

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 24875 of 2019

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1. Ravish Kumar Verma Son of Raghunandan Prasad Verma, Resident of Road No. 1, House No. 96 S.K. Nagar, P.O. Kidwaipuri, P.S. Budha Colony, District-Patna, at Present Advocate, Patna High Court.
 2. Bijay Bihari Sinha, Son of late Roshan Sinha, Resident of Adarsh Colony, Sri Krishna Nagar, Patna- 800001, A.O.R. No. 0488

... .. Petitioner/s

Versus

1. Hon'ble High Court of Judicature at Patna through its Registrar.
2. Permanent Committee for designation of Senior Advocate, headed by Hon'ble Chief Justice of Patna High Court.
3. Registrar General, Ex- Officio, Secretary of the Permanent Committee.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.R. K. Rajan
For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 12-12-2019 Heard learned counsel for the petitioners.

Petitioners have prayed for the following relief/s:

“for issuance of appropriate writ/order/direction for declaring Rule 5 of the High Court of Judicature at Patna (Designation of Senior Advocates) Rules, 2019 ultra vires Section 16(2) and 34(1) of the Advocate Act read with Para-34 of the Judgment in the case of Ms Indira Jai Singh versus Supreme Court of India, reported in AIR 2017 SC 5017.”

Rules 5 and 9 of the High Court of Judicature at Patna

(Designation of Senior Advocates) Rules, 2019 read as under:



“5. The Advocate whose name is proposed/ recommended for being designated as a Senior Advocate/who applies for being designated as a Senior Advocate, should be an income-tax assessee for a minimum period of ten (10) years and shall submit copies of income tax return for the last three financial years.

9. All proposals/recommendations/applications for designation as Senior Advocates shall be scrutinized by the Secretariat of “the Committee”, which shall collect relevant data and information with regard to the reputation, conduct and integrity of the Advocate concerned; verify the details regarding his/her participation in pro bono work (Legal Services Authority), if any; reported judgments in which he/she has appeared; the number of such judgments reported during the last five years and other matters referred to in the particulars furnished in terms of Rule 6(a) and submit a report to “the Committee” regarding every proposal/recommendation/ application submitted for seeking designation.”

Contrary to what is argued before us, we do not find any prescription of minimum income to be there in the rules, much less contrary to the purported directions, which learned counsel contends in fact are so issued by the Apex Court in para-34 of the **Ms. Indira Jaising v. Supreme Court of India** reported in **AIR 2017 SC 5017**, is reproduced as under:

“34. A word with regard to minimum age and income as conditions of eligibility would be



appropriate at this stage. From the narration contained hereinabove with regard to the norms and guidelines prevailing in different High Courts, it is evident that varying periods of practice and different slabs of income have been, inter alia, prescribed as minimum conditions of eligibility for consideration for designation as a Senior Advocate. If merit and ability is to be the determining factor, in addition to standing in the Bar and expertise in any specialized field of law, we do not see why we should insist on any minimum income as a condition of eligibility. The income generated by a lawyer would depend on the field of his practice and it is possible that a lawyer doing pro bono work or who specializes in a particular field may generate a lower return of income than his counterpart who may be working in another field of law. Insistence on any particular income, therefore, may be a self-defeating exercise. Insofar as age is concerned, we are inclined to take the view that instead of having a minimum age with a provision of relaxation in an appropriate case it would be better to go by the norm of 10 years practice at the Bar which is also what is prescribed by Article 217 of the Constitution as a condition of eligibility for being considered for appointment as a Judge of the High Court.”

We have perused the aforesaid observations but notice that the *ratio decidendi* is in para-35 of the said judgment, reproduced as under:

“35. It is in the above backdrop that we proceed to venture



into the exercise and lay down the following norms/guidelines which henceforth would govern the exercise of designation of Senior Advocates by the Supreme Court and all High Courts in the country. The norms/ guidelines, in existence, shall be suitably modified so as to be in accord with the present.

I. All matters relating to designation of Senior Advocates in the Supreme Court of India and in all the High Courts of the country shall be dealt with by a Permanent Committee to be known as “Committee for Designation of Senior Advocates”;

II. The Permanent Committee will be headed by the Hon’ble the Chief Justice of India and consist of two senior-most Judges of the Supreme Court of India (or High Court(s), as may be); the learned Attorney General for India (Advocate General of the State in case of a High Court) will be a Member of the Permanent Committee. The above four Members of the Permanent Committee will nominate another Member of the Bar to be the fifth Member of the Permanent Committee;

III. The said Committee shall have a permanent Secretariat the composition of which will be decided by the Chief Justice of India or the Chief Justices of the High Courts, as may be, in consultation with the other Members of the Permanent Committee;

IV. All applications including written proposals by the Hon’ble Judges will be submitted to the Secretariat. On receipt of such applications or proposals from Hon’ble Judges, the Secretariat will compile the relevant data and information with regard to the reputation, conduct, integrity of the Advocate(s) concerned including his/her



participation in pro-bono work; reported judgments in which the concerned Advocate(s) had appeared; the number of such judgments for the last five years. The source(s) from which information/data will be sought and collected by the Secretariat will be as decided by the Permanent Committee;

V. The Secretariat will publish the proposal of designation of a particular Advocate in the official website of the concerned Court inviting the suggestions/views of other stakeholders in the proposed designation;

VI. After the data-base in terms of the above is complied and all such information as may be specifically directed by the permanent Committee to be obtained in respect of any particular candidate is collected, the Secretariat shall put up the case before the Permanent Committee for scrutiny;

VII. The Permanent Committee will examine each case in the light of the data provided by the Secretariat of the Permanent Committee; interview the concerned Advocate; and make its overall assessment on the basis of a point-based format indicated below:

Sl. No.	Matter	Points
1.	Number of years of practice of the Applicant Advocate from the date of enrolment. [10 points for 10-20 years of practice; 20 points for practice beyond 20 years]	20 points
2.	Judgments (Reported and unreported) which indicate the legal formulations	40 points



	advanced by the concerned Advocate in the course of the proceedings of the case; pro bono work done by the concerned Advocate; domain Expertise of the Applicant Advocate in various branches of law, such as Constitutional law, Inter-State Water Disputes, Criminal law, Arbitration law, Corporate law, Family law, Human Rights, Public Interest Litigation, International law, law relating to women, etc.	
3.	Publications by the Applicant Advocate.	15 points
4.	Test of Personality & Suitability on the basis of interview/interaction.	25 points.

VIII. All the names that are listed before the Permanent Committee/cleared by the Permanent Committee will go to the Full Court.

IX. Voting by secret ballot will not normally be resorted to by the Full Court except when unavoidable. In the event of resort to secret ballot decisions will be carried by a majority of the Judges who have chosen to exercise their preference/choice.

X. All cases that have not been favourably considered by the Full Court may be re-viewed/reconsidered after expiry of a period of two years following the manner indicated above as if the proposal is being considered afresh;

XI. In the event a Senior Advocate is guilty of conduct which according to the Full Court disentitles the Senior



Advocate concerned to continue to be worthy of the designation the Full Court may review its decision to designate the concerned person and recall the same.

Even otherwise the rules reproduced (supra), are not, in any manner, in contradiction or contravention of any order or direction or observations made in para-34 and 35 of the judgment.

The prescription in the Rules of the candidate being an income tax assessee, cannot be, in any manner, said to be arbitrary, irrational or illogical.

We do not find any merit in the prayer made by the learned counsel seeking certificate to be provided.

As such the present petition is dismissed.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

sujit/-

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