
(2006) 08 MP CK 0029
In the Madhya Pradesh High Court
Case No : Writ Petition No. 28220 of 2003

J.P. Sanghi

APPELLANT

Vs

The State Bar Council of M.P. and Others

RESPONDENT

Date of Decision : 11-08-2006

Acts Referred:

Advocates Act, 1961 — Section 15(1), 16, 17, 5, 6
Allotment of Chambers Rules, 1998 — Rule 3, 4, 6
Constitution of India, 1950 — Article 12, 14

Citation : (2006) ILR (MP) 1262 : (2007) 2 JLJ 193 : (2006) 4 MPHT 24 :
(2006) 3 MPLJ 612

Hon'ble Judges : A.K. Patnaik, C.J.; S.C. Sinho, J

Bench : Division Bench

Advocate : Aditya Sanghi, for the Appellant; B.K. Rawat, for the Respondent No. 6(A), for the Respondent

Final Decision : Allowed

Judgement

A.K. Patnaik, C.J.

The petitioner is a Senior Advocate practicing in the High Court of Madhya Pradesh at Jabalpur and is aggrieved by the non-allotment of a chamber to him by the respondent No. 1, State Bar Council of Madhya Pradesh (for short The State Bar Council").

The facts very briefly are that the State Bar Council constructed chambers for Advocates practicing in the High Court of Madhya Pradesh at, Jabalpur. Under the Rules for Allotments Chambers, every applicant desirous ; of obtaining a chamber from the State Bar Council was to make an application in writing addressed to the Secretary of the State Bar Council in the prescribed form and to furnish alongwith such application a security amount and the office, was to maintain a chronological list of applications for allotment of chambers and the chambers were normally to be allotted in the chronological order by the Secretary of the State Bar Council.

The petitioner applied for allotment of chamber and made a security deposit on 24-4-1984. Thereafter, a new set up of Rules called "Allotment of Chambers Rules, 1998" (for short "Rules 1998") was made by the State Bar Council with the approval of the Bar Council of India and :brought into force; with effect from 17th October, 1998. Rule 4 of the Rules, 1998 provided; that the allotment of chamber shall ordinarily be allotted in the order of chronological list of applications. For allotment of chambers maintained by the State Bar Council, but the proviso to Rule 4 of the Rules, 1998 stated that at the time of allotment, a sitting member of the State Bar Council of the Madhya Pradesh shall be given priority. The grievance of the petitioner is that as per the first proviso to Rule 4 of the Rules, 1998, members of the State Bar Council, namely, respondent Nos. 10 to 14, have been allotted chambers and as a result, the petitioner continues to be in the waiting list for allotment of chamber since 1984. The further case of the petitioner is that the respondent Nos. 4 to 9 (A) are not at all entitled to continue in chambers occupied by them under the Rules, 1998, but the State Bar Council is not taking any action against the said respondent Nos. 4 to 9 (A), and consequently the petitioner is unable to get any allotment of chamber and continues to be in the 7th position in the waiting list for allotment of chambers as on 16th October, 2003.

In the meanwhile, by Resolution No. 126/EC/05, the Executive Committee of the State Bar Council resolved that if the Advocate, whose name finds place in the waiting list, fails to deposit a security amount of Rs. 50,000/-, despite communication by the State Bar Council, the name of such advocate shall be passed over and then his case will not be considered for the purpose of allotment of chambers until and unless all such persons who have deposited Rs. 50,000/- are considered for allotment of chambers. A communication dated 8-4-2004 (Annexure P-2) was also issued to the petitioner requesting him to deposit an amount of Rs. 50,000/- through a Bank draft to be drawn in favour of the State Bar Council of Madhya Pradesh for allotment of chamber in the second floor of existing State Bar Council building. The petitioner deposited the said sum of Rs. 50,000/-, but subsequently, took back the said amount.

The petitioner has filed this writ petition praying for declaring the proviso to Rule 4 of Rules, 1998 making special provisions for members of the State Bar Council in the matter of allotment of chambers by the State Bar Council as ultravires the Advocates Act, 1961 and Article 14 of the Constitution and also for quashing the Resolution No. 126/EC/05 by which an Advocate is required to make a security deposit of Rs. 50,000/- for allotment of chamber as ultravires the Rules, 1998.

Mr. Aditya Sanghi, learned Counsel appearing for the petitioner, submitted that under Rule 3 of the Rules, 1998, only an Advocate who has put in 10 years" practice can apply for a chamber, but under the proviso to Rule 4 of the Rules of 1998, the members of the State Bar Council need not have such 10 years of practice for allotment of chamber. He further submitted that under Rule 4 of the Rules, 1998, a waiting list of Advocates who have applied for chambers has to be

maintained and chambers are to be allotted to the Advocates as per the chronological order of the applications but this provision is not applicable to sitting members of the State Bar Council and they are to be allotted chambers on priority basis. He submitted that the proviso to Rule 4 of the Rules, 1998, thus, creates a special class of the members of the State Bar Council. He submitted that under the Advocates Act, 1961 (for short "the Act") and in particular Sections 16 and 17 thereof, there are only two classes of Advocates? Senior Advocates and other Advocates and the provisos to Rule 4 of the Rules, 1998 in so far as they create a third class of Advocates, namely members of the State Bar Council is ultravires the Act. He further submitted that provisos to Rule 4 of the Rules, 1998 are also discriminatory and violative of Article 14 of the Constitution of India inasmuch as the said provisos confer some special favours to the members of the State Bar Council in the matter of allotment of chambers.

In reply, Mr. Rajendra Tiwari, learned Senior Counsel appearing for the State Bar Council, submitted relying on the additional return filed on behalf of the respondent Nos. 1 and 2 that the members of the State Bar Council are given priority under the proviso to Rule 4 of the Rules, 1998 in allotment of chambers to facilitate them to perform duties as members of the State Bar Council effectively as well as to perform duties as an Advocate in the Court with similar efficiency. He submitted that the members of the State Bar Council are elected from different parts of the Madhya Pradesh and they do not belong to Jabalpur, Gwalior or Indore where the High Court of Madhya Pradesh has its Benches and where chambers have been constructed by the State Bar Council and for this reason, the provision in Rule 3 of the Rules, 1998 that an Advocate to be eligible for allotment of chamber must have at least 10 years" practice, has not been made applicable to the members of the State Bar Council.

Rules 3 and 4 of the Rules, 1998 are quoted herein below:

Rule 3. An Advocate on roll of the State Bar Council for at least a period of ten years, shall be entitled to apply for allotment of Chamber. Each application shall be accompanied by security deposit of Rs. 10,000/-:

Provided that an Advocate shall be entitled for allotment of Chamber only when he is regularly practicing in the High Court: Provided further that, if a licensee Advocate is not appearing in the High Court regularly for more than a year without reasonable cause, then it will be deemed that he is not in genuine need of the chamber and in that event, his Licence of Chamber is liable to be terminated.

Rule 4. The State Bar Council shall maintain a chronological list of application for allotment of chambers which shall ordinarily be allotted in that order. The State Bar Council may allot a chamber except in the said order for reasons to be recorded in writing:

Provided that at the time of allotment a sitting member of the State Bar Council of Madhya Pradesh shall be given priority in the list on the following terms:

(a) That, the chambers shall be allotted to the members of the State Bar Council on priority basis, on vacation of any chamber from any category. A separate list of the SBC Members shall be maintained, on seniority basis according to the date of their respective applications for allotment of chambers.

(b) That, the pre-condition of 10 years practice shall not be applicable to such a Member of SBC of M.P.

(c) If any two members of the Bar Council, agree temporarily for a joint allotment of the chamber to them, the allotment may be so made and even in that event such joint allottee shall be entitled to have a further right for allotment of a separate chamber in his own turn:

Provided further, that the allotment of chambers made to the Members of the State Bar Council, under the above proviso shall not be cancelled on the ground that the allottee or any other co-allottee, does not remain Members of the State Bar Council:

provided further that in case at a place where the chambers are newly constructed and no list as above is maintained for allotment, the chambers shall be allotted on the basis of seniority of Advocates; but irrespective of seniority a sitting members of State Bar, Council shall have the priority in the allotment and if additional chambers are available, the condition of 10 years practice of Rule 3 shall not apply in such cases and security and other conditions shall be as determined by the Building Committee.

A reading of Rule 3 of the Rules, 1998 quoted above would show that only an Advocate, who has been on the roll of the State Bar Council for at least a period of 10 years, is entitled to apply for allotment of chamber. The first proviso to Rule 3 of the Rules, 1998 further provides that an Advocate shall be entitled for allotment of chamber only when he is regularly practicing in the High Court. Thus, Rule 3 lays down two conditions which an Advocate must satisfy for making an application for allotment of chamber--first, he must have been an Advocate on the roll of the State Bar Council for at least a period of 10 years and second, he must be regularly practicing in the High Court.

Rule 4 of the Rules, 1998 quoted above provides for order in which allotment of chambers is to be made from amongst the eligible applicants. It states that the State Bar Council shall maintain a chronological list of applications for allotment of chambers and the allotment of chambers shall be made in that order. Rule 4 of the Rules, 1998, however, provides that such order of allotment as per the chronological list of applications may be departed from by the State Bar Council for reasons to be recorded in writing. Thus, the principle in Rule 4 of the Rules, 1998 is that those who have applied first, must be allotted chambers first and those who have applied later, must be allotted chambers later.

The first proviso to Rule 4 of the Rules, 1998 provides that at the time of allotment, a sitting member of the State Bar Council shall; be given priority on

the terms indicated in the various clauses mentioned therein. In Clause (b).of the first proviso to Rule 4 of the Rules, 1998, it is stated that requirement in Rule 3 of the Rules, 1998 that only an Advocate, who has been on the roll of the State Bar Council at least for a period of 10 years, can apply for allotment of chambers, is not applicable to the member of the State Bard Council. In Clause (a) of the first Proviso to Rule 4 of the Rules, 1998, it is provided that the provision in Rule 4 of the Rules, 1998 that allotment of chambers will be made in the chronological order of list of applications, is not applicable to members of the State Bar Council and a separate list of members of the State Bar Council, who apply for allotment of chamber, is to be maintained and allotments made on priority basis to such members of the State Bar Council. The second proviso to Rule 4 of the Rules, 1998 provides that the allotment of chambers made by the State Bar Council under the first proviso to Rule 4 of the Rules, 1998 shall not be cancelled on the ground that the allottee does not remain a member of the State Bar Council. The third proviso to Rule 4 of the Rules, 1998 deals with the cases where the chambers are newly constructed and no chronological list of applications for allotment of chambers is maintained by the State Bar Council and it states that in such cases, the chambers shall be allotted on the basis of seniority of Advocates. But the said third proviso to Rule 4 further provides that irrespective of such seniority of Advocates, a sitting member of the State Bar Council shall have priority in the allotment of chamber and that the condition of 10 years of practice in Rule 3 of the Rules, 1998 shall not apply to a sitting member of the State Bar Council.

From the aforesaid analysis of Rules 3 and 4 of the Rules, 1998, it is clear that the eligibility condition of 10 years enrolment on the roll of the State Bar Council as an Advocate for entitlement to apply for chamber has been dispensed with in the case of a sitting member of the State Bar Council and the provision of allotment of chamber as per the chronological list of applications in Rule 4 of the Rules, 1998 is also not applicable to a silting member of the State Bar Council. Similarly, the provision in the third proviso to Rule 4 of the Rules, 1998 that where new chambers are constructed and no chronological list of applications is maintained, allotment should be made in the order of seniority of Advocates, is not applicable to a sitting member of the State Bar Council. Thus, under the first, second and third provisos to Rule 4 of the Rules, 1998, special privileges are sought to be conferred on a sitting member of the State Bar Council in the matter of allotment of chambers. The question to be decided is whether these provisions in the first, second and third provisos to Rule 4 of the Rules, 1998 conferring special privileges to members of the State Bar Council are ultravires the Advocates Act, 1961 and Article 14 of the Constitution of India.

Chapter II of the Act makes provisions relating to Bar Councils. Section 3 of the Act provides that there shall be a Bar Council for inter alia the State of Madhya Pradesh. Section 5 of the Act says that every Bar Council shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and to contract. Section 6 of

the Act enumerates the functions of the State Bar Councils and Sub-section (1) (d) of Section 6 provides that one of the functions of State Bar Council shall be to safeguard the rights, privileges and interests of Advocates on its roll. Section 15(1) of the Act provides that a Bar Council may make rules to carry out the purposes of Chapter II.

Construction of chambers and allotment of chambers for advocates are, thus, a part of statutory power of the State Bar Council in Section 5 of Chapter II of the Act to acquire and hold property and to contract. But such power of the State Bar Council has to be exercised consistent with its function in Sub-Section (1)(d) of Section 6 of the Act to safeguard the rights, privileges and interests of Advocates on its roll. While making the rules u/s 15(1) of the Act to carry out the purposes of Section 5 in Chapter II of the Act, the State Bar Council, therefore, cannot make a rule conferring special privileges on members of the State Bar Council which will affect the interests of Advocates on its roll. The provisions in the first, second and third provisos to Rule 4 of the Rules, 1998 dispensing with the eligibility condition of 10 years practice or enrolment as an Advocate with the State Bar Council and providing that the allotment of chambers will be made to a sitting member of the State Bar Council on priority basis and allotment as per the chronological list of applications where such chronological list was maintained or allotment of chambers as per the seniority of advocates where such chronological list is not maintained, will not apply to sitting members of the State Bar Council directly conflict with the interests of Advocates on its rolls and are inconsistent with its functions u/s 6(1)(d) of the Act. The provisions in first, second and third provisos to Rule 4 of the Rules, 1998, which confer special privileges on members of the State Bar Council are, therefore, ultravires the Act.

Further the said provisions in first, second and third provisos to Rule 4 of the Rules, 1998 create a special class of members of the State Bar Council for special treatment in the matter of allotment of chambers. The State Bar Council is a statutory body created under the Act exercising statutory power and functions. Hence, the State Bar Council is an "other authority" within the territory of India and is State as defined in Article 12 of the Constitution of India for the purpose of Part III of the Constitution of India and the State Bar Council is bound by the mandate of Article 14 of the Constitution of India to guarantee to Advocates equality before the law or the equal protection of law. The rules made by the State Bar Council for allotment of chambers cannot, therefore, create a special class of members of the State Bar Council dispensing with the eligibility conditions of having at least 10 years practice or enrolment as an Advocate on the roll of the State Bar Council and provide for allotment of chambers to sitting members of the State Bar Council on priority basis irrespective of their position in the chronological list of applications or irrespective of their seniority as an Advocate. The sitting members of the State Bar Council may come from places outside Jabalpur, Indore and Gwalior where the High Court and its Benches are situated and may need office accommodation in the offices of the State Bar Council at those places to enable them to perform their duties as members of the

State Bar Council, but in the matter of allotment of chambers for carrying on their profession as Advocates, they cannot constitute a separate class from other Advocates for special treatment. The provisions in the first, second and third provisos to Rule 4 of the Rules, 1998 conferring special privileges on the members of the State Bar Council, therefore, are ultravires Article 14 of the Constitution of India.

Mr. Sanghi next submitted that the Rules, 1998 do not provide that the person to whom a chamber is offered, has to deposit a sum of Rs. 50,000/- as security. He submitted that by a Resolution No. 126/EC/05, the Executive Committee of the State Bar Council has resolved that any advocate whose name finds place in the waiting list to obtain a chamber in the State Bar Council building at Jabalpur, fails to deposit a sum of Rs. 50,000/- towards security deposit his name will be passed over and will not be considered for the purpose of allotment of chamber. He further submitted that by a letter dated 8-4-2004 (Annexure P-2), the petitioner has been informed that if he is desirous to obtain chamber, he must deposit Rs. 50,000/- in advance as security, which will be non-interest earning deposit. He submitted that the aforesaid resolution of the Executive Committee of the State Bar Council as well as the letter dated 8-4-2004 (Annexure P-2) by which the said security deposit of Rs. 50,000/- has been demanded as a condition for allotment of chamber, should be quashed by the Court.

In reply, Mr. Tiwari submitted relying upon the averments in the additional return filed by the State Bar Council that the Resolution No. 126/EC/05, does not violate the Rules, 1998 but only supplements the said Rules. He explained that the State Bar Council has constructed chambers in Indore and Gwalior also and every advocate who has taken chamber at Indore and Gwalior, has deposited a sum of Rs. 50,000/- with the State Bar Council and in case, such demand of Rs. 50,000/- as security deposit is not made from the Advocate taking chamber at Jabalpur, the State Bar Council will be guilty of discrimination. He submitted that the security amount of Rs. 50,000/- for allotment of chamber was not exorbitant, disproportionate and unreasonable. He submitted that the Court, therefore, should not quash the impugned Resolution No. 126/EC/05 or the impugned letter dated 8-4-2004 (Annexure P-2) demanding a sum of Rs. 50,000/- as security deposit as a condition for allotment of chamber to an Advocate.

On perusal of the Rules, 1998, we find that Rule 3 provides that each application for allotment of chamber shall be accompanied by security deposit of Rs. 1,000/-. But, this is a security deposit which has to be made by the Advocate at the time of making an application for allotment of chamber. The Rules, 1998 do not make any provision for a security deposit to be made by the Advocate to whom a chamber is offered for allotment. There is also no provision in the Rules, 1998 prohibiting the State Bar Council to demand a security deposit from an Advocate at the time of allotment of chamber. It is well settled that the Statutory Rules can be supplemented by the executive decision in respect of a matter on which the Statutory Rules are silent. Therefore, it was within power of the

Executive Committee of the State Bar Council to adopt a resolution to ask for security deposit of Rs. 50,000/- from an Advocate at the time of allotment of chamber to him since the Rules, 1998 were silent with regard to such security deposit at the time of allotment of chamber to be made by an Advocate. Moreover, the security deposit of Rs. 50,000/- for allotment of chamber to an Advocate cannot also be held to be unreasonable, exorbitant or disproportionate. If Advocates who have been allotted chambers at Indore and Gwalior, have made security deposit of Rs. 50,000/- at the time of allotment of chamber, we do not see any good reason as to why an advocate of Jabalpur should not also make a security deposit of Rs. 50,000/- to the State Bar Council at the time of allotment of chamber to him by the State Bar Council.

Mr. Sanghi next submitted that it will be clear from the order dated 2-2-2006 of the Court that Mr. Rajendra Tiwari, learned Senior Counsel appearing for the State Bar Council, agreed that Advocates, who are above 68 years of age, shall be adjusted on the ground floor as far as practicable. He submitted that the petitioner is aged about 79 years and by the impugned letter dated 8-4-2004 (Annexure P-2), the petitioner was offered a chamber on second floor of the existing State Bar Council building with cement sheet based roof ceiling and this was not acceptable to the petitioner who on account of his old age cannot possibly climb up and down the second floor of the building and for this reason, though he made a security deposit of Rs. 50,000/- to the State Bar Council took return of the same. In our considered opinion, Advocates, who are above 68 years of age, should be accommodated as far as practicable in the ground floor of the State Bar Council building in which the chambers are located as and when their turns for allotment of chamber come as per the chronological list of applications maintained under Rule 4 of the Rules, 1998, more so where the State Bar Council has already agreed for such allotment on the ground floor before the Lok Adalat on 2-2-2006.

Mr. Sanghi finally submitted that the petitioner has been waiting for allotment of chamber since 1984 and has not been allotted a chamber as yet by the State Bar Council because a number of Advocates continue to occupy some chambers although are not entitled to occupy the said chambers. He submitted that some of the Advocates, who continue to occupy the chambers although they are not entitled to occupy the chambers under the Rules, 1998, have been arrayed as respondent Nos. 4 to 9 (A). He submitted that respondent No. 9 has, however, relinquished the chamber in favour of the State Bar Council and accordingly, her name has been deleted from the array of the respondents as will be clear from the order dated 22-6-2005. He submitted that since the State Bar Council is not taking any step to vacate the said chambers illegally occupied by the respondent Nos. 4 to 9 (A), the petitioner whose position is 7th in the waiting list of advocates seeking allotment of chamber as on 16-10-2003, has still not been allotted a chamber by the State Bar Council.

Mr. Tiwari submitted that whenever the State Bar Council has found that a

chamber is occupied by an Advocate contrary to the Rules, 1998, it has initiated action against the advocates and asked them to vacate the chambers, but the advocates to whom the State Bar Council issued notices to vacate, have moved this Court in a separate writ petition or have refused to vacate the same. He referred to Clause (a) of Rule 6 of the Rules, 1998, which provide the circumstances in which a chamber is deemed to have fallen vacant. He submitted that unless the State Bar Council was given some power to get the chambers vacated wherever they are occupied by the advocates contrary to the Rules, 1998, it will not be possible on the part of the State Bar Council to have chambers vacated and allot them to those advocates whose names find place in the waiting list.

Rule 6 of the Rules, 1998 is quoted herein below:

Rule 6. (a) The Chamber shall be deemed to have fallen vacant if the allottee of chamber?

(i) is dead,

(ii) has left practice by getting his registration suspended or cancelled,

(iii) has been elevated,

(iv) has not deposited licence fee and/or electricity charges for a continuous period of three months without cogent reasons conveyed to the State Bar Council before the expiry of such period,

(v) is using the same otherwise than for professional purposes,

(vi) has sub-let the same and the fact of sub-letting is proved to the satisfaction of the State Bar Council:

Provided that the use of the chamber by the son, wife, daughter or daughter-in-law or sisters practicing with the advocate shall not amount to sub-letting,

(vii) has been held guilty of a charge of professional misconduct by the State Bar Council or Bar Council of India or any Court:

Provided that the chamber shall not be got vacated on this ground till the time to appeal has expired or in case an appeal is filed, till the same is finally decided,

(viii) has been convicted for an offence with imprisonment or an offence relating to moral turpitude, and

(ix) is otherwise held disentitled to hold the chamber by the State Bar Council for reasons to be recorded in writing, (b) The Secretary of the State Bar Council shall always be deemed authorized to take possession of the chamber falling vacant or deemed to have fallen vacant under any of the Sub-clauses of Clause (a):

Provided further that if the concerned chamber falls vacant or is deemed to have

fallen vacant under any of the Sub-clauses (i), (ii) and (iii) of Clause (a) of Rule 6, the Associate shall not have any right whatsoever to retain or use the chamber:

Provided that whenever and wherever Chamber shall be constructed after charging the construction cost or deposit for construction in that case allottee shall be entitled to nominate his successor to retain the chamber and nomination shall be confined to his wife, son, daughter, sister and brother, practicing with him.

Clause (a) of Rule 6 of the Rules, 1998 quoted above provides that the chamber shall be deemed to have fallen in the circumstances indicated in various Sub-clauses of Clause (a) of Rule 6 of the Rules, 1998. Clause (b) of Rule 6 of the Rules, 1998 further provides that the Secretary of the State Bar Council shall always be authorized to take possession of the chamber falling vacant or deemed to have fallen vacant under any of the Sub-clauses of Clause (a) of Rule 6. Thus, the chamber will be deemed to have fallen vacant in any of the circumstances mentioned in Sub-clauses (i) to (ix) of Clause (a) of Rule 6 of the Rules, 1998 and the Secretary of the State Bar Council has been vested with the power under Clause (b) of Rule 6 of the Rules, 1998 to take possession of the chamber falling vacant or deemed to have fallen vacant under any of the Sub-clauses of Clause (a).

The Rules, 1998 are made u/s 15(1) of the Act to carry out the provisions of Section 5 of the Act, which empowers the State Bar Council to enter into a contract in respect of its immovable properties and are, therefore, Statutory Rules made under an Act of the Legislature. Under Clause (b) of Rule 6 of the Rules, 1998, the Secretary of the State Bar Council has the statutory power to take possession of the chamber falling vacant or deemed to have fallen vacant under any of the Sub-clauses of Clause (a) of Rule 6 of the Rules, 1998. Such statutory power must however be exercised after compliance with the principles of natural justice. Hence, before taking possession of the chamber falling vacant or deemed to have fallen vacant under any of the Sub-clauses of Clause (a) of Rule 6 of the Rules, 1998, a notice will have to be issued to the occupant of the chamber to show cause as to why the chamber occupied by him should not be treated as falling vacant or deemed to have fallen vacant under the specific Sub-clauses of Clause (a) of Rule 6 of the Rules, 1998. In case, the occupant of the chamber furnishing his reply to such show-cause notice within the time allowed in the show-cause notice or within such further time as is allowed, the Competent Authority of the State Bar Council will apply its mind to the reply furnished by the occupant of the chamber and if the Competent Authority of the State Bar Council comes to a conclusion that the chamber has fallen vacant or deemed to have fallen vacant under any of the Sub-clauses of Clause (a) of Rule 6 of the Rules, 1998, it can direct the Secretary of the State Bar Council to take possession of the chamber falling vacant or deemed to have fallen vacant under Clause (a) of Rule 6 of the Rules, 1998. Hence, the contention of Mr. Rajendra

Tiwari, learned Senior Counsel appearing for the State Bar Council that it does not have sufficient power to take possession of the chamber falling vacant or deemed to have fallen vacant under any of the Sub-clauses of Clause (a) of Rule 6 of the Rules, 1998, is not correct.

In the result, we hold that the provisions in first, second and third provisos to Rule 4 of the Rules, 1998 providing that pre-condition of enrolment for at least 10 years on the roll of the State Bar Council for an Advocate to apply for allotment of chamber, will not apply to sitting members of the State Bar Council and that sitting members of the State Bar Council will be allotted chambers on priority basis irrespective of their position in the chronological list of applications prepared under Rule 4 of the Rules, 1998 or irrespective of their seniority as Advocate where such chronological list of applications is not maintained, are ultravires the Advocates Act, 1961 and Article 14 of the Constitution of India. We accordingly direct that the State Bar Council will ensure that the sitting members of the State Bar Council, who have been allotted chambers on the basis of the aforesaid provisions which have been declared ultravires, vacate the chambers occupied by them. We further direct that the State Bar Council will issue show-cause notices to the occupants of the chambers which have fallen vacant or deemed to have fallen vacant under Clause (a) of Rule 6 of the Rules, 1998, and in those cases, where the Competent Authority of the State Bar Council comes to the conclusion that the chamber has fallen vacant or deemed to have fallen vacant the Competent Authority of the State Bar Council will direct the Secretary of the State Bar Council to take possession of such chambers. We further direct that after the chambers are vacated by the occupants of the chambers as directed above, the same shall be allotted to the advocates whose names find place in the chronological or waiting list of the advocates who have applied for chambers as per their turn on their making a deposit of Rs. 50,000/- as security deposit. The aforesaid directions will be complied with by the State Bar Council within four months from today. The writ petition is allowed to the extent indicated above. Considering the facts and circumstances, the parties shall bear their own costs.