions of Articles 14, 19(1)(c) and 19(1)(g) of the Constitution. Mr. Vikas Singh, in support, relied upon the judgment of this Court in ***Vinay Balachandra Joshi v. Registrar General, Supreme Court of India & Ors.***⁴. It was a matter pertaining to allotment of chambers within the compound of the Supreme Court itself. One of the contentions of the petitioners therein was that not making available chambers to the AOR within the Supreme Court compound is violative of

⁴ (1998) 7 SCC 461

fundamental right under Article 19(1)(g) of the Constitution and this contention was rejected in the following manner:

“4. We will first deal with the contention raised by the petitioners in Writ Petitions Nos. 883 and 1223 of 1990, that not making available chambers to the Advocates-on-Record within the Supreme Court compound is violative of their fundamental right under Article 19(1)(g) of the Constitution. It was submitted that Article 19(1)(g) guarantees, inter alia, the right to practise any profession. Practising legal profession is thus a fundamental right. An Advocate-on-Record can exercise this fundamental right of his effectively only if he is provided with a chamber within the Supreme Court premises. Therefore, to make a chamber available to him is an integral part of his guaranteed fundamental right. We see no substance in this contention. Even if we proceed on the basis that to practise as an advocate is a fundamental right, no right to be allotted a chamber within the Court premises follows from it. A legal practitioner/an advocate can carry on his legal profession without a chamber. It is not necessary that he should have a chamber within the Court premises. That which merely facilitates the exercise of the fundamental right cannot be regarded as an integral part of that fundamental right. Far from being a fundamental right it does not even have the status of a right. No law confers such a right on a member of a legal profession nor such a facility has been accepted as a right even otherwise. Making a chamber available to a member of the legal profession practising in a court of law is really a facility provided to him by the Court. This is the true nature and character of the claim made by the Advocates-on-Record, not giving a chamber to him cannot be regarded as violative of Article 19(1)(g) of the Constitution. It may be stated that neither the learned Attorney General nor Mr Nariman, Mr Venugopal and other Senior Advocates supported this contention and very fairly stated that the view which we are taking namely that it is a facility provided by the Court is the correct view.

5. As it is not a matter of right or legal obligation of the

Court to provide the facility of a chamber to an advocate it would really be a matter of discretion of the Principal Judge of the Court to decide to whom and to what extent that facility should be extended when the same is available; and his only obligation would be to act in a fair and just manner and not arbitrarily. It may be proper for him to frame rules, appoint a committee and fix guidelines for the purpose of allotment of chambers; but the obligation is no higher than to act in a reasonable manner. It would be for him to decide when, to whom, to what extent and on what terms and conditions he should allot chambers.”

- 35) Having regard to the existence of Rule 4 in the Rules and Regulations of SCAORA itself, the entire edifice of the petitioners case stands demolished. No doubt, SCAORA has its significant position in this Court. However, we are concerned with the issue of allotment of chambers. The petitioners have submitted that members of SCAORA should be treated as sufficient eligibility for allotment of chambers. Yet, in order to become a member of SCAORA, as per Rule 4 of the Rules and Regulations of SCAORA itself, an advocate has to be the member of SCBA. Therefore, unless an advocate is an AOR and also a member of SCBA, he cannot become the member of SCAORA. This requirement itself accepts the position that SCBA is an umbrella organisation and also recognises the vital role it plays. Thus, the argument based on Article 14 of the Constitution would be of no avail.

36) The respondents are also correct in their submission that there is no fundamental right or any statutory right for allotment of chambers in any court premises. This aspect has already been decided in **Vinay Balachandra Joshi**, relevant discussion whereof has been reproduced above. Further, in the counter affidavit filed on behalf of respondent No. 1, significance of membership of SCBA is highlighted in order to avail various facilities. It is, *inter alia*, stated that facilities like Library, Parking, Canteen, Medical etc. become available only to the members of the Bar Association of the concerned courts and such a stipulation is prevalent in almost every court in the country. Counter affidavit goes on to make the following averments:

“6. It is respectfully submitted that there is no fundamental and/or any statutory right much less any indefeasible right of allotment of Chambers in any Court premises. It may, however, be submitted that each Court in the country always endeavours to extend (within its resources and availability of place etc.) maximum facilities to the Ld. Advocates for facilitating the process of administration of justice and for making it more efficient. It is also a fact, as observed in past so many decades, that the Ld. Advocates practicing at any Court - for a large number of reasons including for the better coordination with the Court authorities for achieving efficiency in the process of administration of justice, do form Bar Association not only for conducting and regulating the internal affairs of their Members but also for coordinating (as one unified class) with the Court authorities for achieving and securing betterment and improvement

of the justice delivery system at any Court. It is a matter of common knowledge that such Bar Associations are in existence, from the inception of the modern Court system itself and are active in their own sphere. The Supreme Court also has in place, the Supreme Court Bar Association and which is taking care of the interest of its members and also coordinates with the authorities of the Supreme Court for welfare of its Members and also for further improvements in the justice delivery system at the Supreme Court.

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Without prejudice to the above, it is most respectfully reiterated that after securing enrolment as an Advocate under the Advocates Act, 1961 - the Ld. Advocates, for consideration for being extended certain facilities at the respective Court premises, are made obliged to also obtain membership with the local Bar Association, which also provides an additional forum/mechanism (besides and in addition to the Court authorities itself) to facilitate and regulate the conduct/affairs of the Ld. Advocates practicing before any Court of law. It is most humbly submitted that contentions to the contrary raised in the present Writ Petition seeking to question the correctness and validity of the above-mentioned Rule obliging the Ld. Advocates to secure the Membership of SCBA for consideration for extending the facility of allotment of Chamber is entirely valid and legal."

37) We, therefore, do not find any reason to interfere with the requirement of being a member of SCBA for submitting application for allotment of chambers.

38) Alternative submission of the petitioners is that if the rule is upheld, an opportunity should be given to those members of SCAORA, who have not become the members of SCBA so far, to

apply and become the member of SCBA even now and on that condition, their applications for allotment of chambers be entertained. Insofar as this submission is concerned, once the petitioners or other similarly situated persons become members of SCBA, they can make such a request to the Chambers Committee while making their applications for allotment of chambers and it will be for the Chambers Committee to take a view thereupon.

- 39) Prescription of the requirement of resident in Delhi or New Delhi in Rule 3 of the Allotment Rules: In one of the petitions, this provision is challenged. It is submitted that there is no rationale in prescribing the condition that an advocate to become eligible for allotment of chamber should be a resident in Delhi or New Delhi. Argument was that in last few years, there was exponential growth in the population of Delhi which, *inter alia*, necessitated people to shift in areas nearby, like Noida or Ghaziabad in Uttar Pradesh, Faridabad or Gurugram in Haryana. It was submitted that the only purpose for making the aforesaid provision was that the advocate who is practicing in Supreme Court is readily available and, therefore, he is living in the vicinity of the Supreme Court. It was submitted that some of the areas which are

mentioned above are closer to the Supreme Court than many areas in Delhi itself. Therefore, such a provision has lost its rationality and purpose. The petitioners in Writ Petition (Civil) No. 1063 of 2018 submits that insofar as he is concerned, if an aerial distance is taken, his residence falls within 16km radius as he is residing in Indirapuram, Ghaziabad (U.P.). Plea is that if the definition of resident member is seen, as defined in Rule 3(ix), it means a member residing and practicing as an advocate in Delhi or its suburbs and “suburbs” clearly includes NCR also. Therefore, all those who are staying in NCR should be made eligible for allotment of chambers.

- 40) We are of the opinion that having regard to the changed circumstances and the manner in which areas around Delhi have developed in past few years, many advocates who appear in courts in Delhi, including the Supreme Court, commute on daily basis from their residences which fall in neighbouring States. It is time to reconsider as to whether requirement of residence in Delhi or New Delhi in Rule 3 of the Allotment Rules needs to be retained or it should be extended to some areas of neighbouring States which are quite close to the vicinity of the Supreme Court. May be, by fixing a particular radial distance from the Supreme

Court, the problem can be tackled. As it would require consideration on so many aspects, we are of the opinion that this issue can be considered by the Judges' Allotment Committee. We make it clear that it is for the Committee to take a final view on this issue, after taking into consideration all the relevant factors.

41) All these writ petitions stand disposed of in the aforesaid terms.

.....J.
(A.K. SIKRI)

.....J.
(ASHOK BHUSHAN)

**NEW DELHI;
OCTOBER 25, 2018**