

**Orissa High Court and Others  
v.  
Banshidhar Baug and Others Etc.**

(Special Leave Petition (C) No(s). 11605-11606 of 2021)

14 July 2025

**[J.B. Pardiwala and R. Mahadevan,\* JJ.]**

**Issue for Consideration**

Issue arose as regards the designation of Senior Advocates by the Full Court by exercising its *suo motu* power.

**Headnotes<sup>†</sup>**

**Advocates Act, 1961 – ss.16(2), 34(1) – High Court of Orissa (Designation of Senior Advocate) Rules, 2019 – r.6(9) – Designation of Senior Advocates – *Suo motu* designation of Senior Advocates by the Full Court – High Court quashed r.6(9) of the Rules whereby notwithstanding the procedure, Full Court on its own can designate an Advocate as Senior Advocate even without any proposal from Hon'ble Judges or application from the Advocate if it forms an opinion that an advocate by virtue of his/her ability or standing at the Bar deserves such designation, as *ultra vires* and not being in consonance with the judgment in \*\**Indira Jaising-1* – Justification:**

**Held:** Not justified – *Suo motu* designations by Full Court is valid, provided such designations adhere to the constitutional principles of fairness, transparency, and objectivity – Standards for the designation of Senior Advocates must be significantly higher than those applicable to other advocates – Judgment in \*\*\**Jitender @ Kalla's* case is concurred with and reconsideration of the issue of *suo motu* designations not warranted – Order passed by the High Court set aside – Amended r.6(9) to remain in force until fresh rules are framed by the High Court – Designation of respondent Nos.5 to 9 as Senior Advocates held to be valid – Judicial discipline. [Paras 17, 18, 20]

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\* Author

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### **Advocates Act, 1961 – s.16(2) – Designation of a Senior Advocate – Observation by this Court:**

**Held:** Designation of a Senior Advocate is a mark of distinction granted by the Court in recognition of exceptional legal acumen and advocacy – It is not conferred as a matter of right, nor can any advocate claim it merely on basis of seniority, experience, or popularity – Designation is conferred at the discretion of the Court, upon satisfaction that the advocate possesses outstanding ability, integrity, and professional standing – Courts are not expected to grant this status arbitrarily or as a matter of favour – Process for designation must be merit-based, transparent, fair, and free from personal preferences or informal influences – Thus, the conferment of Senior Advocate status is a privilege, not an entitlement, and must be governed strictly by the principles of fairness, accountability, and institutional integrity. [Para 19]

#### **Case Law Cited**

*\*\*\*Jitender @ Kalla v. State of NCT of Delhi, 2025 INSC 667 :  
Criminal Appeal No. 865 of 2025 – concurred.*

*\*\*Indira Jaising v. Supreme Court of India [2017] 10 SCR 478 :  
(2017) 9 SCC 766; Indira Jaising v. Supreme Court of India [2023]  
5 SCR 434 : (2023) 8 SCC 1; Jitender @ Kalla v. State of NCT  
of Delhi, 2025 INSC 249 – referred to.*

#### **List of Acts**

Advocates Act, 1961; High Court of Orissa (Designation of Senior Advocate) Rules, 2019.

#### **List of Keywords**

*Indira Jaising -1's case; Indira Jaising -2's case; Jitender @ Kalla's case Designation as Senior Advocates; Suo motu designation by Full Court; Principles of fairness, transparency, and objectivity.*

#### **Case Arising From**

EXTRAORDINARY CIVIL JURISDICTION: Special Leave Petition (C) No(s). 11605-11606 of 2021

From the Judgment and Order dated 10.05.2021 of the High Court of Orissa at Cuttack in WPC No. 17009 and 17110 of 2019

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*Advs. for the Petitioners:*

Atmaram N.s Nadkarni, Sr. Adv., Shovan Mishra, Ms. Bipasa Tripathy.

*Advs. for the Respondents:*

Ms. Uttara Babbar, Sr. Adv., Anirudh Sanganeria, Manan Bansal, Ms. Rayana Mukherjee, Sunil Kumar Jain, Ms. Rashika Swarup, Kedar Nath Tripathy, Aditya Narayan Tripathy.

**Judgment / Order of the Supreme Court****Judgment**

**R. Mahadevan, J.**

1. We have heard the learned counsel appearing for all the parties and perused the materials available on record.
2. These Special Leave Petitions are filed by the High Court of Orissa on its administrative side, challenging the common judgment and order dated 10.05.2021<sup>1</sup> passed by the High Court of Orissa at Cuttack on the judicial side<sup>2</sup>, in W.P.(C) Nos.17009 and 17110 of 2019. By the impugned order, the High Court quashed Sub-rule (9) of Rule 6 of the High Court of Orissa (Designation of Senior Advocate) Rules, 2019<sup>3</sup>, on the ground that it is *ultra vires* and not in consonance with the guidelines laid down in paragraphs 73 and 74 of the judgment of this Court in *Indira Jaising v. Supreme Court of India* [(2017) 9 SCC 766]<sup>4</sup>. Further, the High Court also quashed the notification dated 4<sup>th</sup> September 2019, issued by it on the administrative side, which called for applications from eligible advocates to be considered for designation as Senior Advocates under the Rules, 2019. Additionally, the High Court directed that Notification No.1378 dated 19.08.2019 shall remain in abeyance until a fresh decision is taken by the Full Court regarding designation of Senior Advocates.

1 For short, “the impugned order”

2 For short, “the High Court”

3 For short, “the Rules, 2019”

4 Hereinafter referred to as “*the Indira Jaising - 1*”

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3. On 02.08.2021, when the special leave petitions were taken up for consideration, this Court stayed the operation of paragraph 24 of the impugned order, which had declared Rule 6(9) as *ultra vires* and not being in consonance with the judgment in *Indira Jaising -1*.
4. According to the learned counsel for the petitioners, the High Court is not justified in quashing Rule 6(9) of the Rules, 2019 which is in consonance with the statutory provisions contained in Section 16(2) of the Advocates Act, 1961 as well as the judgment of this Court in *Indira Jaising -1*, which was subsequently clarified in *Indira Jaising v. Supreme Court of India [(2023) 8 SCC 1]*<sup>5</sup>.
  - 4.1. Continuing further, on the issue of whether the powers of the Full Court can be subject to guidelines or a framework laid down by this Court in matters concerning the designation of Senior Advocates, the learned counsel for the petitioners made the following submissions:
    - (a) The Rules, 2019 as amended, contemplate the modes of designation i.e.
      - (i) A written proposal proposing an Advocate by the Chief Justice/Judge or submission of written application by the Advocate concerned; and (ii) *Suo motu* designation by the Full Court, which amounts to a ‘recognition’ of eminence and excellence. It was also submitted that the guidelines/framework laid down in *Indira Jaising -1* and clarified in *Indira Jaising -2*, apply only to the first mode – i.e., when designation is sought via application – not to the *suo motu* designations made by the Full Court.
      - (b) The entire structure – such as the Secretariat, Permanent Committee, and the application-based process – was created by this Court in *Indira Jaising -1*. These mechanisms are in addition to, and not in derogation of the powers of the Full Court. It was emphasized that the plenary powers of the Full Court were not curtailed by this Court. Rather, a supplementary mechanism was created for candidates who voluntarily seek designation.
      - (c) It was further reiterated that the source of power of the Full Court for designation of Senior Advocates flows

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5 Hereinafter referred to as “the *Indira Jaising -2*”

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directly from Section 16 of the Advocates Act, 1961. The mechanism created by *Indira Jaising -1* is procedural and applies only to applicants. It cannot be construed to have taken away or diluted the inherent *suo motu* power of the Full Court to designate advocates.

- (d) Lastly, it was submitted that the High Court while passing the impugned order, did not have the benefit of the clarification issued by this Court in *Indira Jaising -2*. As such, the impugned order dated 10.05.2021 is *per incuriam*.
- 4.2. It was also submitted that without going into the legality of the second notification dated 04.09.2019, the High Court quashed the same as it would cause confusion vis-à-vis the applications received pursuant to the notification dated 22.04.2019.
- 4.3. With these submissions, the learned counsel for the petitioners prayed to set aside the impugned order passed by the High Court.
5. On the other hand, the learned counsel for Respondent No.1 / petitioner in W.P.(C) No.17009 of 2019, contended that Respondent Nos.5 to 9 in the writ petitions were *suo motu* designated as Senior Advocates before the process of senior designation as directed by this Court in *Indira Jaising -1* was completed. This pick and choose method adopted by the High Court was unfair to advocates, who were waiting for their applications to be considered under the first notification dated 22.04.2019 and therefore, their senior designation ought not to have been accepted. After considering this aspect by this Court, Respondent Nos.5 to 9 were asked to go through the entire process, and upon completion, they retained their designation as Senior Advocates.
- 5.1. It was further submitted that this Court in several pronouncements, has held that the designation of advocates as Senior Advocates is a privilege or honor based on the knowledge and expertise contributed by the individual to the legal profession. However, the guidelines brought in by the *Indira Jaising -1 and 2* judgments, on the ground of promoting transparency, have equated the process of designation to that of a promotion in a company.
- 5.2. The learned counsel further submitted that the process of applying pursuant to an advertisement, undergoing consideration before

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the Permanent Committee, inviting views / suggestions from the Bar, and attending an interview dilutes the original process of senior designation, wherein, the High Courts had the *suo motu* power to designate an advocate based on their intellect, honor, courtroom presentation, and contribution to the legal fraternity. This new process, according to the learned counsel, undermines the very essence of the honorary position granted to a Senior Advocate under the Advocates Act, 1961. That apart, this process also creates an embarrassing and unwilling situation for advocates who have been in practice for over 40 years or have surpassed the age of 65. Such senior advocates may hesitate to go through the elaborate procedure, fearing low marks in parameters such as publications and interview performance, leading to embarrassment in front of their peers.

- 5.3. It was also submitted that *Indira Jaising 1 and 2* judgments do not deal with the question of whether rejected applicants are informed about their non-selection and the reasons for the same. Furthermore, the entire process of Senior Advocate designation has attained a saturation point in several High Courts. While the court's intention was to democratize the designation system, it has not addressed situations, where one candidate may perform well in an interview, whereas another equally meritorious candidate may not, thereby creating a disparity in marks and depriving an eminent counsel of designation. None of these concerns have been addressed by this Court in the *Indira Jaising -1 and 2* judgments. Therefore, the learned counsel prayed for reconsideration of these judgments and sought appropriate modifications.
- 5.4. Finally, the learned counsel submitted that after the passing of the order dated 28.06.2021 in SLP (C) No.8346 of 2021 arising out of SLP (D) No.14137 of 2021, the process was duly considered and candidates have been designated as Senior Advocates.
6. It is the contention of the learned counsel for Respondent Nos.3 and 6 that these respondents were initially designated as Senior Advocates by the High Court in exercise of its *suo motu* power under Rule 6(9). However, in view of the impugned order, Respondent Nos.3 and 6 were subjected to the full rigour of the Rules, like all other

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applicants. They were thereafter designated by strictly following the procedure laid down under the Rules, 2019. It is therefore submitted that irrespective of whether the High Court possesses *suo motu* powers of designation, the designation of Respondent Nos.3 and 6 ought not to be disturbed, as it has attained finality.

- 6.1. Without prejudice to the above, it was further submitted that the judgments in *Indira Jaising -1 and 2* recognize the *suo motu* power of both the High Courts and the Supreme Court to designate advocates as Senior Advocates.
- 6.2. Thus, the learned counsel submitted that the *suo motu* designation of Respondent Nos. 3 and 6 on 19.08.2019 could not have been invalidated on the ground that High Court lacks *suo motu* power or that Rule 6(9) *ultra vires* the decision in *Indira Jaising -1*. Hence, the designation of Respondent Nos.3 and 6 deserves to be protected by this Court.
7. In addition, the learned counsel for Respondent No.4 submitted that Respondent No.4 along with four other advocates was designated as a Senior Advocate by the High Court under Section 16 of the Advocates Act, 1961 read with Rule 7(1) of the Rules, 2019. This designation was notified *vide* Notification No.1378 dated 19.08.2019. Aggrieved by the said notification, Respondent No.1 and others preferred two writ petitions. By the common order dated 10.05.2021, which is impugned herein, the High Court struck down Rule 6(9) of the Rules, 2019 as *ultra vires*, and issued a direction to consider the cases of Respondent Nos.5 to 9 along with other applicants under the first notification dated 22.04.2019. Challenging the said order, one Prasanna Kumar Parhi and others preferred SLP No. 8346 of 2021 (arising from SLP(D)No.14137 of 2021), in which, by order dated 28.06.2021, this Court granted an order of interim stay of the operation of paragraph 32(ii) of the order dated 10.05.2021, with a caveat that the applications in pursuance of the earlier notification would be considered first for designation, and once that process was concluded, the applications pursuant to the subsequent notification, dated 04.09.2019, could be taken up. In light of the said order, the case of Respondent No.4 along with other applicants was again considered. Respondent No.4 was thereafter designated as a Senior Advocate under section 16 of the Advocates Act, 1961 read with Rule 7(1) of the High Court of Orissa (Designation of Senior

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Advocate) Rules, 2019, *vide* notification dated 27.04.2022. Therefore, the learned counsel submitted that the designation of Respondent No.4 warrants no interference.

8. Upon considering the pleadings and the submissions made by the learned counsel appearing for the parties, the primary issue involved herein pertains to the designation of Senior Advocates by the Full Court by exercising its *suo motu* power.
9. The source of the power to designate an advocate as Senior Advocate is contained in Section 16(2) of the Advocates Act, 1961, which reads as under:

*"16. Senior and other advocates:*

.....

*(2) An advocate may, with his consent, 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."*

Thus, the above provision implicitly recognizes the power of a High Court to confer the distinction of Senior Advocate, subject to its opinion that the concerned Advocate, by virtue of his ability, standing at the Bar, or special knowledge or experience in law, is deserving of such recognition.

10. Earlier, the non-transparent and arbitrary procedures adopted for designating Senior Advocates under Section 16 of the Advocates Act, 1961, were challenged in *Indira Jaising -1*, wherein, this Court upheld the validity of the power of High Court to confer Senior Advocate designation under Section 16. Nonetheless, the Court expressed regret on the subjective and opaque nature of the then-prevailing process, and emphasized the need for a transparent, fair and consistent system. Accordingly, the Court issued directions for the formation of a Permanent Committee for designation of Senior Advocates, and laid down specific guidelines and criteria. The relevant paragraphs of the said decision are extracted below for better appreciation:

*"73. 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*

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*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.*

*73.1. 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”;*

*73.2. The Permanent Committee will be headed by the Hon'ble the Chief Justice of India and consist of two seniormost 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;*

*73.3. 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;*

*73.4. 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 advocate(s) concerned 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;*

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

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*73.6. After the database in terms of the above is compiled 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;*

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

<i>Sl. No.</i>	<i>Matter</i>	<i>Points</i>
1.	<i>Number of years of practice of the applicant advocate from the date of enrolment.</i>  <i>[10 points for 10-20 years of practise; 20 points for practise beyond 20 years]</i>	<i>20 points</i>
2.	<i>Judgments (reported and unreported) which indicate the legal formulations advanced by the advocate concerned in the course of the proceedings of the case; pro bono work done by the advocate concerned; 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.</i>	<i>40 points</i>
3.	<i>Publications by the applicant advocate</i>	<i>15 points</i>
4.	<i>Test of personality and suitability on the basis of interview / interaction</i>	<i>25 points</i>

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

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*73.9. 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.*

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

*73.11. 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 person concerned and recall the same.*

*74. We are not oblivious of the fact that the guidelines enumerated above may not be exhaustive of the matter and may require reconsideration by suitable additions/deletions in the light of the experience to be gained over a period of time. This is a course of action that we leave open for consideration by this Court at such point of time that the same becomes necessary.”*

11. Pursuant to the aforesaid judgment, the High Court of Orissa framed the High Court of Orissa (Designation of Senior Advocate) Rules, 2019, in exercise of the powers conferred by Section 34 (1) read with Section 16(2) of the Advocates Act, 1961. Rule 12 repealed all earlier rules, guidelines, or instructions related to the designation of Senior Advocates. Under the Rules 2019, there are three recognized methods for initiating the designation process:
  - (i) A written proposal by the Chief Justice or any sitting Judge of the High Court, under Rule 5 (1) (a), to be submitted in Form I of Appendix-A, along with the prior written consent of the concerned advocate.
  - (ii) An application by the advocate concerned in Form II of Appendix-A, as per Rule 5 (2).
  - (iii) **A suo motu designation by the Full Court, under Rule 6(9), if it forms the opinion that an advocate, by virtue of ability**

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**or standing at the Bar, deserves such designation – even in the absence of a proposal or application.**

12. In accordance with the Rules, 2019, the High Court issued a notification dated 22.04.2019, inviting applications from eligible advocates for consideration. In the meantime, Respondent Nos.5 to 9 were designated as Senior Advocates by the High Court exercising its *suo motu* power under Rule 6(9), prior to the completion of the process initiated by the earlier notification. This designation was notified *vide* Notification No.1378 dated 19.08.2019. Subsequently, the Registrar (Judicial) issued a second notification dated 04.09.2019 inviting fresh applications. Aggrieved by this, Respondent No.1 and others filed W.P. Nos. 17009 and 17110 of 2019 before the High Court on its judicial side, challenging Rule 6(9), the notification dated 04.09.2019, and the *suo motu* designations.
13. The High Court by the impugned order, struck down Rule 6(9) of the Rules, 2019 as *ultra vires* and directed that the cases of Respondent Nos.5 to 9 be considered along with other applicants under the first notification dated 22.04.2019. Challenging the High Court's order, SLP (C) No. 8346 of 2021 came to be filed and this Court by order dated 28.06.2021, issued notice and stayed the operation of the impugned order, with a direction that applications under the first notification be considered first. Upon completion of that process, applications under the second notification could be considered.
14. Pursuant to this Court's order, the cases of Respondent Nos.5 to 9 were again considered and they were designated as Senior Advocates *vide* Notification dated 27.04.2022. Since their designation was made in compliance with this Court's directive, no further examination of the same arises herein.
15. In the meanwhile, further clarification was issued by this Court in *Indira Jaising -2*. The relevant paragraphs of the said judgment are extracted below:

*“9. Vide an elaborate judgment dated 12.10.2017, a three-Judge Bench of this Court laid down a series of guidelines to bring in greater transparency and objectivity in the designation process. This was done while retaining the *suo motu* designation power of the Court. These guidelines have been set forth in para 73 of the judgment.”*

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48. Here, we would like to reiterate the observation made in the 2017 Judgment [*Indira Jaising v. Supreme Court of India*, (2017) 9 SCC 766 : (2017) 4 SCC (Civ) 575 : (2017) 2 SCC (L&S) 802, (hereinafter “the 2017 Judgment”)] that the power of *suo motu* designation by the Full Court is not something that is being taken away. This power has been and can continue to be exercised in the case of exceptional and eminent advocates through a consensus by the Full Court.”

16. Subsequently, the High Court amended Rule 6(9) *vide* Notification dated 15.12.2023, to align it with the directives issued by this Court. The amended Rule reads as follows:

“6. *Procedure for Designation:-*

...

(9) Notwithstanding the above noted procedure for designation of an Advocate as Senior Advocate, the Full Court *suo motu* may designate an exceptional and eminent Advocate as Senior Advocate through consensus, if it is of the opinion that by virtue of his/her ability or standing at the Bar, the said Advocate deserves such designation”.

17. At this juncture, we point out that although the three-Judge Bench of this Court in *Indira Jaising v. Supreme Court of India*, laid down the guidelines for the designation of Senior Advocates by the High Courts and the Supreme Court, the Court explicitly stated that those guidelines are not exhaustive and may require reconsideration. The need for such reconsideration arose recently before a concurrent Bench of this Court.
18. In *Jitender @ Kalla v. State of NCT of Delhi*<sup>6</sup>, a Division Bench of this Court expressed the view that the interview-based process for the designation of Senior Advocates should be reconsidered by a larger Bench. The court also elaborated on the qualifications necessary for designation under Section 16 of the Advocates Act, 1961. Subsequently, a three-Judge Bench was constituted, and the matter was heard in detail and was disposed of, *vide* judgment dated

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13.05.2025 in Criminal Appeal No.865 of 2025<sup>7</sup>. Upon thorough reconsideration of the above judgments, including *Jitender @ Kalla*, the Court observed that Section 16(2) of the Advocates Act, 1961 was amended in 1973 (effective from 31.01.1974), replacing the phrase “experience and standing at the Bar” with “ability, standing at the Bar, or special knowledge or experience in law”. The Court emphasized that the standards for the designation of Senior Advocates must be significantly higher than those applicable to other advocates. Ultimately, the Court reaffirmed the validity of *suo motu* designations by Full Court, provided such designations adhere to the constitutional principles of fairness, transparency, and objectivity. For better understanding, the relevant paragraphs of the said three-Judge Bench judgment are reproduced below:

*D. Reconsideration in terms of Paragraph 74 of Indira Jaising -1 and Paragraph 51 of Indira Jaising -2*

*75. We have already held in paragraph 60 that considering the object of the exercise undertaken by this Court, the directions issued in Indira Jaising-1 and 2 were never intended to be final. Indira Jaising-1 specifically records need for reconsiderations by suitable additions/deletions in the light of the experience to be gained over a period of time. Even Indira Jaising-2 reiterates this position and holds that the process of improvement is continuous, based on our experience. What we have held in earlier paragraphs shows that the system of 100 point-based assessment has not achieved the desired objectives. Moreover, the experience shows that the points-based assessment is not flawless. We have realized that with experience. Therefore, paragraph 73.7 deserves deletion in exercise of powers reserved in paragraph 74 of Indira Jaising-1 read with paragraph 51 in Indira Jaising-2. When we do this, it will not amount to review or recall of the decisions. After finding that the point-based assessment is not workable, we will be failing in our duty if we fail to do what we are expected to do in the light of paragraph 74 of Indira Jaising-1.*

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76. On plain reading of Sub-section (2) of Section 16, the Legislature never contemplated an Advocate making an application seeking designation. The scheme of Sub-section (2) of Section 16 indicates that designation has to be conferred by the Supreme Court or the High Courts. The scheme of Sub-section (2) of Section 16 indicates that an individual Judge of the Supreme Court or the High Court, as the case may be, cannot recommend any Advocate for designation as the decision is a collective decision of the Full Court. Even if an Advocate deserving of a designation does not apply for designation, on the basis of the discussion in the house, the Full Court can always recommend his/her designation, subject to his/her consent. For that purpose, the recommendation in writing of an individual Judge is not warranted.

.....

K. Need to frame proper Rules

83. Even in the absence of a specific provision under the Advocates Act, this Court and High Courts, being the Constitutional Courts, have a power to frame rules. The power of this Court can be traced to Article 145(1)(a). The High Courts can exercise power under Article 227(2) (b). It is necessary that proper Rules must be framed dealing with the entire process of designating Advocates as Senior Advocates. The object of the rules must be to bring objectivity, transparency and fair play in the entire process. The rule making power in this behalf can also be traced to Sub-section (1) of Section 34 of the Advocates Act which reads thus:

“Section 34: Power of High Courts to make rules.

(1) The High Court may make rules laying down the conditions subject to which an advocate shall be permitted to practise in the High Court and the courts subordinate thereto.”

84. The grassroots level situation in each High Court differs. High Courts have their own traditions. Therefore, it should

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*be best left to the High Courts to frame rules in the light of the principles laid down in this decision. While framing rules, this Court and the High Courts must undertake a detailed process of consultation with the Advocate General, senior members of the Bar, office bearers of the Bar Associations and the members of the State Bar Council. Even the members of the Bar owe a duty to ensure that only deserving Advocates get designation, and therefore, their suggestions must be given importance in the process of framing rules. The Rules must take into consideration several contingencies. There are cases where after the request for designation is rejected by one High Court, the candidate approaches this Court or another High Court. The Rules can provide for prohibition on applying for a certain period after rejection of earlier application. The Rules can provide for the form of application, required documents etc.*

...

**M. Need to Periodically Review the Procedure**

*86. The view which we have taken will be again subject to what is observed in paragraph 74 of the decision in the case of Indira Jaising-1 and paragraph 51 of the decision in the case of Indira Jaising-2. Looking to the very nature of the process of designation, it is very difficult to arrive at a perfect system. We learn from our experience and the mistakes committed in the past. Therefore, the endeavour of all stakeholders should be to keep on improving the system, so that we may ensure that not a single deserving Advocate is left out of the process of designation and not a single undeserving person is designated.*

**CONCLUSIONS**

*87. We, therefore, pass following orders:*

*(i) We direct that the directions contained in paragraph 73.7 of Indira Jaising-1 as amended by Indira Jaising-2 shall not be implemented;*

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(ii) *It will be appropriate if all the High Courts frame Rules in terms of what is held in this decision within a period of 4 months from today by amending or substituting the existing Rules. The Rules shall be made keeping in view the following guidelines:*

- a. *The decision to confer designation shall be of the Full Court of the High Courts or this Court;*
- b. *The applications of all candidates found to be eligible by the Permanent Secretariat along with relevant documents submitted by the applicants shall be placed before the Full House. An endeavour can always be made to arrive at consensus. However, if a consensus on designation of Advocates is not arrived at, the decision-making must be by a democratic method of voting. Whether in a given case there should be a secret ballot, is a decision which can be best left to the High Courts to take a call considering facts and circumstances of the given case;*
- c. *Minimum qualification of 10 years of practice fixed by Indira Jaising-1 needs no reconsideration;*
- d. *The practice of Advocates making applications for grant of designation can continue as the act of making application can be treated as consent of the Advocates concerned for designation. Additionally, the Full Court may consider and confer designation dehors an application in a deserving case;*
- e. *In the scheme of Section 16(2), there is no scope for individual Judges of this Court or High Courts to recommend candidate for designation; and*
- f. *At least one exercise of designation should be undertaken every calendar year.*

(iii) *The processes already initiated on the basis of decisions of this Court in the case of Indira Jaising-1 and Indira Jaising-2 shall continue to be governed by the said decisions. However, new process shall not be initiated and new applications shall not be considered unless there is a proper regime of Rules framed by the High Courts;*

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*(iv) It is obvious that even this Court will have to undertake the exercise of amending the Rules/ Guidelines in the light of this decision; and*

*(v) Every endeavour shall be made to improve the regime/ system of designation by periodically reviewing the same by this Court and the respective High Courts.”*

In light of the foregoing, and as a matter of judicial discipline, we respectfully follow and concur with the judgment in *Jitender @ Kalla* (supra), as it squarely applies to the present case. Accordingly, no reconsideration of the issue involved herein is warranted.

19. Before parting, we wish to observe that the designation of a Senior Advocate is a mark of distinction granted by the Court in recognition of exceptional legal acumen and advocacy. It is not conferred as a matter of right, nor can any advocate claim it merely on the basis of seniority, experience, or popularity. The designation is conferred at the discretion of the Court, upon satisfaction that the advocate possesses outstanding ability, integrity, and professional standing. Courts are not expected to grant this status arbitrarily or as a matter of favour. At the same time, the process for designation must be merit-based, transparent, fair, and free from personal preferences or informal influences. It must, therefore, be reiterated that the conferment of Senior Advocate status is a privilege, not an entitlement, and must be governed strictly by the principles of fairness, accountability, and institutional integrity.
20. In fine, the order passed by the High Court on its judicial side is set aside. The designation of Respondent Nos.5 to 9 as Senior Advocates is held to be valid. The amended Rule 6(9) shall remain in force until fresh rules are framed by the High Court.
21. These Special Leave Petitions are disposed of accordingly. No costs. Consequently, miscellaneous application(s), if any, shall stand closed.

*Result of the case:* Special Leave Petitions disposed of.

<sup>†</sup>*Headnotes prepared by:* Nidhi Jain