* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment reserved on: 20.03.2025
Judgment delivered on: 27.03.2025

\+ W.P.(C) 2045/2025

SH VIJAI PRATAP SINGH ...Petitioner

versus

DELHI HIGH COURT, THROUGH REGISTRAR GENERAL & ANR ...Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Utkarsh Kandpal & Mr. Bhanu Gupta, Advocates alongwith petitioner in person.

For the Respondents : Dr. Amit George, Mr. Arkaneil Bhaumik, Mr. Adhishwar Suri, Ms. Suparna Jain, Mr. Dushyant Kishan Kaul, Ms. Ibansara Syiemlieh, Ms. Rupam Jha and Ms. Medhavi Bhatia, Advocates.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

TUSHAR RAO GEDELA, J.

1. Present writ petition has been filed under Article 226 of the Constitution of India seeking quashing of Rule 9B of the High Court of Delhi Designation of Senior Advocate Rules, 2024 (hereafter referred to as '*the Rules'*) as being arbitrary, discriminatory, and violative of Articles 14, 19(1)(g), and 21 of the Constitution of India.

2. The petitioner is a retired judicial officer with extensive experience in the Uttar Pradesh Higher Judicial Service. After serving 36 years in the Uttar Pradesh Judiciary, including 16 years in the Higher Judicial Service

(hereafter referred to as *'HJS'*), the petitioner was selected and appointed as a Judicial Member of the National Company Law Tribunal (hereafter referred to as *'NCLT'*). Subsequently, the petitioner was elevated as a 'Technical Member' of the National Company Law Appellate Tribunal (hereafter referred to as *'NCLAT'*), Delhi, and retired upon attaining the age of 67, on 20.02.2022.

3. On 14.03.2024, this Court issued Notification No.18/Rules/DHC whereby certain amendments in Chapter 6-L, Volume V of High Court Rules & Orders were made. Part L of Chapter 6 provides the Rules to designate an advocate as a senior advocate. The impugned Rule 9B of the High Court Senior Designation Rules, 2024 has been added *vide* the aforesaid notification.

CONTENTIONS OF THE PETITIONER-IN-PERSON:-

4. The petitioner appears in person and states that the impugned Rule 9B is arbitrary and discriminatory as it restricts the privilege of submitting a request letter for designation as a Senior Advocate, to the retired judicial officers of the Delhi Higher Judicial Service (hereafter referred to as *'DHJS'*) with 10 years of service. It is submitted that the impugned Rule is creating an unreasonable classification under which any retired judicial officer of HJS from other state judiciaries who regularly practices before this Court and contributes to the development of jurisprudence are conveniently and arbitrarily excluded from availing the benefits of Rule 9B of the Rules.

5. It is stated that the petitioner has significant experience of 16 years as an HJS officer in Uttar Pradesh out of a total of 43 years as a judge in the State of UP, NCLT, and NCLAT and despite such credentials, he has been unreasonably excluded from the benefits of Rule 9B solely because he

served as a judicial officer in a State other than Delhi.

6. The petitioner, who appears in person, on the aforesaid facts contends that the Rules as framed by this Court for the purposes of eligibility to confer the designation of a Senior Advocate, particularly Rule 9B is violative of his rights under Article 19(1)(g) of the Constitution of India and is discriminatory being in violation of Article 14 of the Constitution of India, as the class of individuals specified therein has no reasonable nexus with the objective sought to be achieved; nor is it based on any intelligible differentia. According to the petitioner, there is no rationale as to why under Rule 9B of the Rules, only those judicial officers who have retired from DHJS and are practicing, alone are eligible to apply for conferment of designation as a Senior Advocate. The petitioner states that he retired as a judicial officer in the Uttar Pradesh HJS after serving 36 years which included 16 years in the HJS. He also emphasizes that subsequent to his superannuation, he was also selected and appointed as a Judicial Member of the NCLT. So much so that the petitioner was also elevated as 'Technical Member' of the NCLAT and completed his tenure upon attaining the age of 67 years on 20.02.2022. He states that subsequently, he has been practicing as an advocate in various Courts including this Court and the Supreme Court of India.

7. Predicated on the aforesaid facts and grounds, the petitioner states that the Rule 9B of the Rules restricts its ambit only to those judicial officers who retired from their services rendered in the DHJS. This, according to the petitioner, is *ex facie* discriminatory inasmuch as it prohibits retired judicial officers like the petitioner from even applying for conferment of such senior designation, which is unconstitutional. According to the petitioner, this discrimination places an unfair and unjust

embargo on the practice of the petitioner which is a fundamental right envisaged under Article 19(1)(g) of the Constitution of India.

8. Additionally, the petitioner also vehemently contends that the services rendered in NCLT as also the NCLAT in various capacities should itself be sufficient qualification to fall within the ambit of Rule 9B of the Rules. He lays great emphasis on the fact that the NCLT as also the NCLAT fall within the supervisory jurisdiction of this Court under Article 226 and 227 of the Constitution of India thus, the services so rendered can and should be taken to be equivalent to the services rendered by officers retiring from the DHJS. He brings to the notice of this Court that as per his information, no other High Court has a similar rule as Rule 9B of the Rules formulated by this Court. As such, he states that in case Rule 9B is not struck off or read down, the petitioner would never ever get a chance to apply for conferment of designation as Senior Advocate till he completes ten years as an advocate, in which case, he would have to apply only under Rule 9A and not Rule 9B of the Rules.

9. He relies upon the judgements of the Supreme Court in ***Dr. Tanvi Behl vs. Shrey Goel & Ors., 2025 SCC OnLine SC 180*** and ***Maneka Gandhi vs. Union of India, (1978) 1 SCC 248*** to submit that his right to practice cannot be curtailed by discrimination on the basis of geographical location, as guaranteed under Article 14 and Article 19(1)(g) of the Constitution of India.

CONTENTIONS OF THE RESPONDENTS:-

10. On the contrary, Dr. Amit George, learned counsel appearing for the High Court of Delhi at the outset states that Rule 9B apparently envisages eligibility for conferment of designation as Senior Advocate for the judicial officers who have retired from the Delhi Higher Judicial Services for a

justifiable reason. According to him, the Permanent Committee, so far as individuals falling within Rule 9B, would have the benefit of Service Reports in the form of ACRs/APARs etc. of such judicial officers readily available and their appraisals by the respective Committees comprising the Hon'ble Judges of this Court to assess the eligibility of each of such individual before designation as Senior Advocate under Rule 9B of the Rules.

11. Learned counsel for the High Court hands over the extract of the Minutes of the Meeting of the "*Rules Committee under Section 123 of CPC which also looks into Delhi High Court (Original Side) Rules 2018 and Ancillary Matters*" held on 27.02.2025. While referring to the same, learned counsel states that the committee comprising judges of this Court, had deliberated upon the issue raised in the present writ petition and concluded as under:-

"EXTRACT OF THE MINUTES OF THE MEETING OF THE "RULES COMMITTEE UNDER SECTION 123 OF CPC WHICH WILL ALSO LOOK INTO DELHI HIGH COURT (ORIGINAL SIDE) RULES, 2018 AND ANCILLARY MATTERS" HELD ON 27.02.2025.

ITEM NO.	***AGENDA OF THE MEETING***	***MINUTES***
8	*Any Other Item*	*Considered the email dated 19.02.2025 of Dr. Amit George, Advocate in the case of 'Shri Vijai Pratap Singh v. Delhi High Court Through Registrar General & Anr.' Bearing number W.P. (C) No.2045 of 2025. In the said email, Dr. George had flagged the concern raised by the Hon'ble Court, during the course of arguments as to why retired higher judicial service officers of other states should be stopped from applying to the High Court of Delhi for being designated as Senior Advocates and that the retired judicial officers from other states may also face difficulty in fulfilling the requisite criteria under Rule 9A of the 'The High Court of Delhi Designation of*

		Senior Advocate Rules, 2024' thereby disabling them from being considered for designation as Senior Advocates. *The matter is next listed before the Hon'ble Court on 20.03.2025. Having considered the matter, the Committee is of the view that the rationale behind allowing only retired officers of the Delhi Higher Judicial Service to apply for designation as Senior Advocates is that, as they had been officers working under the Delhi High Court, their work and performance have been assessed by the Judges of the High Court and their appraisal reports and ACRs are also available in the High Court. The Judges of the High Court of Delhi would not have had an opportunity to appraise the work and performance of retired judicial officers from other States; hence it would not be possible to assess their suitability for being designated as Senior Advocates, more so as the 'The High Court of Delhi Designation of Senior Advocate Rules, 2024' lay down that the point assignment criteria shall not be applicable to retired judicial officers.*

Dr. George states that the aforesaid Minutes of the Meeting are self-explanatory and this Court may appropriately consider the deliberations and pass orders accordingly.

ANALYSIS AND CONCLUSION:-

12. The petitioner has laid a challenge to Rule 9B of the Rules, 2024 which envisages eligibility for conferment of designation as Senior Advocate by this Court to the retired judicial officers of the DHJS. The short contention raised in the writ petition appears to be that the non-consideration of those judicial officers who have retired from judicial services of States other than Delhi, for the purposes of conferment of designation as Senior Advocate, is discriminatory and violative of not only

Article 14 but also is an impediment to the right to practice profession or carry on any trade or occupation as guaranteed under Article 19(1)(g) of the Constitution of India.

13. Given the aforesaid issue and its importance, we find it necessary to delve into the historical background and the origins of what we find has come to be recognized as a special category of legal practitioners, namely, Senior Advocates. In that context, it would be apposite and worthwhile to refer and quote the relevant paragraphs of the judgement rendered by the Supreme Court in ***Indira Jaising vs. Supreme Court of India, (2017) 9 SCC 766.*** Speaking for the Bench, Justice Ranjan Gogoi (as his Lordship then was) had in his erudite, immaculate and scholarly manner spoken thus:-

> *"**8.** Before embarking upon what has been indicated above, it is necessary to go back into history and trace the origins of what today has come to be recognised as a special class of advocates, namely, Senior Advocates.*
>
> ***9.** The profession of advocacy was firmly in existence in the Greek and Roman legal systems. Emperor Justinian (Circa 482-565) had put lawyers in a high pedestal comparing them with regular soldiers engaged in the defence of the empire, inasmuch as with the gift of advocacy, lawyers protect the hopes, the lives and the children of those who are in serious distress.*
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> ***10.** Towards the end of the Medieval Period (500 A.D. to 1500 A.D.), the Roman Law had made inroads in the rest of Europe influencing it immensely. The reason attributed to this is the discovery of the Corpus Juris Civilis (Civil Law) in the 11th century. While in other countries Civil Law prevailed, in England, Common Law emerged. The Magna Carta came into being in the year 1215.*
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> ***11.** It has been said that:*
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> > *"of the rise of advocacy in England, not a great deal can be said of the ancient origin of the profession in that country, for much of it is hazed in uncertainty. Very early in the history of England, justice was crudely and arbitrarily administered. The village moots, the shire courts, and in feudal times, the barons' courts, administered justice without formality. A lawyer was not a necessity." [Robbins, American Advocacy, p. 4; "Origin and Development of Advocacy*

as a Profession", Virginia Law Review, Vol. 9, No. 1 (November, 1922), p. 28.]

During these times, the practise of advocacy was within the realm of priests, monks (it be reminded that these are the times when the Church Law/Canon Law prevailed). While the priests/the clergy would be insistent upon the study and application of the Civil Law and Common Law and of the hybrid of both, the nobility/laity (privileged class/aristocracy, but not privileged to undertake priestly responsibilities) would adhere to the Common Law. This led to dissatisfaction amongst both these classes (clergy and nobility):

> *"The early English lawyers, in the main, seem to have been ecclesiastics, but about the year 1207, priest, and persons in holy orders generally were forbidden to act as advocates in the secular courts, and from thenceforward we find the profession composed entirely of a specially trained class of laymen." [Warvelle, Essays in Legal Ethics, p. 27; "Origin and Development of Advocacy as a Profession", Virginia Law Review, Vol. 9, No. 1 (November, 1922), p. 30.]*

12. *It was in the 13th century that the professional lawyers emerged in England, after a centralised system for courts had been established to exercise the royal prerogative of dispensing justice. While earlier, a litigant could resort to the help of a knowledgeable friend, the litigation soon became complex and opened room for expert assistance. In this backdrop, came into being two classes of lawyers—"pleaders" and "attorneys". The attorneys would perform the representative functions for the litigant. Attorney's act would be the act of the litigant. Their functions would comprise administrative activities like serving process, following lis progress, etc. The pleaders, on the other hand, would be the voice of the aggrieved. Their functions would include a relatively more complex league of activities—formulating pleadings, arguing questions of law before the courts.*

13. *By the time the 13th century concluded, a distinguished class of senior pleaders with considerable status and experience emerged, and they came to be known as Serjeants-at-Law. These eminent pleaders had some special privileges. These were retained specially by the King, and had exclusive rights of audience before the Court of Common Pleas and other Common Law Courts like King's Bench. It was mandatory for the Serjeants to have taken the coif, and as a consequence of this headdress, their corporate society was called as the Order of the Coif. The Serjeants were at the pinnacle of the legal profession for a long time and it is from this pool of men that the selection of Judges would be made. They were so exclusive and rare, that at a given point of time, there would be only about ten Serjeants in the practise of the law. It would be the Serjeants' arguments that would get reported in the year books, and since they had the exclusive audience rights in the Common Law Courts, the evolution*

of Common Law jurisprudence has been attributed to them. Soon, they acquired great eminence and close affinity with the Judges as well. It is said that they had more judicial element than the practising element. Exclusive audience rights made them most affluent legal practitioners of that era and they remained to be distinguished and most prominent jurists during the 13th to 16th centuries i.e. during the period when most of the civil litigation would be carried out at the Court of Common Pleas.

14. *After this point of time, these awe-inspiring class of legal practitioners witnessed a decline. The descent in their Order has been referenced to the rise of Crown Law Officers like the Attorney General, Solicitor General. These Crown Law Officers were retained by the monarch as "Counsels-in-Ordinary"; however, the eminent order of Serjeants sustained a more perilous dent in the 16th century when the office of Queen's Counsel came to fore. This was an unprecedented office. In the year 1597, Francis Bacon was appointed by Queen Elizabeth I as "Learned Counsel Extraordinary", without patent (i.e. it was not a formal order). In 1603, the King designated Francis Bacon as the King's Counsel, and bestowed upon him the right of pre-audience and precedence, and a few years later, in 1670, it was declared that the Serjeants shall not take precedence over this new league of officers, thus relegating the otherwise eminent Serjeants to a somewhat subordinate position, and eventually their decline. The final straw, however, was in the year 1846 when the Court of Common Pleas was made open to the entire Bar and in the year 1875 when the Judicature Act was enacted that removed the requirement for the Judges to have taken the coif.*

15. *It is not clear as to why the Office of Queen's Counsel was really needed, however, they were appointed to assist the other Crown Law Officers. Further, bestowing of such designations, as a favour, was a common feature of this era. The Queen's Counsel in return for a small remuneration held permanent retainers and they were prohibited from appearing against the Crown. And, in return, they would be entitled to enjoy the valuable right of pre-audience before the courts. These counsel were required to wear silk gowns (till date, Queen's Counsel are either referred to as "silks", or when elevated to this office, they are said to have "taken silk"). Gradually, however, the cleavage between the Queen's Counsel/King's Counsel and Law Officers disappeared. The appointments as Queen's Counsel were made to recognise professional eminence, or political influence; but soon thereafter, the public nature of the office declined. They were no longer required to assist the Crown Law Officers. During the 18th century, selection as Queen's Counsel became a matter of honour and dignity and a recognition of professional eminence. And, in the year 1920, the injunction on a Queen's Counsel to appear against the Crown, was vacated too [Lawyers by Julian Disney, Paul Redmond, John Basten, Stan Ross; 2nd Edn.; The Law Book Company Limited, 1986.] .*

16. *The process of appointment of Queen's Counsel in United Kingdom came in for sharp criticism for reasons like anti-competitive practices, propagation of coterie, etc. It was felt that the selection process was secretive and admission and appointment of a Queen's Counsel was virtually like an admission to an exclusive club. Recommendations were made by Sir Leonard Peach (appointed by the then Lord Chancellor) in a report titled as "An Independent Scrutiny of the Appointments Process of Judges and Queen's Counsel in England and Wales".*

17. *In another report, titled as "Report on Competition in Professions" published by the Director General of Fair Trading, United Kingdom in the year 2001, the monopolistic nature of the practice that develops after appointment as a Queen's Counsel was highlighted. Some of the observations recorded in the said report would be worthy of notice for the purpose of appreciating the issues that have arisen before us. We would therefore reproduce the relevant extracts of the report hereinafter:*

> *"276. ... the appointments system (despite recent reform following the Peach Report) does not appear to operate as a genuine quality mark. The system is secretive and, so far as we can tell, lacks objective standards. It also lacks some of the key features of a recognised accreditation system, such as examinations, peer review, fixed term appointments and quality appraisal to ensure that the quality mark remains justified. We were told that many solicitors and some barristers criticise the lack of objectivity of the system.*
>
> *277.****
>
> *278. In our view, therefore, the existing Queen's Counsel system does not operate as a genuine quality accreditation scheme. It thus distorts competition among junior and senior barristers. Our evidence indicates that clients do not generally need the assistance of a quality mark, but if there is to be such a scheme, it should be administered by the profession itself on transparent and objective grounds. Furthermore, there is some evidence that an informal quota is in operation within the current Queen's Counsel appointment system, and that it appears to have the effect of raising fees charged to litigation clients.*
>
> *279. We do not think that a mark of quality or experience is necessarily anti-competitive, so long as the award is governed by transparent and objective criteria, and restrictions are based on qualitative, rather than quantitative, factors. On the evidence available to us, however, the current system does not pass these tests."*

18. *On account of such and similar highly adverse views in the matter, details of some of which have been noticed above, in the year 2004-2005 the appointment of Queen's Counsel was suspended temporarily. It was felt that the designation/appointment may be abolished in the light of*

growing concerns of many. However, a new framework was brought into existence in the year 2005, the salient features whereof are set out below:

> *"The recommendations are made by an independent body called as Queen's Counsel Selection Panel annually. The final appointments are made by the Queen on the advice of the Lord Chancellor, following consideration by this Panel; the Panel comprises retired Judges, senior barristers, solicitors, distinguished lay member (who also chairs the Panel). After an application is made by the aspirant to the Panel, professional conduct checks are performed; thereafter, the list of candidates is sent to members of the Judiciary/Bench including the Lord Chief Justice, the Master of the Rolls, President of the Queen's Bench Division, etc. These distinguished Bench members can raise objections regarding the candidate's integrity and the Panel will then allow the candidate to show cause. Additionally, the candidates are required to submit written references from Judges, fellow practitioners, professional clients to enable the understanding of the candidate's demonstration of competencies. Interviews are then conducted by Panel members with a view to adducing further evidence as to the candidate's demonstration of competencies. After the interview, candidates are graded by two Panel members; then the full Selection Panel conducts a review of these initial grades. After collective moderation, scrutiny of borderline cases, the final list is prepared. While inviting applications every year, emphasis is laid on obtaining representation from all quarters — like, women, Lgbtq community, other ethnicities, persons with disabilities."*

14. While evaluating and considering the similar rules prevalent in various democratic countries all over the world, the Supreme Court in the aforesaid judgement in the context of India observed as under:-

> ***"20.*** *So far as India is concerned, it appears that the legal profession acquired roots in the years of British rule. The first British Court was established in Bombay in the year 1672. In the year 1726, the Mayor Courts were established in Madras, Bombay and Calcutta. By the Charter of 1774, the Supreme Court of Judicature was established at Calcutta and, thereafter, in Bombay and Madras. The Charter allowed only English and Irish barristers to practise in these courts and no Indian had the right to appear in the court. In 1862, High Courts were established at Calcutta, Bombay and Madras. Vakils could now practise before the High Courts ending the monopoly of barristers. There was Indian participation in the courts along with the presence of English lawyers. In 1879, the Legal Practitioners Act was enacted which defined "Legal Practitioner" to mean an Advocate, a Vakil, an attorney of any High Court, a pleader, a Mukhtar, a revenue agent. The Indian Bar Councils Act, 1926 was then*

passed to unify the various grades of legal practise and to provide autonomy to the Bar. Prior to the coming into force of the Advocates Act, 1961, so far as the Supreme Court of India is concerned, designation as a Senior Advocate was a matter of choice for any advocate, who had completed 10 years of practise and who was otherwise willing to abide by certain conditions e.g. not to directly deal with clients or file papers and documents in the courts, etc. Designations which were exclusively dealt with by the Bar came to be vested in the Supreme Court with the enactment of the Supreme Court Rules of the year 1966. Similar was the earlier position in the Bombay High Court. The change in the scenario could be attributed to the enactment of the Advocates Act, 1961 whereunder the task of designating Senior Advocate was, for the first time, statutorily entrusted to the Supreme Court/High Courts."

15. In para 55, the Supreme Court noted that the exercise of the power vested to designate an advocate as a Senior Advocate is circumscribed by the requirement of due satisfaction that the advocate concerned fulfils three conditions stipulated under Section 16 of the Advocates Act, 1961 i.e. (i) ability; (ii) standing at the Bar; and/or (iii) special knowledge or experience in law that the individual has acquired. It was observed that it is not an uncontrolled, unguided, uncanalised power. The Supreme Court also observed that the designation "Senior Advocate" is hardly a title and is actually a distinction or recognition.

16. It is apparent from the above analysis rendered by the Supreme Court in ***Indira Jaising*** *(supra)* that the conferment of designation as Senior Advocate is a recognition of an Advocate's ability, standing at the Bar and special knowledge or experience in law. This can hardly be said to be conferring a right on an advocate to necessarily seek designation. It is apparent that such evaluation is subjective on the basis of objective material before the Permanent Committee ordinarily comprising Chief Justice as Chairperson, two senior most Judges of the High Court, ASG as well as three Senior Advocates representing the State, and a nominated member of the particular High Court Advocate's Bar Association. Such a High Powered Committee examines the material on record before

recommending the names to the Full Court of the said High Court for taking a decision on conferment of designation as Senior Advocate on an advocate.

17. The Rules of the year 2024 envisage two categories of advocates who would be eligible to seek conferment of designation as Senior Advocate. One under Rule 9A and the other under Rule 9B. Rule 9A specifies the eligibility criteria in respect of an advocate who is a practitioner and envisages various parameters which need to be fulfilled by the advocate before the said individual is considered for such designation. While Rule 9B which has been introduced by way of an amendment on 14.03.2024, provides for a facility for the judicial officers who have retired from the DHJS, of seeking conferment of designation as a Senior Advocate. We are given to understand that in all probability, it is only this Court that extends such benefit upon the retired judicial officers who were serving the State Judicial Services and are practicing as advocates consequent to their retirement etc. For the purposes of clarity, we may extract Rule 9A and Rule 9B of the Rules which read thus:-

> ***"(9) (A) Assessment by the Permanent Committee:-***
> *The Permanent Committee shall examine each proposal for designation of an Advocate as Senior Advocate in the light of the data compiled by the Secretariat and shall also interview the concerned Advocate. The Permanent Committee shall then make its overall assessment of the concerned Advocate on the basis of the following point based format:-*

No.	*Matter*	*Points*
1	*Number of years of practice of the Applicant Advocate from the date of enrolment.* *(10 points for 10 years of practice and 1 point each for every additional year of practice, subject to a maximum of*	*20*

	20 points).	
2	*Judgments which indicate the legal formulations advanced by the concerned Advocate in the course of the proceedings of the case; pro bono work done by the concerned Advocate; Domain Expertise in Specialized Areas of law. It shall also include best five synopses for evaluation.*	*50*
3	*Publication of books/journals, academic articles, experience of teaching assignments in the field of law, guest lectures delivered in law schools and professional institutions connected with law.*	*5*
4	*The test of personality and suitability on the basis of interview for a holistic assessment of the applicant.*	*25*

The Permanent Committee may restrict the number of interviews to the appropriate amount as deemed feasible, keeping in mind the number of Senior Advocates to be designated at a given time and total number of applicants.

The Permanent Committee may also decide the manner of assigning points under category 3 i.e. publications including the possibility of taking external assistance of other Senior Advocates or academics to gauge the quality thereof.

***(B)** Retired Judicial Officers or those who have voluntarily retired after ten years of service of Delhi Higher Judicial Service may at any time submit a letter of request to the Committee for designation as Senior Advocate. The Secretariat shall place the same before the Full Court with approval of the Permanent Committee. The point assignment criteria shall not be applicable to the retired judicial officers. However, such request shall not be considered in case the applicant(s) has/have accepted or consented to accept any full time assignment or as long as they hold that assignment."*

18. It is manifest that the provisions of Rule 9A would not be applicable to the petitioner, thus the challenge is confined to the constitutional validity of Rule 9B of the Rules. It is beyond cavil, on a plain reading of Rule 9B, that it applies squarely and exclusively to the judicial officers who have retired from the services of DHJS alone. It does not envisage any retired judicial officer of the HJS of a State other than Delhi. It is in this context and the context in which the petitioner has addressed arguments that this Court is to examine the applicability of Rule 9B to retired judicial officers belonging to States other than Delhi.

19. It is trite that the burden to demonstrate unconstitutionality of the Rule is squarely on the person laying such challenge. On an overview, we find the submissions of the petitioner in that particular context, lacking in merits. The reasons are as follows.

20. We are acutely aware that the challenge to the constitutional validity of a law or a Rule is embedded in a narrow compass, in that, the challenger has to demonstrably establish that such provision is either repugnant to the parent Statute or has no reasonable nexus to the objective sought to be achieved or that it fails the test of intelligible differentia.

21. On our prodding, the Rules Committee constituted by this Court had deliberated upon the said issue regarding the applicability of Rule 9A to the judicial officers who retired from judicial services of States other than Delhi. The deliberations in the meeting held on 27.02.2025 have already been extracted hereinabove, however, at the risk of repetition, we extract the same hereunder:-

> *"Having considered the matter, the Committee is of the view that the rationale behind allowing only retired officers of the Delhi Higher Judicial Service to apply for designation as Senior Advocates is that, as they had been officers working under the Delhi High Court, their work and performance have*

been assessed by the Judges of the High Court and their appraisal reports and ACRs are also available in the High Court. The Judges of the High Court of Delhi would not have had an opportunity to appraise the work and performance of retired judicial officers from other States; hence it would not be possible to assess their suitability for being designated as Senior Advocates, more so as the 'The High Court of Delhi Designation of Senior Advocate Rules, 2024' lay down that the point assignment criteria shall not be applicable to retired judicial officers."

A plain reading of the aforesaid deliberations when examined in the context of Rule 9B brings to fore three aspects:- (i) the work and performance of such retired judicial officers of the DHJS are regularly assessed by the Judges of the Delhi High Court; (ii) the appraisal reports and ACRs of such retired officers are easily and readily available with the High Court for the Permanent Committee to examine and select the eligible retired officers for conferment of designation as Senior Advocates; and (iii) the Judges of this Court will not have any record or an opportunity to appraise the work and performance of the retired judicial officers of States other than Delhi nor would their records be available on the administrative side.

22. Equally, while the High Courts exercise their powers under the Rules for designation of an Advocate or retired judicial officer as Senior Advocate, a very wide and a holistic examination and evaluation of individual's suitability to the said designation is undertaken with utmost seriousness. In the case of retired judicial officers, particularly of States other than Delhi, it would be onerous for the judges of this Court to benchmark their performance based on their previous services rendered in the higher judicial services of that particular State. It would be well nigh impossible for a Judge of this Court to have a fair evaluation of the

performance and appraisals relatable to the service conditions in the absence of any documentation in that regard. Article 235 of the Constitution of India envisages administrative control of the High Courts over other Courts situated within its territorial limits. Thus, our opinion is in consonance with provisions of Article 235 of the Constitution of India. Moreover, the element of evaluating a retired judicial officer in the context of his demeanour, behaviour and interaction, both with the members of the Bar and the litigants, would be grossly inadequate. After all, designation as a Senior Advocate by a High Court under the Rules is not merely on the basis of records available but also on the basis of the aforesaid parameters of an individual's personality. Designation as a Senior Advocate confers upon such individual a status if not equivalent, but befitting the status of a Judge of that Court. Keeping in view the sensitivity and sensibilities involved, the seriousness and the importance of evaluation of an Advocate or a retired Judicial Officer seeking designation as a Senior Advocate cannot be undermined. Thus, expecting the Judges of this Court to confer designation as a Senior Advocate upon retired judicial officers of HJS of states other than Delhi is not possible.

23. It is clear from the aforesaid analysis that the distinction sought to be drawn between the retired judicial officers of DHJS and the HJS of other States, is based entirely on intelligible differentia and is, *ex facie*, not violative of equality enshrined in Article 14 of Constitution of India, 1950. (See ***State of Uttarakhand vs. Sudhir Budakoti & Ors., (2022) 13 SCC 256*** and ***Union of India & Ors. vs. Nitdip Textile Processors Private Limited & Anr., (2012) 1 SCC 226***).

24. The submission of the petitioner that his work, performance and services rendered as "Member Judicial" in the NCLT as also those

rendered as "Member Technical" of the NCLAT may be considered as fulfilling the eligibility criteria, is unmerited. This is for the reason that though the Tribunals may be falling within the supervisory jurisdiction of this Court, however that would extend only to the judicial supervisory jurisdiction alone. Undoubtedly, neither the Members nor the Chairperson or any of their service conditions or service related issues fall within the administrative jurisdiction exercised by this Court unlike the other Courts and Tribunals, nor are available constitutionally with this Court. Therefore, it would yet again be impossible for the Judges of this Court to call for or evaluate the work, performance or appraisal of the services rendered by the petitioner in the aforesaid two Tribunals. Thus, for this reason too, the services rendered by the petitioner in the aforesaid two Tribunals will not fall within the eligibility criteria specified in Rule 9B of the Rules.

25. The submission of the petitioner that denial of consideration of his application seeking designation as Senior Advocate would amount to violation of his right of freedom to practise under Article 19(1)(g) of the Constitution of India, is equally fallacious and unmerited. Non-conferment of designation as Senior Advocate cannot by any stretch of imagination be termed as either discriminatory or an impediment in the practise as an Advocate. The designation as a Senior Advocate may only confer certain status coupled with privileges but those alone would not prevent or debar the petitioner from continuing his practise in any of the Courts in any part of this country, including the Supreme Court of India. Ergo, the argument on the touchstone of violation of Article 19(1)(g) of the Constitution of India is unfounded and unmerited. Moreover, there is no indelible or a constitutional right to be designated as a Senior Advocate since it is conferred considering the ability, standing at the Bar and special

knowledge or experience in law which is premised on subjective decision predicated on objective consideration of the relevant material before the Permanent Committee and the Full House of the concerned High Court. Further, designation as a Senior Advocate in India is a privilege awarded as mark of excellence to Advocates who have distinguished themselves and have made a significant contribution to the development of law and the legal profession. Though this is in context of a practising advocate, yet the general parameters on which even a retired judicial officer would be evaluated, may not be so distinct. The distinction being only on the basis of work and performance as Judicial Officers regularly evaluated by the sitting Judges of the Court and the ACRs/APARs which may be readily available while considering designation as Senior Advocate.

26. The reliance of the petitioner on the judgment of the Supreme Court in ***Dr. Tanvi Behl*** *(supra)* is completely misplaced. The said judgment appears to be in the context to right to residence as also the right to carry on trade and business or a profession anywhere in India envisaged in Article 19(1)(g) of the Constitution of India. There cannot be any quarrel with such proposition. However, in the present context and the challenge laid to Rule 9B, the proposition appears to be out of context. Equally, we are unable to appreciate the reliance of the petitioner on the judgement in ***Maneka Gandhi*** *(supra).*

27. Reliance placed on ***All India Judges' Assn. (II) vs. Union of India*****, *(1993) 4 SCC 288*** by the petitioner is also misconceived for the reason that while rendering the judgement, the Supreme Court had envisaged and proposed setting up of a All India Judicial Services in a framework akin to that available under the All India Administrative Services. It was in that context, that the Supreme Court had given an opinion on the conferment of

designation as Senior Advocate upon judicial officers who retired from the HJS (ostensibly the All India Judicial Services) having common service conditions and similar work and performance appraisal reports generated by various states regarding such officers. However, the said conceived All India Judicial Services is yet to fructify. Thus, the submissions based on a proposition which was rendered, yet, not fructified, cannot be sustained.

28. In view of the aforesaid observations, the present petition is dismissed being bereft of merits, with no order as to costs.

29. The Minutes of the Meeting of the Rules Committee held on 27.02.2025, handed over the Bench by learned counsel for the respondent, is taken on record.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

MARCH 27, 2025/*rl*