

To,
The Hon'ble Chief Justice,
High Court of Judicature at Bombay.

28th November 2022

Dear Chief Justice Datta,

I am writing to you with respect to the requirement for application as a Senior Advocate of the Bombay High Court with regard to the endorsement of the applicant by two designated seniors as per rule 5(e) of the Bombay High Court (Designation of Senior Advocates) Rules, 2018 which were published vide Notification No. P. 3603/2018.

The judgement in *Indira Jaising v. Supreme Court of India*, (2017) 9 SCC 766, which was delivered on a petition filed by me laid down the following criteria for designating advocates as senior advocates:

<i>Sl. No.</i>	<i>Matter</i>	<i>Points</i>
1.	Number of years of practise of the applicant advocate from the date of enrolment. [10 points for 10-20 years of practise; 20 points for practise beyond 20 years]	20 points
2.	Judgments (reported and unreported) which indicate the legal formulations advanced by the advocate concerned in the course of the proceedings of the case; pro bono work done by the advocate concerned; domain expertise of the applicant advocate in various branches of law, such as Constitutional law, Inter-State Water Disputes, Criminal law, Arbitration law, Corporate law, Family law, Human Rights, Public Interest Litigation, International law, law relating to women, etc.	40 points
3.	Publications by the applicant advocate	15 points
4.	Test of personality and suitability on the basis of interview/interaction	25 points

The object of the Supreme Court in laying down the exhaustive guidelines and a marking criterion was to make the process of designation of senior advocates which was hitherto shrouded in mystery. It must be noted that in these guidelines and the marking criteria, there is no requirement of submitting letters of references from two Senior Counsels.

A similar rule was challenged in the Delhi High Court which mandated a joint proposal by three senior advocates for a lawyer to apply for senior designation by the High Court. This was challenged in Nandita Rao v. The Delhi High Court, W.P.(C) 4252/2019 & CM APPL.19005/2019. The Court directed The Registrar General of to place the grounds raised in the writ petitions and the counter affidavit before the Full Court for consideration. Subsequently the rule was withdrawn, and applications were withdrawn vide a public notice dated 14.08.2022. The Court modified the rules to state as under:

“(7) Procedure for designation of an Advocate as Senior Advocate. An advocate may be considered by the High Court for being designated as Senior Advocate either (A) Suo Motu by the High Court or (B) on an application by an Advocate.

(A) Procedure Suo Motu: An Advocate who fulfils the eligibility conditions prescribed hereinbefore, may be considered suo moto by the High Court for being designated as a Senior Advocate either on the written proposal of a Judge of the High Court or of Hon’ble the Chief Justice of the High Court.

Such written proposal of a Judge or of Hon’ble the Chief Justice shall be sent to the Registrar General who shall forward it to the Secretariat after obtaining a consent-cum personal information sheet (Annexure-A to these Rules) duly filled in and signed by the Advocate concerned.

(B) Procedure on application by an Advocate:’ Any Advocate who fulfils the eligibility conditions prescribed hereinbefore may submit a written application for being designated as Senior Advocate to the Registrar General who shall forward it to the Secretariat after obtaining a consent-

cum-personal information sheet (Annexure-A to these Rules) duly filled in and signed by the Advocate concerned.”

I am attaching the public notice and the order of the Delhi High Court.

It is submitted that the whole process behind my filing the petition in the Supreme Court was to avoid such getaways to justice which do not allow people who wouldn't otherwise get designated to be designated. There are deserving people specially belonging to marginalised communities who would not get designated merely because they are not a part of the traditional old boys' club of designated seniors. It is well known that such networks have thrived in the legal profession and the designation of a woman or a person belonging to a minority is still a rarity.

The point system is self-contained, enabling the Court to evaluate to the merit of the applicant without a recommendation from any other person. In fact, the two systems for applying on the basis of a recommendation and being evaluated on a point system are in contradiction to each other. Making such a recommendation from two senior counsels mandatory for even applying to be designated will create further hurdles for these groups to be designated. It is submitted that prior to the judgement there were circumstances in which considerations other than merit acquired more weightage. Hence, the judgement focuses exclusively on an objective evaluation of the applicant. I request for the said rule to be deleted in a manner known to law. Since the matter concerns the legal profession as a whole, I have taken the liberty to mark the letter to the Bar Association of Maharashtra and to the Bombay Bar Association.

In the Interim, I would urge you to let the advocates apply for designation without any recommendation letter.

Thanking you in anticipation,

Indira Jaising,

Senior Advocate.