
(2009) 02 MP CK 0034
In the Madhya Pradesh High Court

Priyank Chansoria

APPELLANT

Vs

High Court of Madhya Pradesh

RESPONDENT

Date of Decision : 13-02-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 225, 226, 227, 323A

Citation : (2009) 4 MPHT 44 : (2009) 2 MPJR 246 : (2009) 4 MPLJ 586

Hon'ble Judges : A.K. Patnaik, C.J.; P.K. Jaiswal, J

Bench : Division Bench

Judgement

A.K. Patnaik, C.J.

This writ petition has been filed under Article 226 of the Constitution of India challenging the vires of some of the provisions of the High Court of Madhya Pradesh Rules, 2008.

The relevant facts briefly are that the State of Madhya Pradesh was formed by the States Reorganisation Act, 1956 (for short "the Act") on 1st November, 1956 and an order was issued by the President under the Act notifying the High Court of Judicature at Nagpur as the High Court of the State of Madhya Pradesh with its Principal Seat at Jabalpur. Section 54 of the Act provides that the Rules with regard to the practice and procedure of the High Court of Judicature at Nagpur with necessary modifications would apply to the High Court of Madhya Pradesh, until the High Court of Madhya Pradesh made rules and orders with respect to practice and procedure. In exercise of its powers u/s 54 of the Act and Article 225 of the Constitution of India, the High Court of Madhya Pradesh has now made new rules with respect to practice and procedure of the High Court called "The High Court of Madhya Pradesh Rules, 2008" (for short "the Rules of 2008"), which have come into force with effect from 1st November, 2008. The Rules of 2008 are applicable to the practice and procedure not only of the Principal Seat of the High Court at Jabalpur but also of the permanent Benches of the High Court at Indore and Gwalior. Aggrieved by some of the provisions of the Rules of 2008, the petitioner has filed this writ petition under Article 226 of the

Constitution of India.

The main challenge in the writ petition is to the classification of the writ petitions, which are to be heard by a learned Single Judge of the High Court and which are to be heard by a Division Bench of the High Court. In Chapter IV of the Rules of 2008 titled "Jurisdiction of Benches", it is provided in Rule 1(11) that all writ petitions under Article 226 and/or Article 227 of the Constitution of India, except those specified in Rule 2(7) of the Chapter shall ordinarily be heard and disposed of by a Judge sitting alone and in Rule 2 (7) of Chapter IV, the classes of writ petitions, which shall be heard and disposed of by a Division Bench, have been listed. One such class of writ petitions to be heard by a Division Bench is writ petitions under Article 226 of the Constitution challenging the interlocutory and final orders passed by Subordinate Courts or Tribunals where no appeal or revision is provided.

Mr. Ashok Kumar Jain, learned Counsel for the petitioner vehemently submitted that under the M.P. Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 (for short "the Adhiniyam of 2005"), an appeal is available to a Division Bench against orders passed by a learned Single Judge under Article 226 of the Constitution of India and by providing in Rule 2(7) of Chapter IV of the Rules of 2008 that some classes of matters will be heard by a Division Bench, the right of appeal in such matters under the Adhiniyam of 2005 is taken away. He submitted that Article 14 of the Constitution of India which guarantees to every person equality of law and equal protection of law, has been infringed by Rule 1(11) read with Rule 2(7) of Chapter IV of the Rules of 2008 inasmuch as in these classes of writ petitions which are required to be heard by a Division Bench, the litigants will have no right of appeal, whereas in other classes of writ petitions. The litigants will have the right of appeal. He submitted that Article 14 of the Constitution permits classification, but such classification must be based on an intelligible differentia and the differentia must have a rational nexus with the object sought to be achieved by the impugned provision. He argued that the Preamble and the provisions of the Rules of 2008 do not disclose the object sought to be achieved by the classification of cases to be heard by a learned Single Judge and a Division Bench.

Lachmandas Kewalram Ahuja and Another Vs. The State of Bombay, , for the proposition that Article 14 of the Constitution condemns discrimination by substantive as well as procedural law and for the further proposition that where there is no nexus which connects the basis on which the supposed classification is founded with the objects of the Act, the classification is not permissible and it will amount to class legislation forbidden by Article 14 of the Constitution. On this point, he also relied on P. Vajravelu Mudaliar Vs. Special Deputy Collector, Madras and Another, , Harbilas Rai Bansal Vs. State of Punjab and another, and State of U.P. and Others Vs. Deepak Fertilizers and Petrochemical Corporation Ltd., . He submitted that in Amita Vs. Union of India (UOI) and Another, , the Supreme Court has held that if the language used in an Act by the Parliament is

ambiguous, the Court is permitted to look into the Preamble to the Act for construing the provisions of the Act and argued that the Preamble to the Rules of 2008 does not disclose any object of the Rules of 2008 providing for hearing of certain classes of writ petitions by a Division Bench.

Mr. V.S. Shrotri, learned Senior Counsel appearing for the respondents, on the other hand, submitted that the right of appeal under the Adhiniyam of 2005 is provided only against orders passed by a learned Single Judge under Article 226 of the Constitution and not orders passed by a Division Bench under Article 226 of the Constitution. He submitted that it is for the High Court in exercise of its rule making powers u/s 54 of the Act of 1956 read with Article 225 of the Constitution to classify matters which will be heard by a learned Single Judge and matters which will be heard by a Division Bench and such classification cannot be challenged as violative of Article 14 of the Constitution. In support of his contention, he cited the decision of the Supreme Court in *State of Rajasthan Vs. Prakash Chand and Others*, and the decision of the Full Bench of the Karnataka High Court in *Narsimhsetty v. Padmasetty* AIR 1998 Kar 389.

Mr. Jain's argument, in our considered opinion, proceeds on an erroneous assumption that an intra-Court appeal was available against every order passed under Article 226 of the Constitution of India before the Rules of 2008 came into force. Originally, under Clause 10 of the Letters Patent of His Majesty dated 2nd January, 1936 constituting the High Court of Judicature at Nagpur, it was provided that an appeal shall lie to the High Court from a judgment or order or decree of one Judge of the High Court made in exercise of original jurisdiction or in exercise of appellate jurisdiction in respect of judgment, order or decree made by a Court subject to the superintendence of the High Court and after the commencement of the Constitution, appeals against orders of a learned Single Judge under Article 226 of the Constitution to the Division Bench were being entertained under this Clause 10 of the Letters Patent. By the *Madhya Pradesh Uchcha Nyayalaya (Letters Patent Appeals Samapti) Adhiniyam, 1981* (for short "the Samapti Adhiniyam"), appeal from a suit or proceeding including writ petition under Article 226 and/or Article 227 of the Constitution instituted or commenced whether prior or subsequent to the commencement of the Samapti Adhiniyam from a judgment, order or decree of one Judge of the High Court was abolished, but by the *Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005*, the Samapti Adhiniyam has been repealed and it is provided in Section 2(1) of the Adhiniyam of 2005 that an appeal shall lie from a judgment or order passed by one Judge of the High Court in exercise of original jurisdiction under Article 226 of the Constitution of India to a Division Bench comprising two Judges of the same High Court. Thus, an intra-Court appeal was all through available only against a judgment and order passed by one Judge of the High Court in exercise of its original jurisdiction under Article 226 of the Constitution and not against any judgment or order passed under Article 226 of the Constitution as such. The Legislative intent behind Clause 10 of the Letters Patent and Section 2 of the Adhiniyam of 2005 was that if a Single Judge of the

High Court hears a matter and passes an order, the litigant must have a right of appeal to a Division Bench of the High Court. The right of appeal, therefore, was not available in every writ petition filed under Article 226 of the Constitution but only where a writ petition was heard and decided by one Judge of the High Court. Hence, the argument of Mr. Jain that a right of appeal available in a matter under Article 226 of the Constitution has been taken away if a writ petition is heard by a Division Bench and not by a learned Single Judge is misconceived.

In *Lachmandas* (supra), cited by Mr. Jain, Section 12 of the Bombay Public Security Measures Act, 1947 (for short "the Bombay Act") authorised the Government to direct specific and particular cases to be tried by a Special Judge by a special procedure different from the ordinary procedure laid down in the Code of Criminal Procedure. S.R. Das, J., delivering the majority judgment, held that the Bombay Act besides providing for enhanced punishment and whipping, eliminates the committal proceedings, permits the Special Judge to record only a memorandum of the evidence, confers on him a larger power to refuse to summon a defence witness and also deprives the accused of his right to apply for a transfer or for revision and these departures from the ordinary law caused a serious prejudice to the persons subjected to the procedure prescribed by the Act and, therefore, Article 14 of the Constitution, which condemns discrimination not only by a substantive law but also by a law of procedure, was violated. But as we have seen, under Clause 10 of the Letters Patent as well as the Adhiniyam of 2005, a litigant whose writ petition under Article 226 of the Constitution was heard by a Division Bench of the High Court had no right of appeal to the High Court and therefore, the impugned provisions in Rule 1(11) and Rule 2(7) of Chapter IV of the Rules of 2008 by providing that some classes of writ petitions will be heard by a Division Bench and the remaining will be heard by a learned Single Judge of this Court, do not take away any right of appeal. The Rules of 2008, therefore, do not subject litigants to discrimination in matter of procedure in respect of writ petitions filed under Article 226 of the Constitution.

In *Lachmandas* (supra), moreover, the majority speaking through S.R. Das, J., found that the avowed object of the Bombay Act recited in its Preamble was the expediency of consolidating and amending the law relating to public safety, maintenance of public order and maintenance of supplies and services essential to the community in the State of Bombay. Das, J., held that if the consideration of security of the State or the maintenance of public order requires the application of a special procedure, there is no obvious reason why it should be applied to cases already referred and not to cases not yet referred on the date of the Constitution came into force. Das, J., held that the same consideration applies equally to both categories of cases and there is no nexus which connects the basis on which the supposed classification is founded with the objects of the Act, and it was not a permissible classification. Das, J., finally held that on the basis of rational classification, there is no justification after the advent of the Constitution, for depriving the appellants therein of the right to move the Court

for transfer or for revision, or to obtain process for the attendance of defence witnesses or of having the evidence of the witnesses recorded as in the ordinary trial which is available to other persons accused of similar offences and prosecuted according to the ordinary procedure laid down in the Code of Criminal Procedure and, therefore, there was breach of fundamental right to equality guaranteed by Article 14 of the Constitution. But as we have seen, under Clause 10 of the Letters Patent as well as Section 2 of the Adhiniyam of 2005, the right of appeal was available only against orders passed by a learned Single Judge under Article 226 of the Constitution to a Division Bench of the High Court and not against such orders passed by a Division Bench. Hence, the impugned provisions of Rules 1(11) and 2(7) of Chapter IV of the Rules of 2008 do not make a departure in case of writ petitions with regard to the right of appeal against orders passed under Article 226 of the Constitution and cannot be held to be discriminatory and violative of Article 14 of the Constitution.

Mr. Jain, however, argued that before the Rules of 2008, writ petitions filed under Article 226 of the Constitution challenging interlocutory or final orders passed by Subordinate Courts or Tribunals were being heard by a learned Single Judge but Rule 2(7)(d) of the Rules of 2008 provides that writ petitions challenging interlocutory or final orders passed by the Subordinate Courts or Tribunals will now have to be heard by a Division Bench, and as a result, litigants now have only one opportunity to challenge the orders of Subordinate Courts or Tribunals before the Division Bench of the High Court whereas litigants challenging the orders passed by the Administrative Authorities will have one opportunity before the learned Single Judge and if they do not succeed before learned Single Judge, they will have another opportunity byway of appeal before the Division Bench.

This argument of Mr. Jain overlooks experience of the High Court in dealing appeals under the Adhiniyam of 2005. Sub-section (1) of Section 2 of the Adhiniyam of 2005 provides for an appeal from a judgment or order passed by a learned Single Judge in exercise of his jurisdiction under Article 226 of the Constitution of India but the the Proviso to Sub-section (1) of Section 2 of the Adhiniyam of 2005 makes it clear that no such appeal is available against an order passed under the supervisory jurisdiction under Article 227 of the Constitution. Hence, in a matter arising out of an order passed by the Subordinate Court or Tribunal, when an order or a judgment of a learned Single Judge in a writ petition was challenged by one party before a Division Bench, the other party contended before the Division Bench that the appeal was not maintainable as the order or the judgment of the learned Single Judge was really an order passed in exercise of supervisory jurisdiction under Article 227 of the Constitution. While deciding this preliminary question whether the order of the learned Single Judge impugned in the appeal was one under Article 226 of the Constitution or was one under Article 227, Constitution of India, different Division Benches of this Court expressed different opinions. Hence, the matter was first referred to a Full Bench of three Judges in Dr. Jaidev Siddha and Others Vs. Jaiprakash Siddha and Others, , and the Full Bench held that while entertaining

an appeal u/s 2 of the Adhiniyam of 2005, in particular in matters arising out of the order passed by the Courts or Tribunals, the Division Bench must be satisfied that the Single Judge exercised original jurisdiction under Article 226 of the Constitution and for this purpose, it will have to look into the pleadings, the relief prayed and the order or judgment passed by the learned Single Judge exercising the jurisdiction. Even after this opinion of the Full Bench, difficult questions arose before the Division Benches of the High Court on whether an order passed by the learned Single Judge challenged in an appeal in a matter arising out of orders passed by Subordinate Court or Tribunal was an order under Article 226 of the Constitution or an order passed under Article 227 of the Constitution and the matter had to be again referred to a Special Bench of five Judges.

The Special Bench of five Judges in *Manoj Kumar Vs. Board of Revenue and Others*, , again heard the matter and the majority of four Judges speaking through Dipak Misra, J. was of the opinion that the law laid down in *Dr. Jaidev Siddha* (supra) holds the field and the principle laid down therein will have full application. Accordingly, in each case arising out of an order passed by a Subordinate Court or Tribunal, the Division Bench was required to decide whether an order passed by a learned Single Judge in a writ petition was an order under Article 226 or an order under Article 227 of the Constitution by examining the pleadings and the reliefs claimed in the writ petition and the order passed by learned Single Judge. Considering this experience of the High Court in dealing with appeals under the Adhiniyam of 2005, the Rule Making Authority appears to have provided in the Rules of 2008 that all writ petitions challenging orders passed by Subordinate Courts or Tribunals will be heard by a Division Bench. In such matters where orders passed by Subordinate Courts presided by Judicial Officers or Tribunals invariably having judicial members, only one review in exercise of original or supervisory jurisdiction under Article 226 or Article 227 of the Constitution by the Division Bench of the High Court has been held to be proper. In *L. Chandra Kumar Vs. Union of India and others*, , the Supreme Court has held that petitions under Article 226/227 of the Constitution challenging orders passed by Tribunals under the Administrative Tribunals Act, 1985, will be heard only by a Division Bench of the High Court. But orders passed by purely Administrative Authorities and not by Subordinate Courts or Tribunals are entirely a different class and challenge to such orders of Administrative Authorities under Article 226 of the Constitution could be heard by a learned Single Judge of the High Court. Rule 2(7)(d) of the Rules of 2008 providing that writ petitions challenging interlocutory or final orders of Subordinate Courts or Tribunals where no appeal or revision is provided for, will be heard by a Division Bench, is thus a departure made in the Rules of 2008 because of the peculiar experience of the High Court while dealing with appeals under the Adhiniyam of 2005.

In *Re: The Special Courts Bill, 1978*, , Chandrachud, C.J., as He then was, delivering the opinion for himself and on behalf of P.N. Bhagwati, R.S. Sarkaria and Section Murtaza Fazal Ali, JJ., culled out in Paragraph 73 of the opinion as reported in the AIR, the different propositions relating to Article 14 of the

Constitution and with regard to procedural law, laid down the following proposition:

A rule of procedure laid down by law comes as much within the purview of Article 14 as any rule of substantive law and it is necessary that all litigants, who are similarly situated, are able to avail themselves of the same procedural rights for relief and for defence with like protection and without discrimination.

The underlined words in the aforesaid proposition makes it clear that all litigants who are similarly situated should be able to avail the same procedural rights for relief and for defence with like protection and without discrimination. Thus, litigants similarly situated can be classified into classes and can be subjected to the same treatment to avoid discrimination and this is permissible under Article 14 of the Constitution. Chandrachud, J., further held that the Special Courts Bill was valid because the Bill provided trial before the Special Court of a class of offences and a class of offenders only and there was a rational basis for classification of the offences because the class of offences which were triable under the Special Courts Bill had a rational nexus with the object of the Bill, i.e., to ensure the speedy trial of the offences and offenders who constitute a single and special class.

We find that the Rules of 2008 satisfy these tests of permissible classification laid down in *Re: The Special Courts Bill, 1978* (supra). Rule 2(7) of the Rules of 2008 which lists the classes of writ petitions to be heard and disposed of by a Division Bench is quoted below:

2. The following matters shall be heard and disposed of by a Bench comprising two Judges, Le., a Division Bench:

(7) Writ Petition.-- A writ petition--

(a) filed in public interest including those registered on a letter petition or otherwise;

(b) challenging the vires of any Act or Statute, or any order or rule or regulation made under any Act or Statute;

(c) challenging interlocutory or final orders passed by Administrative Tribunals constituted under Article 323-A of the Constitution of India;

(d) challenging interlocutory or final orders passed by Subordinate Courts or Tribunals, where no appeal or revision is provided;

(e) relating to admission to and recognition/affiliation of professional educational courses;

(f) in the nature of habeas corpus including all writ petitions pertaining to illegal detention;

(g) relating to Income Tax, Central Excise, Customs Duty, Entry Tax and Value Added Tax;

(h) relating to contract/tender concerning Government/public undertakings/local bodies/statutory bodies; and relating to environmental pollution.

It will be clear from the face of the aforesaid provision in Rule 2(7) of Chapter IV of the Rules of 2008 that only those classes of writ petitions which should be heard by a Division Bench and not by a learned Single Judge of this Court for better administration of justice have been listed in Rule 2(7), namely writ petitions filed in public interest, writ petitions challenging any vires of any Act or Statute or any Regulation, writ petitions challenging the orders passed by Administrative Tribunals constituted under Article 323-A of the Constitution, writ petitions challenging interlocutory or final orders passed by Subordinate Courts or Tribunal, writ petitions relating to admission to and recognition/affiliation of professional educational courses, writ petitions in the nature of habeas corpus including all writ petitions pertaining to illegal detention, writ petitions relating to Income Tax, Central Excise, Customs Duty, Entry Tax and Value Added Tax, writ petitions relating to contract/tender concerning Government/Public undertakings/local bodies/statutory bodies and writ petitions relating to environmental pollution. The classification of writ petitions which are to be heard by a Division Bench has been made in Rule 2(7) on the basis of the experience of the High Court in dealing with writ petitions during the last several years and a bare look of the matters listed in Clauses (a) to (i) would show that these are all matters which require to be heard by a Division Bench for better administrative of justice. Though the Preamble of the Rules of 2008 does not disclose the object of the Rules, the obvious purpose of the Rules of 2008 is to ensure better administration of justice. Rules 1(11) and 2(7) of Chapter IV of the Rules of 2008 provide that those matters which ought to be heard by the Division Bench for better administration of justice should be heard by the Division Bench and those matters which could be heard by a learned Single Judge should be heard by a learned Single Judge. In our considered opinion, therefore, the classification of writ petitions to be heard by a Division Bench and a Single Judge is based on intelligible differentia and such intelligible differentia has a rational nexus with the object sought to be achieved. Moreover, all litigants, either petitioners or respondents in any particular class of writ petitions listed in Rule 2(7) of Chapter IV of the Rules of 2008, and who are similarly situated have been subjected to the same procedure of hearing by a Division Bench and are not discriminated in their defence or relief. The impugned provisions of Rules 1(11) and 2(7) of Chapter IV of the Rules of 2008, therefore, are not violative of Article 14 of the Constitution.

The other grounds urged by Mr. Jain are not grounds for challenging the vires of the Rules of 2008 but are really suggestions, which the High Court, as the Rule Making Authority may consider and these are:

(i) In Chapter I Rule 4(12) of the Rules of 2008, a "part heard" case has been

defined to mean a case in which bipartite hearing of a main case has commenced but not concluded, irrespective of the stage (motion or final) at which such hearing commenced and is marked "part heard" by the Court and in Chapter IV Rule 14, it is provided that a part heard case shall be listed before the same Judge(s) and be listed before the Regular Bench only if the case is not disposed of within six months from the date it was first heard in part. According to Mr. Jain, these provisions may create lot of problems for the litigants if a case is marked part-heard particularly at the motion stage and if such part-heard case is not heard for a long period of six months.

(ii) The period of recess is for only half an hour from 1.30 p.m. to 2.00 p.m. as provided in Chapter VII Rule 1. Mr. Jain submitted that this period is too short a period to enable the Judges and the Advocates to have rest and lunch and should be increased to one hour.

(iii) In Chapter VII of the Rules of 2008, Rule 9 which deals with the power of Vacation Judge, does not confine the power to only passing orders in urgent interim matters in classes of cases to be heard by a Division Bench. Mr. Jain suggested that Rule 9 should clearly state that a Vacation Judge cannot admit or dismiss a matter which is to be heard by a Division Bench, but can only grant interim relief in such matters if a Division Bench is not available during the vacation.

(iv) In Chapter XIV of the Rules of 2008, Rule 24 which relates to "peremptory orders" passed by the High Court, is too strict a provision and does not give an opportunity to a party or his Advocate to remove the default or defect and may lead to dismissal of cases causing immense prejudice to the Advocate or a party.

(v) In Chapter XVIII of the Rules of 2008, Rule 3 provides that the applications for certified copies shall be received on all working days of the Registry between 10.30 a.m. to 12.30 p.m. and as a consequence, where urgent interim orders are passed by the Court after 12.30 p.m., applications for certified copies cannot be filed after 12.30 p.m.

(vi) In Chapter IX of the Rules of 2008, Rule 7 describes the person swearing the affidavit as "affiant"; instead, he should be described as "deponent" because the affidavit contains evidence which the deponent deposes.

(vii) In Chapter XIII of the Rules of 2008, Rule 12 relating to Second Appeal provides that a written submission on the substantial questions of law has to be filed by the appellant; this is unnecessary when the memorandum of appeal itself contains the substantial questions of law and the grounds in support thereof.

In our considered opinion, the aforesaid provisions made in the Rules of 2008 may cause inconvenience to the Advocates or the parties but are not beyond the powers of the High Court u/s 54 of the States Reorganisation Act, 1956 read with Article 225 of the Constitution, nor are they violative of any Constitutional provisions. Nonetheless, the suggestions made by Mr. Jain may be considered by

the Sub-Committee, the Rule Committee and the High Court and, if thought necessary, amendments may be made to the Rules of 2008.

Mr. J.P. Sanghi, learned Senior Counsel appearing for the intervener contended:

(i) In Chapter VIII of the Rules of 2008, Rule 5 provides that the vakalatnama should be filed in a foolscap size ledger paper but invariably the vakalatnamas are sent by the litigants from rural areas and semi-urban areas where ledger paper is not available.

(ii) In Chapter X of the Rules of 2008, Rule 3 provides that three extra copies of every application, interlocutory or otherwise, relating to a criminal matter should be filed in a matter to be heard by a Division Bench and two extra copies in every other case, thus putting an unnecessary burden on the litigants and the Advocates to file extra copies which may not be required by the Court.

(iii) In Chapter V of the Rules of 2008, under Rule 1 (a) the Registrar has been vested with the power to allow applications under Order 22 Rules 2, 3, 4 and 10 of the Code of Civil Procedure, 1908 and to amend the record : the Registrar cannot have the powers of the Court to decide applications which are contested.

(iv) In Chapter V of the Rules of 2008, Rule 2 vests with the Taxing Officer powers to decide all questions relating to Court fees finally and consequently the power of the Court to decide questions relating to Court fees has been taken away.

In our considered opinion, the contentions (i) and (ii) of Mr. Sanghi relating to requirement of vakalatnama and extra copies are not grounds which relate to the vires of the Rules of 2008 but point out the inconvenience of the litigants and the Advocates and may be considered by the Sub-Committee, the Rule Committee and the High Court and, if thought necessary, amendments may be made to the Rules of 2008.

Regarding the contention of Mr. Sanghi that the Registrar has been vested with powers under Chapter V Rule 1 (d) to allow applications under Order 22 Rules 2, 3, 4 and 10 of the Code of Civil Procedure, 1908 and to amend the record, Sub-rule (4) of Rule 1 in Chapter V states that nothing in Rule 1 shall be deemed to authorise the Registrar to make an order of dismissal of a proceeding for default or for any other reason or empower the Registrar to decide a contested application and that in the event of a written contest to such application, it shall be placed before the Court. Thus, the power of the Registrar under Rule 1 of Chapter V does not include the power to decide any contested application and he can only pass orders under Sub-rule (1) where an application is not opposed.

Regarding the powers of the Taxing Officer to decide question of Court fees, Mr. Sanghi is right that the decision of the Taxing Officer will be subject to the orders that may be passed by the Court. Any party challenging the decision of the Taxing Officer may, therefore, file an application before the Court and if such an application is filed, the Court will decide the dispute. The Rules of 2008 be

amended accordingly. v

With the aforesaid observations and directions the writ petition is disposed of. No costs.