

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: 21st January, 2015

Judgment delivered on : 12th May, 2016

+ LPA 408/2014

ASHOK KUMAR

..... Appellant

versus

**THE HON'BLE DISTRICT JUDGE ROHINI
DISTRICT COURTS**

..... Respondent

Advocates who appeared in this case:

For the Appellant : Mr Sunil Ahuja, Advocate

For the Respondents : Mr Naushad Ahmed Khan, Advocate

CORAM:

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

J U D G M E N T

SANJEEV SACHDEVA, J

1. The appellant impugns the order of the learned single judge dated 23.04.2014 whereby the appellant's challenge to the order of allotment of chamber dated 28.11.2013 and the minutes of the meeting dated 31.12.2013 was rejected primarily on the ground that disputed question of facts were involved. The petition was dismissed reserving liberty of the appellant to file appropriate proceedings in accordance with law to not only challenge the impugned minutes of

meeting dated 31.12.2014 but also to seek allotment of chamber at Rohini Courts Complex, New Delhi.

2. The appellant is an Advocate enrolled with the Bar Council of Delhi in the year 2001. On bifurcation of the District Court, the Rohini Courts Complex was set up. The Rohini Court Bar Association came into existence on 21.09.2006. The appellant became a member of the said Bar Association on 23.09.2006.

3. On 08.12.2011, 'The Rohini District Courts Lawyer's Chambers (Allotment & Occupancy) Rules, 2011' (hereinafter referred to as the Chamber Allotment Rules) were framed and the Rohini Court Allotment Committee for lawyers' chamber was constituted under the Chairmanship of the District Judge (North West). The process for allotment of chambers commenced on 01.04.2013. The appellant submitted his application for allotment of chamber on 15.04.2013. On 21.10.2013, the Allotment Committee published the seniority list of 2034 lawyer members and also the tentative list of 809 eligible applicant lawyers. The appellant was not found eligible for allotment of a chamber. On 08.11.2013, objections were submitted by the appellant against the finding of the Chamber Allotment Committee. The appellant was heard and the Allotment Committee on 28.11.2013 published a revised list, however, the appellant was not included in the same.

4. The appellant filed a writ petition impugning the said decision and non-inclusion of the appellant's name in the list of eligible persons for allotment of chambers being WP(C) No. 7950/2013. On 17.12.2013, the said writ petition was disposed of by directing the same to be treated as a representation. Vide minutes of meeting dated 31.12.2013, communicated to the appellant on 28.01.2014, the representation of the appellant was rejected. The appellant filed the present writ petition impugning the decision of the Chamber Allotment Committee. By the impugned order dated 23.04.2014, the writ petition has been dismissed holding that disputed question of facts are involved.

5. The learned counsel for the appellant contended that there are no disputed questions but mere interpretation and construction of the Chamber Allotment Rules that is in issue. It is contended that it is the interpretation of the term "primarily practising" which is in issue. It is contended that the appellant is practising both at the Rohini Courts and the Tis Hazari Courts. It is contended that the Chamber Allotment Committee has wrongly construed the term "primarily practising". It is contended that the appellant fulfils the criteria laid down in the rules and despite the same being fulfilled, on an incorrect interpretation of the term 'primarily practising', the appellant has been denied the allotment.

6. The relevant clause of the Chamber Allotment Rules comprised in Part-D of the eligibility of Advocate reads as under:-

“11) The advocates fulfilling all of the following conditions shall be eligible for consideration for allotment of chambers:-

- a) The advocate must be enrolled with the Bar Council of Delhi and must be a member of Rohini District Courts Bar Association (which came into existence with effect from 21.09.2006 after being formed under directions of Delhi High Court after holding elections under the supervision of Delhi Bar Council) on the date of submission of application for allotment of chamber.*
- b) The advocate must be primarily practicing at the Rohini Court Complex and should be permanent resident of National Capital Territory of Delhi.*
- c) The advocate should not have acquired, built or have been allotted in his own name a lawyers' chamber individually or jointly or sharing basis, in any court complex in Delhi including High Court and Supreme Court.*

Provided that if the advocate has been allotted or is in possession of a Chamber in any other Court Complex, then he shall be eligible to allotment of a chamber in Rohini Courts subject to his/her surrendering the physical possession of the chamber to the concerned District Judge/Registrar or other competent authorized authority of District Court, High Court or Supreme Court as the case

may be and on submitting a certificate from the President or the Secretary of that concerned Bar Association confirming the same.

Provided further that there is no dispute of any nature with regard to the chamber so surrendered.

- d) The advocate shall not be eligible for allotment if his/her father or mother, his /her spouse, son or daughter has been allotted a chamber at same court complex but in highly exceptional circumstance, the Allotment Committee may allot the chamber to such advocate, if he or she is otherwise eligible.*
- e) In case of death of allottee, the Allotment Committee may in its discretion allot the chamber to his father/mother/son/daughter/spouse in his/her place, if applicant is otherwise found eligible as per above rules.”*

7. Rule 11 *inter alia* requires that an Advocate should be enrolled with the Bar Council of Delhi and be a member of Rohini District Courts Bar Association as on the date of the submission of the application for allotment of a chamber. It requires the advocate to be ‘primarily practicing’ at Rohini Court Complex and should be a permanent resident of the National Capital Territory of Delhi. The application form appended to the rules additionally required the applicant to submit details of 50 court appearances during the period with effect from 02.01.2006 till 28.02.2013. The application form

required the applicant to submit the details of at least 10 cases/proceedings in which the applicant has filed the Vakalatnama as main counsel in any Court at Rohini Courts till 28.02.2013. The said conditions in the application form are not applicable to the retired judicial officers.

8. The minutes of meeting dated 31.12.2013, after the order dated 17.12.2013 in WP(C) No. 7950/2013, in respect of the appellant record as under:-

“The applicant submits that he is primarily practicing in civil side and he also has cases under Section 138 N.I. Act. He submits that he has around 250-300 cases pending in entire Delhi, out of which more than 200 cases are pending in Tis Hazari and around 40-50 cases are pending in Rohini Courts and a few cases in other court complexes.

No further documentary proof has been filed today.

Conclusion: The committee, after considering all the facts and circumstances and taking into account the averments in the writ petition, is of the view that despite having filed a writ petition, his case is not supported with the required documents to show that he was practicing primarily at Rohini Courts. It was incumbent upon the applicant inasmuch as this is the third opportunity which was granted to him to show his entitlement for allotment of chamber and as such he ought to have filed documentary evidence. As per his own admission, today in the interaction with the committee, he primarily practices at Tis Hazari Courts. The Committee,

therefore, does not consider him fit for allotment of chamber and his representation is according not acceded to. "

9. We are of the view that the Chamber Allotment Committee has taken a very narrow view of the term "primarily practicing". The appellant was enrolled with the Bar Council of Delhi in 2001 and is stated to be practicing since then. The Rohini Courts came into existence on 21.09.2006. The application form require the applicant to submit details of 50 court appearances during the period with effect from 02.01.2006 till 28.02.2013 and to submit the details of at least 10 cases/proceedings in which the applicant has filed the Vakalatnama as main counsel in any Court at Rohini Courts till 28.02.2013. There is no requirement in the rules or the application form to provide details of the number of court appearances or cases/proceedings in which the applicant has filed Vakalatnama as main counsel in any of the other Court complexes.

10. Even though the rules do not define term 'primarily practicing' or lay down the parameters to satisfy the requirements of the term 'primarily practicing'. By implication, clause 18 of the application form that requires the applicant to furnish the details of the number of court appearances as well as of the cases/proceedings where Vakalatnama has been filed as main counsel gives an indication that

on fulfilment of the same, it would amount to primarily practicing in that court.

11. One cannot lose sight of the fact that some of the other court complexes were in existence much prior to the creation of The Rohini Court Complex. If an advocate is enrolled prior to the creation of Rohini Court Complex and has been practising for several years, there is a possibility that such an advocate may have more number of cases in other Court Complexes as compared to Rohini Court Complex since the same is a new Complex. Neither the Chamber Allotment Rules nor the application form requires an advocate to provide any comparative details of court appearances and cases pending in various court complexes. Requiring an advocate to show more appearances/court cases at Rohini Courts than at other Court Complexes would be stretching the rule too far.

12. The requirement of rules is that the advocate should be primarily practicing in that court. Since, there is no requirement in the rules and the application form to furnish list of cases or appearances in other court complexes and the applicant is not obliged to provide the same, the Committee could not have carried out a comparative analysis of the same. Once an applicant satisfies the eligibility criteria as laid down by the rules and provides the details as sought for in the application form, no further scrutiny or analysis would be required.

13. It is not in dispute that the appellant satisfies the eligibility condition and has provided the requisite details as called for in the application form. The appellant has been held to be not eligible merely on the basis of a comparative analysis which is not so provided in the rules.

14. In view of the above, the comparative analysis done by the Chamber Allotment Committee is not justified and is accordingly set aside. The impugned order dated 23.04.2014 is accordingly set aside. The decision of the Chamber Allotment Committee as recorded in the minutes of meeting dated 31.12.2013 is quashed. The Chamber Allotment Committee is directed to allot a chamber to the appellant subject to the appellant complying with the other terms and conditions of the Chamber Allotment Rules. The appeal is accordingly disposed of. There shall be no order as to costs.

SANJEEV SACHDEVA, J

BADAR DURREZ AHMED, J

MAY 12, 2016

RS