

CWP no. 29115 of 2017 (O&M) 1

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP no. 29115 of 2017 (O&M)
Date of Decision : 20.12.2017**

Yogesh Mahajan

....Petitioner(s)

Versus

High Court of Punjab and Haryana at Chandigarh through Registrar General

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE RAJ SHEKHAR ATTRI**

Present : Petitioner in person

MAHESH GROVER, J.(ORAL)

The petitioner impugns the following provisions:-

“3. An Advocate who is not on the Roll of Advocates of the Bar Council of the State in which the Court is situate, shall not appear, act or plead in such Court, unless he files an appointment along with an advocate who is on the Roll of such State Bar Council and who is ordinarily practicing in such Court.

4. In cases in which a party is represented by more than one advocate, it shall be necessary for all of them to file a joint appointment or for each of them to file a separate one.

5. The acceptance of an appointment on behalf of a firm or partnership of advocates shall be indicated by a

partner affixing his own signature as a partner on behalf of the firm or partnership of advocates.

6. 1 (An advocate at the time of acceptance of his appointment shall also endorse on it his residential/ office address, telephone /cell number, enrolment number and if available, e mail as well as fax number, which address shall be regarded as one for service within the meaning of rule 5 of Order 3 of the Code of Civil Procedure, 1908: Provided that where more than one advocate accepts the appointment, it shall be sufficient for one of them to endorse his address, which shall be regarded as one for service within the meaning of rule 5 of Order 3, C.P Code.)”

The arguments advanced by the petitioner who appears in person is that the aforesaid provisions are contrary to Section 30 of the Advocates Act, 1961 which gives an Advocate a right to practice in all Courts including Supreme Court. For the purposes of reference Section 30 extracted herebelow:-

“Section 30 of the Advocate Act -1961 defines Right of advocates to practice which is reproduced as follows:-

“Subject to provisions of this Act, every advocate whose name is entered in the 1 (State roll) shall be entitled as of right to practice throughout the territories to which this Act extends:-

(i) in all courts including the Supreme Court;

(ii) before any tribunal or person legally

authorized to take evidence; and

(iii) before any other authority or person before whom such advocate is by or under any law for the time being in force entitled to practice.”

That apart an argument has been raised that the impugned provisions are in direct conflict with the right of the petitioner under Article 19(1)(g) of the Constitution of India as also Article 14. Besides, the impugned provisions have no rationale and nexus to the objects of the Legislature.

After hearing the petitioner, we are of the opinion that no cause for intervention has been made out. The impugned provisions do not obstruct the right of the petitioner to practice in any Court that he chooses including this Court. What is provided is that when he appears, he would have to engage the services of a counsel registered with the State Bar Council and is ordinarily practising in such Court.

These words '*where ordinarily practising in such Court*' assumes a great significance when read in conjunction with clause 6 which manifests that an Advocate at the time of acceptance of his appointment shall also endorse on it his telephone /cell number, enrollment number and if available, e mail as well as fax number, which address shall be regarded as one for service within the meaning of rule 5 of Order 3 of the Code of Civil Procedure, 1908 These are rules of procedure and convenience. An Advocate not registered with the State Bar Council if wishing to appear would be inconvenienced if a local Advocate is associated. This would also facilitate the procedure of the Court and is also beneficial to the litigant who possibly may require day to day information in a given situation. By no

means does it obstruct the right of a counsel not registered with the State Bar

Council to appear before this Court and thus the argument that it is violative of Article 30 of the Advocates Act or conflicting with Article 19(1)(g) or Article 14 for that purpose is totally ill founded. No ground to interfere is made out. Hence, dismissed.

(Mahesh Grover)
Judge

20.12.2017
rekha
Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

(Raj Shekhar Attri)
Judge