

SUPREME COURT BAR ASSOCIATION

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v.

MINISTRY OF URBAN DEVELOPMENT & ORS.

(Writ Petition (C) No. 640 of 2022)

MARCH 23, 2023

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**[DR. DHANANJAYA Y CHANDRACHUD, CJI,
SANJAY KISHAN KAUL AND
PAMIDIGHANTAM SRI NARASIMHA, JJ.]**

Constitution of India – Art. 32 – Supreme Court Bar Association sought writ of mandamus directing Union Ministry of Urban Development to (i) grant permission for the conversion into a chamber block for lawyers of an entire tract of land admeasuring 1.33 acres situated near the ITO, which has been allotted to the Supreme Court; (ii) convert the entire area around the Supreme Court as ‘a Supreme Court Complex’, so that all the buildings can be utilized for conversion into chambers or for being redeveloped as a chamber block / for activities of the Supreme Court or for any other amenities for lawyers; and (iii) allot a government bungalow which is presently being occupied by the Foreign Correspondents’ Club to the petitioner – Held: Such directions cannot be issued on the judicial side – The Supreme Court of India on its administrative side to take appropriate decisions bearing in mind the needs of the institution for the present and the future and the interest of all stakeholders – The process of decision making would also involve consultation with the Bar – SCAORA, SCBA and BCI would be at liberty to address the issue with their representations on the administrative side – Writ petitions disposed of.

CIVIL ORIGINAL JURISDICTION: Writ Petition (C) No. 640 of 2022.

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA) G

With

Writ Petition (C) No. 817 of 2022.

Vikas Singh, Pradeep Kumar Rai, Ms. Rachna Srivastava, Ms. Sonia Mathur, Brijender Chahar, Dinesh Kumar Goswami, Vikas Pahwa, H

- A Ranji Thomas, Sr. Advs., Rohit Pandey, Mrs. Yugandhara Pawar Jha, Reepak Kansal, Ms. Seema Patnaha, Kumar Gaurav, Mukesh Kumar Singh, Vikas Gupta, Ms. Anjali Chauhan, Upendra Mishra, Ms. Nandini Gupta, Satbir Singh Pillania, Ms. Sangeeta Singh, Pravir Choudhary, Advs. for the Petitioner.
- B R. Venkataramani, AG, K.M Nataraj, Ms. Madhavi Divan, A.S.Gs., Ms. Meenakshi Arora, Manan Kumar Mishra, S Prabhakaran, Apurba Sharma, Sr. Advs., Mrs. Jyoti Zongluju, Kanu Agrawal, Mrs. Deepabali Dutta, Vinayak Sharma, Amrish Kumar, Ms. Nidhi Khanna, Devvrat, Manoj K. Mishra, Snehasish Mukherjee, Ms. Rashmi Malhotra, Puneet Singh Bindra, Sachin Sharma, Abhinav Ramkrishna, Vishal Prasad, Ms. Meenakshi Chauhan, Ms. Divya Jyoti Singh, Aakarshan Aditya, Ms. Anzu K Varkey, Ms. Radhika Gautam, Ms. Anjul Diwedi, Vishwajeet Mishra, Sai Girdhar Diwedi, Ramshankar, Advs. for the Respondents.

Applicant-in-person

- D The Judgment of the Court was delivered by
DR. DHANANJAYA Y CHANDRACHUD, CJI

1. The Supreme Court Bar Association¹ has invoked the jurisdiction of this Court under Article 32 of the Constitution seeking a writ of *mandamus* directing the Union Ministry of Urban Development to

- E (i) grant permission for the conversion into a chamber block for lawyers of an entire tract of land admeasuring 1.33 acres situated near the ITO, which has been allotted to the Supreme Court;
- (ii) convert the entire area around the Supreme Court as ‘a Supreme Court Complex’ so that all the buildings across the Supreme Court on Bhagwan Das Road including the Foreign Correspondents’ Club of South Asia, Indian Law Institute and Indian Society of International Law can be utilized for conversion into chambers or for being redeveloped as a chamber block / for activities of the Supreme Court or for any other amenities for lawyers; and
- (iii) allot a government bungalow which is presently being occupied by the Foreign Correspondents’ Club to the petitioner.

H ¹ “SCBA”

2. According to the petitioner, the number of advocates practicing before the Supreme Court has increased manifold in recent years and the existing chamber blocks are insufficient to accommodate the growing needs of lawyers eligible for allotment. According to the petitioner, an area admeasuring 12.19 acres in the erstwhile Appu Ghar Complex was allotted to the Supreme Court by the Ministry of Urban Development of which a small portion has been utilized for the construction of a new chamber block for advocates practicing before the Supreme Court. In the new chamber block for lawyers, 234 chambers have been constructed which are now allotted on a dual occupancy to accommodate 468 lawyers.

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3. The petitioner asserts that out of a total area of 1.33 acres allotted to the Supreme Court by the Union Government near ITO for the construction of an archival block, only 0.50 acres has been earmarked for a chamber block for lawyers. According to the petitioner, only four to five hundred chambers can be constructed in the said area. Since the land admeasuring 1.33 acres is ‘the last piece of vacant land available near the Supreme Court’, the petitioner submits that it should be entirely utilized for constructing chamber blocks for lawyers.

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4. According to the petitioner, the archives of the Supreme Court can be housed in the Additional Building Complex where some areas are lying vacant. The petitioner submits that they have an equal right to utilize vacant spaces in lands allotted to the Supreme Court as its members are an integral part of the justice delivery system.

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5. Appearing on behalf of the petitioner, Mr Vikas Singh, learned senior counsel submitted that:

- (i) The allotment of 12.19 acres in the erstwhile Appu Ghar Complex by the Ministry of Urban Development to the Supreme Court was expedited by the institution of a petition on the judicial side by the SCBA;
- (ii) After the Additional Building Complex was constructed in 2018-19, a small segment has been utilized for the construction of a chamber block for lawyers in which 234 chambers have been constructed allowing for an occupancy of 468 lawyers;
- (iii) The Additional Registrar of the Supreme Court informed the SCBA that 0.50 acres out of 1.33 acres of land have

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- A been earmarked for construction of a lawyers' chamber block, subject to a change of use. Since only four to five hundred chambers can be constructed on the land which has been earmarked, the entirety should be utilized for the construction of chambers for lawyers who are an integral part of the justice delivery system; and
- B (iv) A petition under Article 32 is maintainable because a change of land use requires judicial intervention and also bearing in mind the precedent of this Court's intervention on the issue of the electoral college for the SCBA.
- C 6. Ms Meenakshi Arora, learned senior counsel appearing on behalf of the Supreme Court Advocates on Record Association² submits that the members of the Association are required by the Rules governing their practice as Advocates on Record to maintain an office within a stipulated radius of the Supreme Court. Learned senior counsel submitted that in the newly constructed chamber block in the Additional Building Complex, approximately 70 percent of the chambers have been allotted to Advocates on Record (the remaining 10 percent being allotted to Senior Advocates and 20 percent to other Advocates). While emphasizing the needs of the Advocates on Record, Ms Arora submitted that this is a matter which SCAORA is agreeable to being taken up on the administrative side with the Supreme Court. Learned senior counsel further submitted that at that stage, it would be desirable if an opportunity is granted to SCAORA to deliberate on the issue with the Building Committee of the Supreme Court.
- D 7. Mr Manan Kumar Mishra, Mr S Prabhakaran, and Mr Debi Prasad Dhal, all learned senior counsel, appeared on behalf of the Bar Council of India.
- E 8. Mr Manan Kumar Mishra who is also the Chairperson of the Bar Council of India urged that (i) the Bar Council of India is a statutory body entrusted with duties and functions to regulate the legal profession; (ii) though the Bar Council has a building of its own, situated in proximity to the Supreme Court, it is inadequate to meet its needs; (iii) the Bar Council of India has to carry out disciplinary functions and all its records are lodged in a godown; (iv) hence the space should be allotted to the Bar Council of India for the construction of a building complex which
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- F ² "SCAORA"

would facilitate the discharge of its statutory functions under the Advocates Act 1961. Mr Manan Kumar Mishra, Mr S Prabhakaran and Mr Debi Prasad Dhal, learned senior counsel have, however, joined in stating that this is a matter which should be taken up only on the administrative side and the Bar Council would be content with such decision as may be taken by the Supreme Court to accommodate its reasonable needs.

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9. Mr R Venkataramani, learned Attorney General appeared on behalf of the Union Government. The Attorney General has submitted that the issue should be taken up on the administrative side by the Supreme Court and that in his own capacity, he will facilitate an attempt to secure the needs of the institution and of its stakeholders.

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10. Mr Vikas Singh, learned senior counsel appearing on behalf of the SCBA has questioned the locus of the Bar Council of India in these proceedings, stating that SCBA is the recognized association representing lawyers practicing before the Supreme Court. Hence, according to him, the Bar Council, which has a building of its own, has no *locus standi* to make any submissions for asserting its own demands in the land which has been allotted to the Supreme Court.

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11. On 12 September 2022, this Court issued notice with respect to the relief sought in prayer (a) of the petition seeking the conversion of the land admeasuring 1.33 acres for a chamber block for lawyers.

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12. The written submission which has been filed in these proceedings by the Secretary General of the Supreme Court of India sets out the background of the allotment of land admeasuring 1.33 acres. On 21 August 2017, pursuant to a request by the Registrar (Administration) of the Supreme Court, the Union Ministry of the Housing and Urban Affairs conveyed the sanction of the President of India for the allotment of the land for the specific purpose of setting up of the Supreme Court Archives. On 27 August 2018, the Additional Registrar of the Supreme Court informed the SCBA of the decision to earmark 0.50 acres out of the land for the purpose of constructing lawyers' chambers. By a notification dated 1 February 2019, the Union Ministry of Housing and Urban Affairs modified the Master Plan of Delhi - 2021 in exercise of powers under Section 11A(2) of the Delhi Development Act 1957 by which the land use of the land located in Planning Zone-3 was changed to 'Government Office'.

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- A 13. The Secretary General also submitted that the decision to use the land for the Supreme Court Archives as well as the decision to allocate 0.5 acres of the land for construction of lawyers' chambers is in accordance with the direction of the then Chief Justice of India and the matter regarding the development of the land is pending consideration
 - B before the Judges Committee. The Secretary General has submitted that the suggestion of the petitioner that the Supreme Court Archives be re-shifted to Blocks 'A' and 'B' of the Additional Building Complex or the Annex Building cannot be accepted as the space available in those locations is inadequate. It has been submitted that the decision to earmark 0.5 acres for the construction of lawyers' chambers was taken after
 - C careful deliberation bearing in mind that a chamber block has also been recently constructed in the Additional Building Complex for members of the Bar.
14. During the course of the deliberations at the oral hearing, the Bench has indicated that it is fully cognizant of the needs of the lawyers appearing before the Supreme Court who are vital stakeholders in the administration of justice. Moreover, it was also noted during the course of the dialogue that the litigants are stakeholders as well and while creating or upgrading the existing amenities, the interest and welfare of litigants has to be duly recognized and protected.
- E 15. The narration of submissions would indicate that while Mr Vikas Singh, learned senior counsel appearing on behalf of the SCBA has sought a resolution of the demand raised in the petition on the judicial side, SCAORA and the Bar Council of India, on the other hand, indicated that they would wish to have the issue addressed on the administrative side so that an appropriate view can be taken by this Court administratively after deliberation with their representatives.
16. There is no gainsaying in the fact that the members of the Bar, together with the litigants, have an important role in the functioning of the judicial institution of the Supreme Court. During the course of the hearing, we have abundantly indicated to the learned senior counsel that the views of the Bar would be solicited and deliberations will take place on the administrative side with the members of the Associations and the Bar Council.
17. The learned Attorney General for India has, in the same manner, as SCAORA and the Bar Council of India, indicated that the
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issue needs to be taken up on the administrative side and not on the judicial side. A

18. We are categorically of the view that it would not be appropriate to entertain a petition under Article 32 of the Constitution seeking a direction that the entirety of the land admeasuring 1.33 acres should be allotted for the construction of a chamber block for lawyers. B

19. On 27 August 2018, the Additional Registrar of the Supreme Court of India addressed a communication to the Honorary Secretary of the SCBA stating that 0.50 acres out of 1.33 acres of land shall be earmarked for the construction of lawyers' chambers subject to a change of land use by the concerned authority. Mr Vikas Singh, learned senior counsel appearing for the SCBA urged that a direction for the change of land use has to be adjudicated only on the judicial side. However, this may not be a correct perception. Issues pertaining to the change of land use, as indicated in the letter dated 27 August 2018, are eminently suitable for being addressed on the administrative side. C

20. SCBA cannot assert a right to the entirety of the land admeasuring 1.33 acres, which has been allotted by the Union government for housing the Supreme Court Archives, for converting it into a chamber block for lawyers. The Supreme Court of India discharges both judicial and administrative functions. The discharge of its functions implicates diverse stakeholders including lawyers, litigants and the staff engaged in activities of the Supreme Court. A holistic view has to be taken on the allocation of available resources by balancing the needs of stakeholders both for the present and the future. These are matters which cannot be resolved by the application of judicial standards and have to be taken up on the administrative side of the Supreme Court. Administrative functioning and decision-making, which the current issue requires, cannot be moved to the judicial side. D

21. Apart from prayer 'a' which seeks the conversion of the entirety of the land admeasuring 1.33 acres to a chamber block for lawyers, the petitioners have also sought the conversion of the entire area around Supreme Court as a Supreme Court Block so that all buildings across the Supreme Court on Bhagwan Das Road can be utilized for conversion to lawyers' chambers. The petitioner has also sought the allotment of a government bungalow presently occupied by the Foreign Correspondents' Club to the petitioner. Such directions cannot be issued on the judicial side. E

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- A 22. We therefore are unable to subscribe to the reliefs which have been sought in the petition under Article 32. However, we leave it open to the Supreme Court of India on its administrative side to take appropriate decisions bearing in mind the needs of the institution for the present and the future and the interest of all stakeholders. The process of decision making would also involve consultation with the Bar.
- B SCAORA, SCBA and BCI would be at liberty to address the issue with their representations on the administrative side. The writ petitions shall accordingly stand disposed of in the above terms.

Ankit Gyan
(Assisted by : Dayaar, LCRA)

Writ petitions disposed of.