

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

208

**CWP-11370-2015
Date of Decision: 06.01.2023**

BIJENDER SINGH & ORS

... Petitioners

VERSUS

STATE OF HARYANA & ORS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Ms. Dakshita Deswal, Advocate
for the petitioners.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. Pranshul Dhull, Advocate
for respondent No.3.

VINOD S. BHARDWAJ, J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India, 1950 for seeking issuance of a writ in the nature of Certiorari for quashing the order dated 01.12.2014 (P-2) passed by respondent No.2- Deputy Commissioner, Bhiwani, whereby the Chamber No.13 of the Lawyers Chambers of the District Court Complex, Bhiwani has been allotted to respondent No.3.

Learned counsel for the petitioner contends that Old Chamber No.13 had originally been allotted to late Satbir Singh Phogat, Advocate in the year 1988. The petitioner had joined his office in the year 2006 as a Junior Assistant. Satbir Singh Phogat, Advocate unfortunately passed away on 12.10.2008. Thereafter, the petitioners No.2 and 3, who are the nephew and daughter of deceased Satbir Singh Phogat, have also joined the legal profession

and started practice at District Court Bhiwani. The petitioners having associated and related to Satbir Singh Phogat are entitled to the allotment of the Chamber.

Pursuant to the applications being invited for re-allotment of the above Chamber, a total of 18 applications were submitted including that of the petitioner No.1, who had sought allotment of said Chamber claiming that he is in actual physical possession of the same and was carrying out professional work from the said Chamber having remained as Junior associate with Satbir Singh Phogat. The other two petitioners had not applied for the allotment of Chamber pursuant to the applications being invited. However, the said request of petitioner No.1 was declined and the Chamber was re-allotted to respondent No.3 vide order dated 31.10.2011 passed by respondent No.2. The above said order of allotment was challenged by means of filing of CWP-23946-2011 before this Court which was disposed of vide order dated 13.10.2014. The operative part of the said order reads thus,

“2. The petitioners would be entitled to a similar consideration. The allotment already made shall stand set aside but shall be kept in abeyance for the Deputy Commissioner to make a fresh allotment on a transparent set of policy norms for allotment of lawyers’ chambers. The terms shall be set forth within a period of four weeks from today if it has not been already done in the light of decision rendered in CWP No.20146 of 2012 and take a decision within a further period of four weeks.”

It is averred that the matter was considered again by the respondent No.2 and vide order dated 01.12.2014, the Chamber in question was re-allotted to respondent No.3. Aggrieved thereof, the present petition has been filed.

Learned counsel for the petitioner contends that the respondent No.2-Deputy Commissioner, Bhiwani has passed the order dated 01.12.2014 (Annexure P-2) without appreciating that a uniform, transparent and fair procedure for allotment of Chamber had not been framed and allotment has been made by adopting a ‘pick and choose’ method. A further argument has been made that even though the High Court, in its order dated 13.10.2014 had directed the respondents to frame a transparent policy norm for allotment of the lawyers’ chamber and that the said exercise has not been undertaken by the respondent No.2-Deputy Commissioner, Bhiwani. Hence, the allotment of Chamber in favour of respondent No.3 is bad and is liable to be set aside and the petitioner No.1 being the former junior associate of Satbir Singh Phogat and having been in possession of the said Chamber had a preferential right for allotment of the said Chamber.

Written statement on behalf of the respondent No.2-Deputy Commissioner, Bhiwani had been filed, wherein it has been stated that the order of the High Court dated 13.10.2014 has not been referred to in entirety. As a matter of fact, the High Court had itself observed that number of years of practice, client dealing etc could be a relevant consideration for allotment. The same have been followed by them for considering the entitlement of the applicants to the Chamber. Pursuant to the order passed by this Court, the exercise of allotment of the Chamber was undertaken by considering *inter se* merits of 18 number of applicants on various parameters such as number of years of practice, client dealings etc. A comparative table of the applicants was also prepared. The same is extracted as under:

Sr. No.	Name	No. of years of Experience	Yes/No Association.
1.	Smt. Somi Rani	15 Years (11.11.99)	No

2.	Arsan Pratap Singh	12 Years (05.09.2002)	No
3.	Bijender Singh (Yadav)	8 Years (16.10.2006)	Yes
4.	Balbir Singh Indora	9 Years (31.10.2005)	No
5.	Mandeep Singh	9 Years (12.10.2005)	Yes
6.	Sandeep s/o Om Parkash	17 Years (25.10.1997)	No
7.	Ramesh Kumar	Enrolment No.P-416/09 – No information from Bar	No
8.	Shamsher Singh	19 Years 03.12.1995)	No
9.	Rupesh Sharma	13 Years (12.09.01)	No
10.	Deependra Godara	9 Years (12.08.2005)	No
11.	Anil Gill	9 Years (09.01.2010)	No
12.	Manjeet	11 Years (01.08.2003)	No
13.	Sudhir Khanagwal	9 Years (16.03.05)	No
14.	Jagdev Shedran	4 Years (9.01.10)	No
15.	Ram Niwas Sharma	46-4=42 years. Regist Date – 1.8.1968 No.P-517/1968	No
16.	B.L. Acharya	3 Years (06.01.2011)	No
17.	Devkant Sharma	04 years (28.09.10)	No
18.	Brahma Nand	30 years (25.05.84)	No

By placing reliance on the aforesaid comparative table, it has been stated that by considering the two parameters suggested by the High Court i.e. Experience, Number of Years of Practice and Association of the Chamber, the respondent No.3 was found to be having a 30 years experience as against 8 years experience of the petitioner herein. It was also observed that no such substantive weightage could be given to the fact that a person has remained associated with a former allottee of the Chamber as the same would not have been a meritorious ground. One Ram Niwas Sharma was having an experience of practice of more than three decades, however, as his son was having a Chamber No.419, hence, the claim of respondent No.3 was considered to be more suitable and meritorious. The allotment in favour of the respondent No.3

also not been challenged by any other person who is having any higher number of years of experience/enrollment with the District Bar Association.

A separate response on behalf of respondent No.3 has also been filed wherein he has reiterated his claim to be more meritorious as compared to the petitioners herein. Counsel for the respondent No.3 reiterated the above arguments.

I have heard the learned counsel for the respective parties and have also gone through the documents appended alongwith the present petition with their able assistance.

A perusal of the comparative table/chart extracted herein above with regard to all the 18 applicants shows that the respondent No.3 had more than three decades of experience/enrollment with the District Bar Association of Bhiwani and no other applicant claiming to be more meritorious on the basis of the criteria based on the experience/years of practice has raised a challenge to the allotment in favour of the respondent No.3. The said criteria/merit based upon the number of years of enrollment with the Bar cannot be said to be an arbitrary criteria/parameter. It is also not the case of the petitioners that the respondent No.3 is not in actual practice or is a non-practicing member of the District Bar Association. A list of the cases conducted by respondent No.3 had also been appended alongwith written statement. The petitioners have nowhere drawn any comparative merit to show that their suitability, merit or client dealing and/or the number of years of experience was more as compared to respondent No.3. The only claim for preferential title/right for seeking allotment of the said Chamber is based upon an assertion that the petitioner No.1 has remained a junior associate and the petitioners No.2 and 3 are nephew and daughter of late Satbir Singh Phogat.

The petitioners No.2 and 3 had not even applied for seeking allotment of the Chamber. They having opted not to stake a claim for seeking allotment, cannot now join in the cause with petitioner No.1 at this belated stage. Besides, having remained as an associate or being the children of former allottee cannot be a transparent, fair and meritorious criteria. The same can only be considered as a preference when more than one persons are ranked equally since benefit of this is available to only a select few instead of providing a level playing field or having a universal application. Besides, the petitioners have not challenged the criteria on a ground of it not being objective; rational or having a universal application. Nothing has been cited on the basis whereof it may be hold that heredity or association with the advocate is to be considered as a merit. The same not being a part of criteria for allotment of the Chamber of judging the suitability and merit, the allotment in favour of respondent No.3 cannot be set aside on the said score.

The sole ground for staking claim by the petitioner No.1 is that the criteria ought to have given preference to the associate of the former allottee. "Preference" would apply only in a situation where two persons stand on same merit. The same not being the case, the preference cannot be construed as merit. The gap between the petitioner No.1 and respondent No.3 is nearly three times the number of years of practice.

No undue favour or weightage has seemingly been conferred in faovur of respondent No.3. The process had attained finality way-back in 2014 and taking into consideration the facts noticed above as well as the *nter se* merit ascertain by the respondent No.2, I do not find that order dated 01.12.2014 (P-2) passed by the respondent No.2 –Deputy Commissioner,

Bhiwani suffers from any illegality, impropriety, perversity or is perpetuated by any malice.

The power of judicial review under Articles 226/227 of the Constitution of India would not be ordinarily invoked to substitute a decision taken by the Competent Authority when such decision is probable and based on objective; dispassionate and merit based objective assessment merely because any other view is also a possible view.

The present petition is accordingly dismissed.

06.01.2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No