

A

INDIRA JAISING

v.

SUPREME COURT OF INDIA THROUGH SECRETARY
GENERAL AND ORS.

B

(Writ Petition (C) No.454 of 2015)

JANUARY 02, 2017

[T. S.THAKUR, C.J.I., DR. D. Y. CHANDRACHUD
AND L. NAGESWARA RAO, JJ.]

C

Advocates Act, 1961 – ss.16, 23(5) – Designation of Lawyers – Application filed seeking recall of the order reserving pronouncement on the ground that the Court did not fully hear the submissions on behalf of the non-designated lawyers and the present writ petition should await the disposal of another writ petition pending in High Court in which challenge was made to the validity

D

of ss.16 and 23(5) – Held: Writ petition pending before the High Court, challenges the constitutional validity of ss.16, 23(5) which provides the statutory basis for designation of lawyers as senior advocates – Since source of power for such designation is itself under challenge, it would be more appropriate to hear the matters

E

together by transferring the petition pending in the High Court to this Court – Order recalled and writ petition set down for final hearing along with transferred writ petition.

CIVIL ORIGINAL JURISDICTION: Writ Petition (Civil) No. 454 of 2015.

F

Under Article 32 of the Constitution of India

G

Mukul Rohatgi, A.G., Ms. Pinky Anand, Maninder Singh, P.S. Patwalia, ASGs, Ms. Indira Jaising, Ms. Meenakshi Arora, J.M. Sharma, Ashok Bhan, Dushyant Dave, Amrender Saran, Narénder Hooda, Soli J. Sorabjee, Vikas Singh, Abhishek Manu Singhvi, Pravin H. Parekh, Sr. Advs., Ms. Anindita Pujari, Meher Dev, Arun Monga, Ms. Radhika Saxena, Raka Bejoy Phonkan, Ms. Neha Tandon, Shailesh Madiyal, Rajesh Ranjan, Sudhir Walia, Ajay Sharma, Rajat Singh, M. K. Maroria, Adv. B. V. Balaram Das, Annam D. N. Rao, Sudipto Sircar, Rahul Mishra, Abhinav Goyal, Sanjai Kumar Pathak, Ms. Aishwarya Bhati, R.S. Suri, Sonal Kumar Singh, Arush P. Surender Singh Hooda,

H

Pravesh Thakur, Shailender Sing, Rajesh Singh Chauhan, Gopal Singh, A
Mrs. Nandini Gore, Mathews J. Nedumpara, A.C. Philip, Anil C. N., T.
R. B. Sivakumar, V. K. Biju, Ardhendumauli Kumar Prasad, Ranjan
Mukherjee, K.V. Kharlyngdoh, Santosh Kumar Tripathi, Vishal Prasad,
Ms. Ritika Sethi, Advs. for the appearing parties.

The following Order of the Court was delivered B

ORDER

T. S. THAKUR, C.J.I. 1. We had on 21st October, 2016 heard
learned counsel for the parties and the interveners at some length and
reserved the matter for pronouncement of orders. An application was C
in the meantime filed on behalf of Shri R.R. Nair seeking recall of our
order dated 21st October, 2016 for a two-fold reason. Firstly, the
application points out that when the matter was taken-up for hearing on
21st October, 2016 the Court did not fully hear submissions on behalf of
what the application describes as 95% of the non-designated lawyers. D
Mr. Nedumpara, advocate, alone was heard for a short while, but even
Mr. Nedumpara was, according to the application, not in a position to
formulate the points on which he wanted to address this Court during
the short time available to him. He was, therefore, asked to give written
submissions in support of his case which may not be conducive to justice
keeping in view the grave importance of the questions that fall for
determination of this Court. E

2. Secondly, the application refers to Writ Petition (C) No.6331
of 2016 titled "*National Lawyers' Campaign for Judicial
Transparency and Reforms & Anr. Vs. The Bar Council of India &
Anr.*" filed in the High Court of Delhi to challenge the constitutional
validity of Sections 16 and 23(5) of the Advocates Act, 1961. The F
argument is that hearing of this writ petition should await the disposal of
the said petition which is possible only if our order dated 21st October,
2016 is recalled and the matter listed for hearing afresh.

3. In Writ Petition(C) No.6331 of 2016, the constitutional validity
of Sections 16 and 23(5) of the Advocates Act, 1961 which provide the G
statutory basis for designation of lawyers as senior advocates appears
to have been challenged. Now, if the source of power for such
designation is itself under challenge-it would be more appropriate to hear
the matters together by transferring the petition pending in the High
Court to this Court. This is particularly so because issues touching H

A designation of lawyers as per the prevalent procedure appears to be causing considerable dissatisfaction among a section of the bar which fact is evident from the large number of interventions made in these proceedings and an equally large number of solutions proposed at the bar for improvement of the system. A feeling among those opposing the process of designation that they were not heard fully before the matter was reserved for orders only adds to their frustration and avoidable misgivings.

4. In the circumstances, it would be more appropriate if the matter is set down for fuller arguments afresh along with Writ Petition (C) No.6331 of 2016, which is hereby transferred to this Court for hearing and disposal.

5. In light of what we have said above, our order dated 21st October, 2016 shall stand recalled and the matter set down for final hearing along with transferred Writ Petition (C) No.6331 of 2016 in the month of February, 2017. The parties may complete pleadings in the transferred case during the intervening period.

Ankit Gyan

Matter set down for final hearing.