

(2014) 01 DEL CK 0138

In the Delhi High Court

Case No : Writ Petition (C) 5231 of 2012 and CM Application 10674 of 2012

Krishan Dutt Sharma

APPELLANT

Vs

Saket District Court Lawyers Chambers Allotment Committee
and Others

RESPONDENT

Date of Decision : 03-01-2014

Acts Referred:

Advocates Act, 1961 — Section 29
Constitution of India, 1950 — Article 226

Citation : (2014) 01 DEL CK 0138

Hon'ble Judges : Manmohan, J

Bench : Single Bench

Advocate : G.S. Chaturvedi, for the Appellant; Avnish Ahalawat, Advocate for R-1, Mr. Amit Khemka and Mr. Rishi Sehgal, Advocates for R-3, for the Respondent

Judgement

Manmohan, J.—Present writ petition has been filed under Article 226 of the Constitution of India challenging non-allotment of a lawyer's chamber to the petitioner on the ground that the petitioner is not primarily practicing at the Patiala House Courts Complex. Mr. G.S. Chaturvedi, learned counsel for the petitioner submits that the petitioner has been denied allotment of a chamber on account of a restrictive and incorrect view of the expression "practicing". He submits that even advocates who are not appearing in the courts are practicing advocates. In support of his submission, Mr. Chaturvedi relies upon the interim order dated 4th July, 2012 passed by the Supreme Court in Bar Council of India Vs. A.K. Balaji and Others, SLP (Civil) Nos. 17150-17154/2012 decided on 4th July, 2012 wherein it has been held as under:-

5..... It is also clarified that the expression "to practice the profession of law" u/s 29 of the Advocates Act, 1961 covers the persons practicing litigious matters as well as non-litigious matters other than contemplated in para 63(ii) of the impugned order and, therefore, to practice in non-litigious matters in India the foreign law firms, by SLP (Civil) No(s). 17150-17154/2012 whatever name called

or described, shall be bound to follow the provisions contained in the Advocates Act, 1961.

2. Mr. Chaturvedi also refers to the Certificate dated 17th August, 2012 issued by the Secretary, New Delhi Bar Association which reads as under:-

TO WHOM IT MAY CONCERN

This is to certify that Sh. KRISHAN DUTT SHARMA Advocate, as per the record, having Membership/Seniority No. 2569 and BCD enrolment No. D/198/1998 (R), was found Physically present in the Patiala House Courts precincts during his membership at this Bar Association. He has not been allotted any Chamber at Patiala House Courts, New Delhi.

There are no dues pending against his name. After his request his name was transferred to Saket Bar Association Saket Courts Complex, New Delhi.

3. On the other hand, Ms. Avanish Ahlawat, learned counsel appearing for respondent no. 1 states that petitioner does not fulfil the condition of having appeared as the main counsel in ten cases in the year 2009-2010. In this connection, she draws this Court's attention to paragraph 19 of the Form filed by the petitioner at pages 44 and 45 of the paper book.

4. Having heard learned counsel for the parties, this Court finds that in accordance with Rule 4(a) of the Saket District Court Lawyers' Chambers (Allotment and Occupancy) Rules, 2010 (hereinafter referred to as "Rules, 2010") an advocate would be entitled for a chamber in Saket only if he/she had been enrolled with the Bar Council of India as well as New Delhi Bar Association and had been practicing at Patiala House Courts. Rule 4(a) reads as under:-

4. Only advocates fulfilling the following conditions shall be eligible for consideration for allotment of chambers:-

a) In respect of the initial allotment:-

i. The advocate must be enrolled with the Bar Council of Delhi and must be a member of the New Delhi Bar Association; and

ii. The advocate must have been primarily practicing at the Patiala House Courts Complex; and.....

(emphasis supplied)

5. Para 19 of the Form to be filled by an advocate desirous of allotment of a chamber at Saket District Courts Complex, New Delhi reads as under:-

19. Please submit appearances details during the period w.e.f. 1.9.2009 till date (Annex certified copies of the proceedings sheet) of 10 cases of South/South East District Courts as main counsel.

6. This Court is of the view that condition of ten appearance before South/South

East District Courts as the main counsel during the year 2009-2010 is fair, reasonable and has a nexus to the object sought to be achieved, namely, that only those advocates who appear in the Courts are allotted chambers.

7. The interim order passed by the Supreme Court in Bar Council of India Vs. A.K. Balaji and Others (supra) and Certificate dated 17th August, 2012 issued by the Secretary, New Delhi Bar Association offer no assistance to the petitioner as they at the highest only show that the petitioner is practicing the profession of law.

8. Undoubtedly, an advocate who does chamber practice is also practicing the profession of law, but the expression "practicing advocate" in Rule 4(a) of Rules, 2010 has to be interpreted in the context of the allotment of chambers. In my view, the conditions stipulated in para 19 of the Form gives a purposive and contextual meaning to the expression "primarily practicing at Patiala House Courts Complex". The intent of Rule 4(a) of the Rules, 2010, is to allot chambers to those advocates who appear before the Saket Courts and not to those who do chamber practice like the petitioner. This Court also takes judicial notice of the fact that enough chambers are not available at Saket Courts to accommodate all the lawyers who desire to have a chamber. Consequently, this Court is of the view that the criterion adopted by respondent no. 1 is founded on an intelligible differentia and the said differentia has a rationale relation to the object sought to be achieved. Accordingly, present writ petition and application are dismissed but with no order as to costs.