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

+ W.P.(C) 10474/2016

I.C. KUMAR Petitioner

Through: Petitioner-in-person.

Versus

UNION OF INDIA & ORS. Respondents

Through: Ms.Suparna Srivastava with Ms.Anil
Sharma, Advs. for R-1/UOI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

07.11.2016

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1. This petition by way of Public Interest Litigation has been filed with a prayer to declare Section 16 of the Advocates Act, 1961 and Rule 2 Order IV of the Supreme Court Rules, 1966, providing for designation of an advocate as a senior advocate, as *ultra vires* Article 14 of the Constitution of India.
2. The petitioner who appeared in person states that he is not questioning the procedure of designation of senior advocates by the Supreme Court and the High Courts, but the very concept of designating some of the advocates as senior advocates and thus creating two groups in the legal fraternity being *ultra vires* Article 14 of the Constitution of India, the same is liable to be declared illegal and the relevant statutory provisions are liable to be quashed. It is also contended by him that Section 16 of the Advocates Act in fact runs contrary to Section 29 of the said Act, which provides that there shall be only one class of persons entitled to practice the profession of law, namely, advocates.
3. We do not find substance in any of the said contentions.
4. Section 16 of the Advocates Act, 1961 provides that there shall be two classes of advocates, namely, senior advocates and other advocates and that an

advocate may be designated as senior advocate if the Supreme Court or a High Court is of opinion that by virtue of his ability, standing at the Bar or special knowledge or experience in law, he is deserving of such distinction. As is evident from Section 16 itself, the designation is on the basis of merit and expertise. Hence, the classification drawn thereunder is founded on an intelligible differentia which distinguishes senior advocates from advocates. In our considered opinion, the said differentia has a rational relation to the object sought to be achieved by the Advocates Act. Hence, the contention that the designation of senior advocates is violative of equality clause enshrined in Article 14 of the Constitution of India is untenable. The contention that Section 16 runs contrary to Section 29 of the Advocates Act is also unfounded.

5. The law is well settled that the validity of a statute may be assailed on the ground that it is *ultra vires* the legislative competence of the legislature which enacted it or it is violative of Part III or any other provision of the Constitution. It is also a settled principle of law that the court should exercise judicial restraint while judging the constitutional validity of statutes since there is a presumption in favour of the constitutionality of statutes as well as delegated legislation, and it is only when there is a clear violation of a constitutional provision or of the parent statute, in the case of delegated legislation, beyond reasonable doubt that the court should declare it to be unconstitutional. {**Vide: Govt. of A.P. v. P. Laxmi Devi; (2008) 4 SCC 720; Bakhtawar Trust v. M.D. Narayan; (2003) 5 SCC 298; Hinsa Virodhak Sangh v. Mirzapur Moti Kuresh Jamat; (2008) 5 SCC 33**}

6. Moreover, we are also unable to find any element of public interest in the issues sought to be espoused by the petitioner. As held in **BALCO Employees' Union (Regd.) v. UOI; (2002) 2 SCC 333**, every matter of public

interest or curiosity cannot be subject matter of PIL. Courts will interfere only if there is a clear violation of constitutional or statutory provisions or non-compliance by the State with its constitutional or statutory duties. None of these contingencies arise in the present case.

7. Viewed from any angle, the writ petition is devoid of merit and misconceived. Accordingly, the same is dismissed.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

NOVEMBER 07, 2016/kks