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

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Date of decision : 30th October, 2017

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W.P.(C) 765/2013 & CM No.1470/2013

SAPNA SINHA AND ORS

..... Petitioners

Through : Mr. Ajay Loraiya, Adv. along
with the petitioners in person.

versus

GOVT. OF NCT THROUGH CHIEF SECRETARY
AND ORS

..... Respondents

Through : Mr. Rajeshwar Dagar, Adv.
Hony. Secretary DCBA.

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W.P.(C) 812/2014

RAJESH RAI

..... Petitioner

Through : Mr. Ajay Loraiya, Adv. along
with the petitioner in person.

versus

DISTRICT JUDGE & ORS.

..... Respondents

Through : Mr. Rajeshwar Dagar, Adv.
Hony. Secretary DCBA.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

1. The instant petitions relate to allotment of chambers in the District Courts at Dwarka, New Delhi. The writ petitions have been

filed by lawyers who have been denied allotment by virtue of formulation of the District Courts Dwarka Lawyers Chambers (Allotment & Occupancy) Rules, 2009 (hereafter 'Allotment Rules'). The petitioners have challenged the legality and validity of Rule 4 thereunder contending that the same is in violation of the specific order dated 22nd October 2008 passed by a Division Bench of this Court in Writ Petition (Civil) No.7317/2008, ***District Court Bar Association, Dwarka Vs. Bar Council of Delhi & Anr.*** This order records the agreement by the parties that elections to the Dwarka Bar Association needed to be conducted and held freely and fairly. With the consensus of the parties, the court *inter alia* made the following directions in the said order :

“3. The conditions stipulated in the application form of giving concessions to the members of the New Delhi Bar Association will not be applicable. All persons who seek membership of Dwarka Court Bar Association would pay the same enrolment fee of Rs.600/-plus annual subscription of Rs.600/- payable in advance. The enrolment fee and subscription fee will be the same for all applicants except that advocates enrolled after 01.01.2004 would have to pay an enrolment fee of Rs.100/-, the subscription fee shall remain the same i.e. Rs.600/- per year.

4. It is further clarified that the forms as existing shall be utilised for the purpose of applying for membership of Dwarka Court, Bar Association, however, the contents of serial No.5, 7, 9, 10 and 11 of the said form shall not be considered for any other purpose including the allotment of chamber.

5. It is agreed by all the parties that these petitions and the applications for membership pertain to the grant of membership and conduct of elections and are in no way

connected with the allotment of chambers. After the elections are over, the members of Dwarka Court Bar Association shall be required to fill in new forms which will not have references to any particular Bar Association. The parties agreed that a form similar to the one used for New Rohini Court Bar Association may be used with suitable modification.

2. We are informed that despite the mandate of the order dated 22nd October, 2008, in violation thereof, the committee of the respondents drafted the “*District Courts, Dwarka, Lawyer Chamber (Allotment & Occupancy) Rules 2009*” containing the impugned Rules 3 to 5 which read as follows:

“3. The chambers will be allotted on double occupancy basis i.e. one chamber to two advocates who are practicing effectively in the Dwarka District Courts and who are the members of the Dwarka Courts Bar Association (founder members will be given preference) and are permanent residents of the National Capital Territory of Delhi shall be considered eligible for allotment of Chambers as per criteria laid down by the District Judge, Dwarka Courts, in consultation with the Allotment Committee from time to time.

4. The Allotment Committee, while making recommendations for initial allotments, shall have regard to the list of the eligible advocates including its order of seniority, to be prepared on the basis of enrolment of the member with Bar Council of Delhi & the membership of applicant/member with New Delhi Bar Association (Patiala House) & Delhi Bar Association (Tis Hazari), that may be supplied to it by the Dwarka Courts Bar Association.

5. Notwithstanding anything contained in Rule 4, the District Judge, Dwarka Courts in consultation with the

Allotment Committee may make out of turn allotment to advocates who are retired judicial Officers from Delhi & Advocates who are physically handicapped or are otherwise deserving provided they are otherwise eligible. For this category, five (5) chambers shall be ear-marked which shall be kept at the disposal of the District Judge, Dwarka Courts, New Delhi for allotment to the deserving applicants under this criteria.”

3. Inasmuch as the respondent No.1 is purporting to make allotment pursuant to said rules, a challenge was laid by way of Writ Petition No.3819/2010 titled as Nisha Sethi Sudan Vs. GNCTD & Ors. which was disposed of on 26th July, 2012 by the court observing as follows :

*“We have heard these matters at some length. All relate to allotment of lawyers’ chambers at the Dwarka Court Complex. After having considered the arguments advanced on behalf of the petitioners, the Chamber Allotment Committee as also on behalf of the District and Sessions Judge, we feel that each case of the petitioners should be reconsidered by the Chamber Allotment Committee and a speaking order be passed thereon giving reasons as to why they would be allotted/not allotted lawyer’s chambers at the Dwarka Court Complex. The Allotment Committee shall also examine the decision of the Division Bench in the case of **District Court Bar Association Dwarka Vs. Bar Council of Delhi and Anr.** WP(C) No. 7317/2008, decided on **22.10.2008** and the connected writ petition being WP (C) No. 7388/2008, while arriving at the decision.*

This exercise be concluded within three months. If any person is aggrieved by the decision of the Chamber Allotment Committee, liberty is granted to him/her to approach this court”.

(Emphasis by us)

4. These writ petitions were filed by the petitioners complaining

that despite the order dated 26th July, 2010 passed in a batch of writ petitions, identified by the lead writ petition, which was numbered as **WP(C)No.3819/2010, Nisha Sethi Sudan vs. Govt. of NCT of Delhi & Ors.**, and the judgment dated 22nd October, 2008 passed in **WP(C)No.7317/2008, District Court Bar Association Dwarka vs. Bar Council of Delhi & Anr.**, the respondents have proceeded to allot chambers in the Dwarka Court Complex contrary to the directions made therein.

5. In **WP(C)No.765/2013, Sapna Sinha & Ors. vs. Govt. of NCT Through Chief Secretary & Ors.**, the following prayers have been made by the writ petitioners :

“a. to pass appropriate writ, directions or orders thereby set aside rule 4 of the Allotment of Chambers rules 2009 (Annx P-4 page 44) and further modify it to the extent that seniority for allotment of chambers be reckoned from the seniority with the Bar Council of Delhi ;

b. to set aside and modify the clause 4 of the Chamber Allotment Rules, 2009 to the extent of removing the doubt and scope of misinterpretation of any condition of reckoning the seniority for eligibility from the date of membership with Delhi Bar Association and New Delhi Bar Association ;

c. to direct the Respondent no.2 to reserve half chamber for the present petitioner till the pendency and disposal of the present petition.

d. to pass any other and further order than may deem fit and appropriate in this context may also kindly be passed in favour of petitioner.”

6. Upon a *prima facie* consideration of the matter, by the order

dated 8th February, 2013, this court directed maintenance of *status quo* as obtained on that date *vis-a-vis* chambers which had not been allotted as yet by the respondent nos.2 and 3.

7. We are informed that in view of the order dated 8th February, 2013, allotment of vacant chambers had not been effected. In these matters, on 15th May, 2017, we had observed that Rules 3 to 5 of the above extracted allotment rules were in violation of the specific directives contained in the order dated 22nd October, 2008.

8. Consequently, by the order dated 15th May, 2017, we had directed the District Judge, Dwarka – respondent no.2 herein to examine Rules 3 to 5 of the Allotment Rules and to ensure that they were brought in conformity with the specific directions contained in the order dated 22nd October, 2008.

9. Further directions were passed to the District Judge to conduct a physical inspection of the chambers and to prepare a list of persons to whom chambers had been allotted giving the details of (i) name and address of the advocate as on the date of allotment (ii) date of the enrolment with Delhi Bar Council (iii) date of membership of the Dwarka Court Bar Association and (iv) the details of documents supporting the date of membership of the Dwarka Court Bar Association.

10. We had directed the District Judge to report to this court regarding the position of occupancy as well as the date(s) of sanction of electricity connection.

11. Certain typographical errors were corrected by the subsequent order dated 26th May, 2017.

12. Today a report dated 16th October, 2017 has been placed by the office of the District and Sessions Judge (South-West), Dwarka Courts, New Delhi.

13. In compliance, the Building Maintenance and Construction Committee (Dwarka Court Complex) vide its minutes of the meeting dated 13th September, 2017 approved the modification in Rules 3 to 5 of the District Courts, Dwarka, Lawyers Chambers (Allotment and Occupancy) Rules, 2009. The same has been placed before us along with the status report dated 4th July, 2017 as pointed out in the report dated 16th October, 2017.

In view thereof, there does not appear to be any further objection so far as rules being in compliance and conformity with the order dated 22nd October, 2008 in WP(C)No.7317/2008 are concerned.

14. Ld. counsel for the respondent no.2 submits that between 15 to 20 allottees have surrendered their allotment. As such, in addition to unallotted chambers, these chambers would also be available for allotment. We are further informed that some allottees have since expired.

15. After the inspection, the ld. District and Sessions Judge (South-West) had submitted a report under the cover of letter dated 16th September, 2017 informing us as follows :

<i>S.No.</i>	<i>Particulars</i>	<i>Number of Slots</i>
<i>1</i>	<i>Total number of slots allotted/occupied as on date.</i>	<i>618</i>
<i>2</i>	<i>Total number of slots vacant.</i>	<i>67</i>
<i>3</i>	<i>Total number of slots reserved for retd. Judicial officers/etc.</i>	<i>09</i>

4	<i>Total number of slots.</i>	<u>694</u>
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5	<i>Total number of slots for which applications for surrender have been received.</i>	09
6	<i>Total number of slots whose Allottees are stated to have expired.</i>	09
7	<i>Total number of slots found locked or not functional.</i>	16

16. Undoubtedly, interdiction of allotments would serve no useful purpose and would prejudice the practicing lawyers.

17. Mr. Ajay Laroia, Id. counsel for the petitioners has drawn our attention to the two lists which have been filed along with counter affidavit dated 13th February, 2013 on behalf of the District Judge (Dwarka) enclosing final list of seniority of members for allotment of chambers dated 29th April, 2010 and second list of 65 members who are stated to have been submitted their applications for chambers after the cut-off date.

18. Needless to say, the allotments of the chambers have to be effected in accordance with the amended rules and the names of all persons mentioned in the above lists, who have not been allotted chambers so far, would require to be included for consideration of allotments while doing so.

19. Inasmuch as allotments have been effected till the interdiction in terms of said order dated 22nd October, 2008, we are not inclined to disturb the status of those allotments.

20. In view of the above, these writ petitions and pending applications are disposed of with the following directions :

(i) The respondents shall strictly abide by the District Courts, Dwarka, Lawyers Chambers (Allotment & Occupancy) Rules, 2009 while effecting all allotments of the vacant chambers.

(ii) So far as unutilized chambers are concerned, steps shall be taken for cancellation of the unutilized chambers after issuance of notice to show cause to the allottees and giving them an opportunity to make representations in such regard.

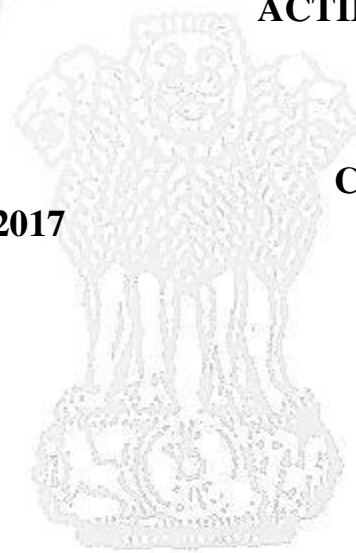
Dasti to parties.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

OCTOBER 30, 2017

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