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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P. (C) No.5554 of 2010

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Pronounced on: 10th January, 2011

GAURAV JAIN

. . . PETITIONER

through :

Mr. Sandeep Phogat,
Advocate.

VERSUS

BAR COUNCIL OF DELHI & ORS

. . . RESPONDENTS

through:

Mr. S.P. Kaushal, President,
Dwarka Courts Bar Association
with Mr. Naresh C. Sharma,
Advocate.
Ms. Avnish Ahlawat with Ms.
Latika Chaudhary, Advocates.
Mr. Rajiv Bansal, Advocate
with Ms. Amandeep, Advocate
for R-4.

CORAM :-

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE M.L. MEHTA

1. Whether Reporters of Local newspapers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the Judgment should be reported in the Digest?

A.K. SIKRI, J. (ORAL)

1. The present writ petition is filed under Article 226 of the Constitution of India seeking mandamus against the respondents for, *inter alia*, deleting the name of the petitioner from the seniority list, who had applied for the allotment of Chamber in Dwarka District Courts, also alleging that the

respondents have not included the name of the petitioner in the seniority list with respect to the other members of the bar to whom chambers have been allotted by the Dwarka Bar Association.

2. To recite the genesis of the instant writ petition, the facts are concisely produced herein as under;

The petitioner is an active member of the Bar Council of Uttar Pradesh since 2003 and consequently transferred his enrolment to Bar Council of Delhi vide enrolment No. D-940/-B/2003. Thereafter, during the course of time, the petitioner also became a member of New Delhi Bar Association, Patiala House Courts, New Delhi having membership ID No.4819.

3. It was also whispered by the petitioner in his petition that he was one of the founder member of Dwarka Bar Association when it had inaugurated on 06.09.2008 and his practice was utmost at the Dwarka District Courts vide membership ID No. G-70/08, also due to his nearby residence to the abovesaid Courts. It is pertinent to mention here that there were more than 4000 founding members of the Dwarka Courts Bar Association.
4. In the erstwhile, the Dwarka Bar Associations/respondent No.2 invited the application for allotment of chamber in the said Court complex. It was a preliminary requisite laid down by the Association unanimously that the Bar members, who were

having chambers at Patiala House Courts, and those who were the founder members of DCBA would be given priority above other persons. Moreover, the chambers would be allotted on the basis of the seniority list primed by the respondent No.2.

5. However, the first list of Bar members, who had applied for the allotment of chambers, came out on 14.12.2009 in which petitioner's name was shown with condition/objection for want of address proof of petitioner that whether he is residing in National Capital Territory or not. Subsequently, the petitioner had cleared the same objection by submitting his erroneous proof of residence in Delhi, but according to the proposed application form for allotment of chambers, the address mentioned therein was B-839, Ansal Palam Vihar, Gurgaon, Haryana. Furthermore, on this ground alone, according to clause of the District Courts Dwarka Lawyers Chambers (Allotment & Occupation) Rules, 2009 the respondent No.2 had ignored the application of the petitioner for allotting the chamber in the Court premises. However, the respondent No.2 has submitted the final seniority list on 18.05.2010 to respondent No.3 on the basis of District Courts Dwarka Lawyers Chambers (Allotment & Occupation) Rules, 2009 in which also the petitioner's name was not included.
6. It is significant to mention here that name of the petitioner was not engraved in the final list which was evidently made by the

Dwarka Court Bar Association as per the Dwarka Lawyers Chambers (Allotment & Occupation) Rules, 2009. Nevertheless, the petitioner had taken the membership of Dwarka Bar Association in 2009, but as per the Rules, the preference is to be given to the founder members of the Dwarka Court Bar Association, i.e., those members who had enrolled/taken membership of the Dwarka Court Bar Association in the year, 2008 when the said Bar came into existence.

7. Mindful of the above pattern, we had asked for the personal records of the petitioner to be made available for our perusal and consideration.
8. We are of the considered view that as per the allotment District Courts Dwarka Lawyers Chamber (Allotment & Occupation) Rules, 2009 preference is to be given to the founder members of DCBA and moreover, the seniority is to be reckoned not from the date on which particular individual got registered as an advocate before the Bar Council or became the member of any other Bar Association at Delhi.
9. That apart, perusal of the Rules very minutely, we opined that the chamber will be allotted to an Advocate, who is not having any chamber in any other District Courts Complex, as only membership of those persons who are members of any District Courts Bar Association and also members of any District Courts

Bar Association and also members of Dwarka Courts Bar Association as a founder member, could be considered, otherwise not.

10. However, it was contended by the petitioner that many times he had made representations to the Secretary (DCBA) for the ongoing predicament faced by the petitioner on many occasions but it was ignored by the respondents all the time even after the issuance of last seniority list by the DCBA which was later approved by the District Judge, Dwarka Courts, i.e., the said chambers were allotted to the final seniority list by the DCBA, whereby the petitioner's name was excluded.
11. Then also, the petitioner being aggrieved, came to know that approximately 85% chambers were allotted on the basis of the 29.04.2010, seniority list and in furtherance of that the DCBA will soon allot the remaining chambers by taking into the consideration, the aforesaid seniority list in which petitioner's name was excluded. By knowing this, the dream of the petitioner for having chamber in the Court premises was in dark.
12. After carefully consideration of the facts and circumstances of the petition and the submission made by the counsels of both, i.e., the petitioner as well as respondent, we are of the view that the allotment of chambers are made to the members of bar strictly in adherence of the seniority list by the Allotment

Committee constituted under the Chairmanship of the learned District Judge which is well conscious of the Dwarka Lawyers Chambers (Allotment & Occupation) Rules, 2009.

13. That aforesaid Committee had also cleared that objections which have been raised by the members who had applied for the allotment of chambers.
14. We may take note of the fact as per Dwarka Lawyers Chambers (Allotment & Occupation) Rules, 2009 as per Clause 3 of the said Rules, the petitioner is not be entitled to be considered for the allotment of chamber in the said Court premises, i.e., the petitioner had failed to persuade the Committee as well as this Court that he is the permanent resident of N.C.T. of Delhi.
15. Thus, we the above observations, the writ petition is dismissed.

(A.K. SIKRI)
JUDGE

(M.L. MEHTA)
JUDGE

JANUARY 10, 2011
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