



**IN THE HIGH COURT OF ORISSA, CUTTACK**

**W.P.(C) No. 14219 of 2022**

An application under Articles 226 and 227 of the Constitution of India.

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Sri Banshidhar Baug ..... Petitioner

-Versus-

Orissa High Court  
and others ..... Opp. Parties

For Petitioner - Mr. Banshidhar Baug  
(In person)

For Opp. Parties nos. - Mr. Jyoti Prakash Patnaik  
1 to 3 (Govt. Advocate)

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**P R E S E N T :**

**THE HONOURABLE MR. JUSTICE S.K. SAHOO**

**AND**

**THE HONOURABLE DR. JUSTICE S.K. PANIGRAHI**

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Date of Hearing: 28.08.2024      Date of Judgment: 19.09.2024  
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**S.K. SAHOO, J.**      The petitioner, who is a practicing advocate of this Court, has filed this writ petition for issuance of a 'Rule-NISI' calling upon the opp. parties to show cause as to why:



**(i)** The decision of the Permanent Committee to refrain from forwarding the petitioner's name and the names of the applicant-advocates to the Hon'ble Full Court for consideration should not be deemed jurisdictionally invalid and in contravention of Rules 6(5) and 6(6) of the High Court of Orissa (Designation of Senior Advocate) Rules, 2019 (hereinafter referred to as the '2019 Rules');

**(ii)** The Permanent Committee's notification dated 21.04.2022 (Annexure-9) concerning the second interaction, and the Permanent Committee's resolution dated 26.04.2022 (Annexure-14) should not be annulled on the grounds of jurisdictional invalidity and non-compliance with the 2019 Rules;

**(iii)** The decision of the Permanent Committee to recommend the names of Opposite Party Nos. 4 to 11 to the Full Court for consideration for designation as Senior Advocates should not be invalidated;

**(iv)** The decision and approval of the Full Court dated 27.04.2022, and the notification dated 27.04.2022 (Annexure-10) should not be annulled.

Furthermore, the petitioner requests that the Permanent Committee be directed to submit the names of all applicant-advocates, including the petitioner and Opposite Party Nos. 4 to 11, along with a comprehensive assessment as per



Appendix-B of the 2019 Rules, to the Full Court for their consideration for designation as Senior Advocates.

At the outset of the argument, the petitioner, appearing in person, clarified that his request is now confined exclusively to his own case. Specifically, he seeks to address the action of the Permanent Committee in failing to forward his name to the Hon'ble Full Court for consideration. The petitioner requests that the Permanent Committee be directed to submit his name, along with a comprehensive assessment and points as outlined in Appendix-B of the 2019 Rules, to the Full Court for consideration for designation as Senior Advocate. Mr. Baug further emphasized that he does not seek any order affecting Opposite Parties Nos. 4 to 11, as he has no objections to their being designated as Senior Advocates and does not view them as his competitors.

2. The petitioner contends that he is a practicing advocate of the Orissa High Court, with Enrollment Number 0176/1981 issued by the Odisha State Bar Council on 26.02.1981. He has amassed over 43 years of practice in this Court, as well as in the Civil and Criminal Courts in Cuttack and Bhubaneswar.



The petitioner asserts that Section 16 of the Advocates Act, 1961 (hereinafter referred to as the '1961 Act') empowers the Hon'ble Supreme Court and High Courts to confer the designation of Senior Advocate upon an advocate, provided that the Court is satisfied that the advocate's skill, standing at the Bar, or specialized knowledge and experience in law warrants such a designation.

The petitioner further states that on 13.06.2011, this Court published a notification outlining the procedure for designating an advocate as a Senior Advocate. The details of the procedure are as follows:

*"1. The advocate seeking consideration shall not be less than 35 years of age of the time of moving an application and he must have an experience which is not less than 10 years at the Bar. The services rendered by the advocate at the State Judicial Services will also be considered.*

*2. The advocate must have a net annual taxable income which is not less than three lakh rupees.*

*3. The Full Court shall consider the application and designation is conferred upon advocates who secure a simple majority of votes. The advocates rejected by the High Court will not be considered for a subsequent period of one year."*



During the year 2013-14, the petitioner applied for consideration for designation as a Senior Advocate under the 2011 notification. While this application was still pending, the Court adhering to a directive from the Hon'ble Supreme Court in ***Indira Jaising -Vrs.- Supreme Court of India through Secretary General and Others***<sup>1</sup> formulated the 2019 Rules. These rules outline a comprehensive procedure for the designation of Senior Advocates. Under the 2019 Rules, a Permanent Committee is constituted, consisting of the Hon'ble Chief Justice, the two Seniormost Hon'ble Judges of the High Court, the Advocate General of the State of Odisha and a Senior Advocate of the Bar who is nominated by the Committee members.

Subsequent to the establishment of the Permanent Committee, the High Court issued Advertisement No. 1 dated 22.04.2019, inviting applications from eligible candidates for designation as Senior Advocates in accordance with the format specified in the 2019 Rules. On the same date, the Special Officer (Special Cell) of the High Court sent a letter to the petitioner requesting him to resubmit his application for

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<sup>1</sup> (2017) 9 SCC 766



designation as a Senior Advocate, using the prescribed format outlined in the advertisement.

The petitioner further asserts that, in response to the letter issued by the Special Officer (Special Cell) of the Court, he submitted his application for designation as a Senior Advocate on 22.05.2019, using the prescribed format. Opposite Parties Nos. 4 to 11 also applied for designation as Senior Advocates in accordance with the 2019 Rules. Due to defects identified in the applications, the Registrar (Judicial) of the Court issued a notice dated 01.07.2019 requesting the petitioner and other applicants to rectify these defects. Additionally, the Special Officer (Special Cell) issued a notice on 02.07.2019 asking the petitioner to provide the necessary documents, including a declaration as specified in the advertisement.

During this process, and prior to compliance with sub-rule (3) of Rule 6 of the 2019 Rules, the Permanent Committee recommended the names of Opposite Parties Nos. 4 to 8 for designation as Senior Advocates on 08.08.2019. The following day, 09.08.2019, the Registrar (Judicial) issued a notice soliciting suggestions and views regarding the petitioner and other applicant-advocates, totalling 45 in number with a deadline of 08.09.2019. Notably, the names of Opposite Parties



Nos.4 to 8 were not included in these 45 names. Instead, on 17.08.2019, the Full Court approved the recommendation for Opposite Parties Nos. 4 to 8 to be designated as Senior Advocates. Consequently, a notification dated 19.08.2019 declared Opposite Parties Nos. 4 to 8 as Senior Advocates. The petitioner also highlights that, while the notice inviting proposals and views was still pending as per the notice dated 09.08.2019, the Registrar (Judicial) issued Advertisement No.2 dated 04.09.2019, inviting applications from eligible advocates for designation as Senior Advocates in the prescribed format.

The petitioner being dissatisfied with the notification dated 19.08.2019 which designated Opposite Parties Nos. 4 to 8 as Senior Advocates, filed W.P.(C) No. 17009 of 2019 with this Court. The petitioner sought to invalidate the inclusion of the suo moto power of the High Court under sub-rule (9) of Rule 6 of the 2019 Rules, arguing that it was inconsistent with the guidelines established in the **Indira Jaising** case (supra), and also sought to annul the designation of Opposite Parties Nos.4 to 8 as Senior Advocates. In a related petition, three other advocates, including Opposite Party No.9, filed W.P.(C) No. 17110 of 2019 seeking similar relief.



The Division Bench of this Court, in a common judgment and order dated 10.05.2021, declared sub-rule (9) of Rule 6 of the 2019 Rules *ultra vires* in view of the the guidelines set forth in paragraph 73 of the ***Indira Jaising*** case (supra). The Court also annulled the notification dated 04.09.2019, which had invited fresh applications from eligible advocates for the designation of Senior Advocates and ruled that applications submitted in response to that notification should not be considered. Furthermore, the Division Bench upheld the notification No. 1378 dated 19.08.2019 which would remain effective until the Full Court rendered a new decision on the designation of Senior Advocates, taking into account all 48 applications, including those of Opposite Parties Nos.5 to 9. The Court also directed that the process for designating Senior Advocates be concluded by the end of July 2021.

The petitioner further states that, while the writ petitions W.P.(C) No. 17009 of 2019 and W.P.(C) No. 17110 of 2019 were pending, a notice dated 03.10.2019 (Annexure-8) was issued directing 48 advocates, including the petitioner, to appear for an interaction as per Rule 6(5) of the 2019 Rules. The petitioner attended the interaction before the Permanent Committee on 18.10.2019.





Challenging the observation made in paragraph 27 of the common judgment dated 10.05.2021, the petitioner filed Special Leave Petition (Civil) No. 7129 of 2021 before the Hon'ble Supreme Court which was dismissed by order dated 28.06.2021. Other advocates also contested the same judgment by filing Special Leave Petition (Civil) No. 8346 of 2021, and the Hon'ble Supreme Court stayed the observation in paragraph 32(ii) of the judgment regarding the calling for fresh applications through the second notification dated 04.09.2019. Additionally, the High Court filed Special Leave Petition (Civil) Nos.11605 and 11606 of 2021 before the Hon'ble Supreme Court, challenging the judgment. The Supreme Court by order dated 02.08.2021 stayed the operation of paragraph 24 of the judgment dated 10.05.2021.

Subsequently, the Permanent Committee issued a notice dated 21.04.2022, directing 40 advocates including the present Opposite Parties Nos.4 to 11 to appear before the Committee on 24.04.2022 for a fresh interaction via virtual mode. Following this interaction, the Permanent Committee recommended the names of nine advocates including Opposite Parties Nos.4 to 11 and Mr. Abhijit Pal, Advocate for consideration by the Full Court for designation as Senior



Advocates. The Full Court met on 27.04.2022 and approved the designation of eight advocates—Opposite Parties Nos. 4 to 11—out of the nine recommended names. Consequently, the Hon'ble Chief Justice declared these eight advocates, i.e. Opposite Parties Nos. 4 to 11, as Senior Advocates under Section 16 of the 1961 Act read with Rule 7(1) of the 2019 Rules. The Registrar (Judicial) subsequently issued Notification No.855 dated 27.04.2022, officially designating Opposite Parties Nos.4 to 11 as Senior Advocates.

According to the petitioner, the Permanent Committee's decision not to forward his name for consideration, despite his appearance before the Committee for interaction/interview, and to withhold his name, is asserted to be entirely without jurisdiction. The petitioner contends that this action contravenes Rules 6(5) and 6(6) of the 2019 Rules and violates the directives issued by the Division Bench of this Court in its judgment dated 10.05.2021 in the aforementioned writ petitions.

3. A counter affidavit has been submitted by the learned Registrar General of this Court on behalf of Opposite Parties Nos.1 and 2. In the counter affidavit, the assertions made in the writ petition are refuted. It is stated, inter alia, that



in response to a requisition dated 29.08.2019 from the Secretary, High Court Bar Association, Cuttack, and a notification calling for applications from eligible lawyers, the Permanent Committee convened a meeting on 24.09.2019. During this meeting, the Committee reviewed the request and subsequently issued Advertisement No. 02 of 2019, setting a deadline of 01.10.2019 for receiving applications.

The counter affidavit further notes that out of 40 applicant advocates, 30 attended an interaction session on 24.04.2022 with the Permanent Committee. Following this, the Full Court, in its meeting on 27.04.2022, resolved to utilize a ballot voting process for the names recommended by the Permanent Committee. Consequently, eight advocates were designated as Senior Advocates on 27.04.2022.

It is also mentioned that the Permanent Committee evaluated all applicants individually according to the 2019 Rules and assigned marks based on a point-based system. This assessment was presented to the Full Court. Records indicate that nine advocates achieved 70% or more of the total points, and a draw of ballots was conducted for eight of these advocates before the Full Court.



The counter affidavit further asserts that the Permanent Committee provided the Full Court with the point-based evaluations of all participating advocates in accordance with the 2019 Rules. The Full Court considered this information and made its decision without delay. It is emphasized that no information was withheld from the Full Court by the Permanent Committee. It is explained that the petitioner's case had been deferred by the previous Permanent Committee and that is the reason why it was not reviewed during the interaction.

Additionally, following the Supreme Court's order dated 28.06.2021 in S.L.P. (C) No. 7129 of 2021 and due to the unavailability of Permanent Committee members who had interacted with applicants on 18.10.2019, a new interaction was conducted on 24.04.2022. The Permanent Committee prepared and presented the point-based evaluations according to the Rules to the Full Court on 27.04.2022. Therefore, the designation of Opposite Parties Nos. 4 to 11 as Senior Advocates is asserted to be in strict accordance with the law.

The counter affidavit also mentions that as per the Supreme Court's direction in S.L.P. (C) No. 7129/2021, the Full Court resolved for the Permanent Committee to reconsider the cases of Opposite Parties Nos.4 to 8 along with the other



applicants. The Permanent Committee decided to invite all advocates who had participated in the interaction on 17th and 18th October 2019, except those whose cases had been deferred. The point-based evaluations for all 40 applicants, including the nine who scored 70% or more, were submitted to the Full Court. In its meeting on 27.04.2022, the Full Court resolved to use a ballot voting process for the names proposed by the Permanent Committee, leading to the designation of eight advocates as Senior Advocates on 27.04.2022.

4. In response to the counter-affidavit submitted by Opposite Parties Nos. 1 and 2, the petitioner has filed a rejoinder affidavit. The petitioner reiterates that the directive specified in paragraph 32(iii) of the judgment dated 10.05.2021, in W.P.(C) Nos. 17009 and 17110 of 2019, has not been implemented. The petitioner underscores that this paragraph explicitly required that all 48 applicants, including those who were formerly Opposite Parties Nos. 5 to 9 (now Opposite Parties Nos. 4 to 8), be evaluated by the Full Court. The petitioner contends that this mandate was not complied by the Permanent Committee.

Additionally, the rejoinder affidavit emphasizes that sub-rule (9) of Rule 6 was declared ultra vires by the Court in the judgment dated 10.05.2021 in the above cited writ petitions.



The petitioner argues that the Permanent Committee's recommendation of Opposite Parties Nos.4 to 8, pursuant to sub-rule (2) of Rule 6 of the 2019 Rules was unlawful, contravened the provisions of the 2019 Rules, and was inconsistent with the aforementioned judgment.

The petitioner disputes the assertions made by Opposite Parties Nos.1 and 2, which claim that the recommendation of Opposite Parties Nos.4 to 9 for designation as Senior Advocates did not contravene any provisions of the 2019 Rules. The petitioner contends that the Court in its judgment dated 10.05.2021 deemed such recommendations and the subsequent approval by the Full Court to be discriminatory.

Furthermore, concerning the postponement of the petitioner's and two other advocates' cases, the petitioner notes that the counter-affidavit lacks minutes from the Permanent Committee's meeting on this issue. The petitioner refutes the statements regarding the deferment as presented in the counter-affidavit.

Finally, the petitioner highlights that while W.P.(C) Nos. 17009 and 17110 of 2019 were pending, a notice for interaction under Annexure-8 was issued to the petitioner and 44 others. The petitioner had filed I.A. No. 14249 of 2019



requesting a stay of the interaction process. The Court, after hearing the matter, instructed the petitioner and the other petitioners to attend the interaction before the Permanent Committee as per the notice. However, this directive was issued without prejudice to any rights or arguments that could be raised in the writ petitions.

The rejoinder affidavit further asserts that the 2019 Rules do not permit the deferral of an applicant's case after an interaction has occurred. The petitioner contends that the Permanent Committee did not have the authority under the 2019 Rules to defer his case for Full Court consideration. The petitioner also argues that even if the Permanent Committee decided to defer his case on 23.10.2019, such a decision should have been disclosed during the proceedings of the earlier writ petitions which was not done.

The petitioner further asserts that there has been no formal notice or explanation provided regarding the deferral of his case, and any such deferral should not be indefinite, particularly given that his application for Senior Advocate status was submitted on 05.08.2013.

Additionally, the petitioner contends that 2019 Rules do not provide for a second interaction for applicants who have



already participated in an interaction under Annexure-8 of the writ petition. The petitioner emphasizes that the judgment dated 10.05.2021 in W.P.(C) Nos.17009 and 17110 of 2019 did not stipulate that only Opposite Parties Nos. 4 to 8 (formerly Nos. 5 to 9) were required to undergo further processes including inviting suggestions and additional interactions, while excluding other applicants such as the petitioner who had already participated in the initial interaction.

The petitioner contends that the Permanent Committee's decision dated 21.04.2022 to conduct a fresh interaction, although mentioned in the counter-affidavit, was neither officially documented nor included in the official record. The petitioner argues that such a decision, if it indeed occurred, should not be acknowledged as it would contravene the Court's earlier directives issued in the judgment dated 10.05.2021.

The petitioner further argues that if there was a need to amend the previous order, a formal application should have been filed with this Court to seek authorization for a second interaction and to defer the petitioner's case from consideration by the Full Court. The petitioner asserts that any modification regarding the fresh interaction held on 24.04.2022 and the





deferral of his case to the Full Court should have been sought through an appropriate order from this Court.

According to the petitioner, there has been a substantial breach of the Court's directive in paragraph 32(iii) of the judgment dated 10.05.2021 in W.P.(C) Nos.17009 and 17110 of 2019. The petitioner claims that the decision to hold a second interaction for 40 applicant-advocates is inconsistent with the 2019 Rules and was conducted without specific authorization from this Court in the resolved writ petitions. The petitioner highlights a perceived inconsistency in the treatment of applicants in W.P.(C) No.17009 of 2019, where he was the sole petitioner, his case was deferred, whereas in W.P.(C) No.17110 of 2019 which involved three petitioners, their cases were not deferred but were scheduled for a second interaction.

The petitioner further asserts that there was no directive from the Hon'ble Supreme Court in S.L.P.(C) No. 7129 of 2021 for this Court or the Permanent Committee to solicit suggestions and views from all applicant-advocates who had previously participated in the interaction held on 18.10.2019. The Supreme Court's order dated 28.06.2021 which stipulated that the second notification would be considered only after the first notification was completed, effectively stayed the directive



in paragraph 32(ii) of the judgment dated 10.05.2021. As a result, the second notification was addressed and some advocates were subsequently designated as Senior Advocates. Therefore, the petitioner argues that the S.L.P. regarding the second notification dated 04.09.2019 has become moot.

The petitioner also contends that following the judgment dated 10.05.2021, the Permanent Committee undertook actions under Rule 6(3) of the 2019 Rules specifically concerning Opposite Parties Nos.4 to 8 who were formerly Opposite Parties Nos.5 to 9 in the previous writ petitions. The petitioner argues that this procedure was not consistent with the Court's directives from the judgment and was conducted in a manner that deviated from the Court's earlier orders.

The petitioner further asserts that the Permanent Committee constituted under the 2019 Rules lacked the authority to fix cut-off points for the consideration of applicant-Advocates for designation as Senior Advocates by the Full Court. As such, the Resolution of the Permanent Committee dated 26.04.2022 is claimed to be entirely without jurisdiction and legally null and void as it contravenes 2019 Rules.

Additionally, the petitioner notes that out of the 40 applicant-Advocates excluding the petitioner, only thirty



appeared for the interaction. The petitioner questions as to why the names of all forty applicants were submitted to the Full Court for consideration when only thirty participated. Specifically, the petitioner highlights that nine applicant-Advocates were considered by the Full Court which the petitioner argues is contrary to Rule 6(6) of the 2019 Rules and the judgment dated 10.05.2021 in the aforementioned writ petitions.

Moreover, the petitioner points out that the Permanent Committee failed to submit the names of all applicant-Advocates who participated in the initial interactions held on 17.10.2019 and 18.10.2019 as required by Rule 6(6) of the 2019 Rules. This omission contradicts the explicit directive in the judgment dated 10.05.2021 which mandated that all 48 applicant-Advocates including Opposite Parties Nos.4 to 8 be considered by the Full Court. The petitioner asserts that neither the 2019 Rules nor does the 1961 Act provide for the piecemeal consideration of applicant-Advocates when all 48 had applied and participated in the interactions.

The petitioner further contends that the resolution dated 23.10.2019 to defer the petitioner's case, if such a resolution indeed exists, is entirely beyond jurisdiction. This is because it conflicts with both the 2019 Rules and the judgment



dated 10.05.2021 in the two writ petitions. Opposite Parties Nos. 1 and 2 should have presented the purported decision of the Permanent Committee dated 23.10.2019 for the Court's review and provided the petitioner with an opportunity to respond. The judgment dated 10.05.2021 did not exclude the petitioner nor did it mandate a second interaction. Consequently, the Permanent Committee's actions are in violation of the Court's directive in paragraph 32(iii) of that judgment. The Permanent Committee should have sought a modification of the order from this Court to conduct a second interaction and defer the petitioner's case, but this was not done, leading to a breach of the judgment and directives dated 10.05.2021.

Additionally, the petitioner asserts that the Permanent Committee, as constituted under the 2019 Rules then in effect, did not possess the jurisdiction to establish cut-off points for the submission of applicant-Advocates' names to the Full Court after their interaction.

The petitioner also notes that paragraph 32(iii) of the judgment dated 10.05.2021 specifically directed that all 48 applicant-Advocates be sent to the Full Court and that the process of designating Senior Advocates be completed by the end of July 2021. This directive has not been adhered to and the



counter-affidavit does not offer any explanation for the failure to implement this Court's directive.

5. Mr. Banshidhar Baug, the petitioner representing himself, argued that the decision or minutes of the Permanent Committee dated 23.10.2019 to defer his case are in contravention of Rule 6(5) and Rule 6(6) of the 2019 Rules. He contended that this decision is beyond jurisdiction and has been rendered null and void by the judgment dated 10.05.2021 in the aforementioned two writ petitions. Mr. Baug asserted that any decision, minute, or order made without providing a rationale is legally unsustainable. To support this contention, he cited decisions of the Hon'ble Supreme Court in the case of ***East Coast Railway and another -Vrs.- Mahadev Appa Rao and others reported in 2010 AIR SCW 4210*** and ***State of Orissa and others -Vrs.- Chandra Nandi reported in (2019) 4 Supreme Court Cases 357.***

Mr. Baug further argued that following the second interaction held on 24.04.2022, the counter-affidavit indicates that out of 40 applicant-advocates notified for the interaction, only 30 participated. Despite this, only nine names were submitted to the Permanent Committee, and a cut-off point of



70% or more was established, which Mr. Baug contends violates Rule 6(6) of the 2019 Rules.

Mr. Baug also highlighted a discrepancy regarding the cut-off points mentioned in the Permanent Committee's minutes. He noted that the minutes dated 23.10.2019 set the cut-off at 50% or more, whereas the minutes dated 26.04.2022 raised the cut-off to 70% or more.

Furthermore, Mr. Baug argued that under Rule 6(5) of the 2019 Rules, points are to be awarded based on Appendix-B of the Rules, and overall assessments should be derived from these points. Even if an advocate receives a negative assessment, Rule 6(6) requires that all assessed names be submitted to the Full Court along with the Permanent Committee's reports. Mr. Baug asserted that the Permanent Committee lacks the jurisdiction to defer or withhold an advocate's case indefinitely. Thus, he contends that the Permanent Committee's failure to present his case to the Full Court contravenes Rule 6(6) of the 2019 Rules.

Mr. Baug further argued that when a statute or rule mandates a specific method of performance, it must be followed precisely as prescribed or not performed at all. Any deviations from the prescribed method are impermissible. In support of this



contention, he cited judgments from the Hon'ble Supreme Court in the cases of ***Deep Chand -Vrs.- State of Rajasthan reported in A.I.R. 1961 Supreme Court 1527*** and ***Nazir Ahmad -Vrs.- King Emperor reported in A.I.R. 1936 Privy Council 253.***

Mr. Baug further argued that he initially applied for designation as a Senior Advocate on 05.08.2013. He subsequently submitted another application under Advertisement No. 1 dated 22.04.2019, which was deferred. A second Advertisement dated 04.09.2019 was issued for Senior Advocate designations, followed by a third notification dated 15.03.2023. Throughout this period, his application was neither considered for placement before the Hon'ble Full Court nor was he instructed to submit a new application; his case was simply deferred. Mr. Baug noted that, with the exception of two Advocates, all those designated as Senior Advocates through the notifications dated 22.04.2019, 04.09.2019, and 15.03.2023 are significantly junior to him.

Mr. Baug also contended that the notice issued to him on 07.08.2024, detailed in Annexure-B/1 of the counter-affidavit, constitutes a form of humiliation and renders the writ petition infructuous. He argued that the criteria for consideration



under the 2019 Rules and the amended Rules of 2023 differ substantially which prejudices his case. Therefore, he should not be required to apply afresh under the amended Rules of 2023.

Additionally, Mr. Baug asserted that since the suggestions and views for his case were contemplated under Rule 6(3) of the 2019 Rules, and he participated in the first interaction held on 18.10.2019 as per the notice dated 03.10.2019, where his name was listed at Sl. No. 37, there was no justification for the Permanent Committee to withhold his name from being placed before the Hon'ble Full Court for consideration, in accordance with Rule 6(7) of the 2019 Rules.

6. Mr. Jyoti Prakash Patnaik, the learned Government Advocate representing the High Court, contended that the petitioner's application, submitted in response to Advertisement No. 1 dated 22.04.2019 under the 2019 Rules, was duly reviewed by the Permanent Committee. The petitioner was requested to provide both reported and unreported decisions, articles, and other relevant details, and participated in the interaction on 18.10.2019. However, on 23.10.2019, the Permanent Committee decided to defer his case. Consequently, Mr. Patnaik argued that the petitioner cannot justifiably claim that his case was not given due consideration.





Mr. Patnaik further argued that while there were significant changes in the Permanent Committee before the second interaction, this does not render the process unlawful. Citing sub-Rule (1) of Rule 3 of the 2019 Rules, he asserted that the Permanent Committee is vested with the authority to handle all matters related to the designation of Senior Advocates. He noted that the term "shall" indicates a mandatory duty, and therefore, the Permanent Committee, in accordance with Rule 6(6) of the 2019 Rules, resolved to submit only the names of those applicant-Advocates who secured 70 or more points to the Full Court. Mr. Patnaik emphasized that rules are designed to facilitate justice and should not be used as impediments to achieving the core objectives of the Act.

Additionally, Mr. Patnaik noted that any questions regarding the interpretation of the Rules should be referred to the Chief Justice, whose decision on such matters is final under Rule 10 of the 2019 Rules.

Mr. Patnaik further submitted that as of 08.08.2024, the petitioner was invited to participate in the selection process and, therefore, should have submitted a fresh application for



consideration. Consequently, he argued that the writ petition is liable to be dismissed as no cause of action remains.

7. Adverting to the contentions raised by the learned counsel for both parties, the questions that now arise for our consideration are as follows: -

**(i)** Whether the Permanent Committee has the authority to withhold or defer an Advocate's name from being submitted to the Full Court following the interaction stage, as prescribed by Rule 6(5) of the 2019 Rules?

**(ii)** Whether the Permanent Committee possesses the authority to exclude the names of certain Advocates from consideration based on the points they have secured in the overall assessment?

**(iii)** In light of the petitioner's fresh application in response to Advertisement No. 1 dated 22.04.2019, which adhered to the 2019 Rules and included the invitation of suggestions and views on his name under Rule 6(3), as well as his submission of reported and unreported decisions, articles, and particulars, and his participation in the interaction on 18.10.2019, was the Permanent Committee justified in deferring his case on 23.10.2019?

**(iv)** Given the Division Bench's directive in its judgment dated 10.05.2021 in the aforementioned two writ petitions, which



mandated the consideration of all 48 applications, including that of the petitioner and Opposite Parties Nos. 5 to 9, should the petitioner have been excluded from participating in the second interaction based on the prior decision made on 23.10.2019?

8. In **Indira Jaising** (supra), the following guidelines were issued by the Hon'ble Supreme Court: -

**I.** All matters relating to the designation of Senior Advocates in the Supreme Court of India and in all High Courts of the country shall be dealt with by a Permanent Committee, to be known as the "Committee for Designation of Senior Advocates."

**II.** The Permanent Committee shall be headed by the Hon'ble Chief Justice of India and shall consist of two Senior-most Judges of the Supreme Court of India (or High Court(s), as may be). The learned Attorney General for India (or Advocate General of the State, in the case of a High Court) shall be a Member of the Permanent Committee. The above four Members of the Permanent Committee shall nominate another Member of the Bar to be the fifth Member of the Permanent Committee;

**III.** The said Committee shall have a permanent Secretariat, the composition of which will be decided by the Chief Justice of India or the Chief Justices of the High Courts, in consultation with



the other members of the Permanent Committee;

**IV.** All applications, including written proposals by Hon'ble Judges, shall be submitted to the Secretariat. Upon receipt of such applications or proposals from Hon'ble Judges, the Secretariat will compile the relevant data and information regarding the reputation, conduct, and integrity of the Advocate(s) concerned, including his/her participation in pro-bono work, reported judgments in which the concerned Advocate(s) had appeared, and the number of such judgments from the last five years. The source(s) from which information/data will be sought and collected by the Secretariat will be as decided by the Permanent Committee;

**V.** The Secretariat shall publish the proposal for the designation of a particular Advocate on the official website of the concerned Court, inviting suggestions and views from other stakeholders on the proposed designation;

**VI.** After the database is compiled in accordance with the above, and all such information, as specifically directed by the Permanent Committee to be obtained concerning any particular candidate, is collected, the Secretariat shall present the case before the Permanent Committee for scrutiny.;

**VII.** The Permanent Committee shall examine each case in light of the data provided by the



Secretariat of the Permanent Committee, interview the concerned Advocate, and make its overall assessment based on a point-based format as indicated below:

<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

**VIII.** All the names that are listed before the Permanent Committee/cleared by the Permanent Committee shall go to the Full Court.

**IX.** Voting by secret ballot shall not normally be resorted to by the Full Court except when unavoidable. In the event of resort to secret



ballot decisions shall be carried by a majority of the Judges who have chosen to exercise their preference/choice.

**X.** All cases that have not been favourably considered by the Full Court may be reviewed/reconsidered after expiry of a period of two years following the manner indicated above as if the proposal is being considered afresh;

**XI.** In the event a Senior Advocate is guilty of conduct which according to the Full Court disentitles the Senior Advocate concerned to continue to be worthy of the designation the Full Court may review its decision to designate the concerned person and recall the same;

In the exercise of the authority granted by Section 34(1), read in conjunction with Section 16(2) of the Advocates Act, 1961, and in adherence to the guidelines established by the Hon'ble Supreme Court in ***Indira Jaising*** (supra), this Court promulgated the 2019 Rules governing the designation of Senior Advocates and related matters. Consequently, Notification No. 324/R, dated 13.02.2019, was issued.

**Rule 3 of the 2019 Rules** deals with Permanent Committee for designation of Senior Advocate, which reads as follows:



(1) All the matters relating to designation of Senior Advocates in the High Court shall be dealt with by the Permanent Committee, which shall be headed by the Chief Justice and consist of the two Seniormost Judges of the High Court; (ii) the Advocate General of the State of Odisha; and (iii) a designated Senior Advocate of the Bar to be nominated by the members of the Committee.

(2) The Committee constituted under sub-rule (1) shall have a Secretariat, the composition of which will be decided by the Chief Justice of the High Court, in consultation with other members of the Committee.

(3) The Committee may issue such directions from time to time as deemed necessary regarding functioning of the Secretariat, including the manner in which, and the source(s) from which, the necessary data and information with regard to designation of Senior Advocates are to be collected, compiled and presented.

**Rule 4 of the 2019 Rules** deals with Designation of an Advocate as Senior Advocate, which reads thus:

(1) The High Court may designate an Advocate as a Senior Advocate, if in its opinion, by virtue of his/her ability and standing at the Bar, the said Advocate is deserving of such distinction.



Explanation: The term "standing at the Bar" means position of eminence attained by an Advocate at the Bar by virtue of his/her seniority, legal acumen, and high ethical standards maintained by him, both inside and outside the Court.

(2) No person shall be eligible to be designated as Senior Advocate unless he/she:

(i) has a minimum ten years of practice as an Advocate in the High Court of Orissa or in the Courts subordinate to the High Court of Orissa.

(ii) has appeared and actually argued cases in High Court of Orissa or Courts Subordinate to it.

**Rule 5 of the 2019 Rules** stipulates motion for designation as Senior Advocate, which states as follows:

(1) Designation of an Advocate as Senior Advocate by the High Court of Orissa may be considered on the written proposal made by;

(a) the Chief Justice or any sitting Judge of the High Court of Orissa;

Provided that every such proposal shall be made, as far as possible, in Form No.1 of Appendix-A appended to these Rules and shall carry a written consent of the Advocate concerned to be designated as Senior Advocate.

(2) Designation of an Advocate as Senior Advocate by the High Court of Orissa may also





be considered on the written application of the Advocate concerned that shall be made, as far as possible, in Form No. 2 of Appendix-A appended to these Rules.

(3) Along with the proposal or application, as the case may be, the Advocate concerned shall append his certificate that he has not applied to any other High Court for being designated as Senior Advocate and that his application has not been rejected by the High Court within a period of two years prior to the date of the proposal or application.

**Rule 6 of the 2019 Rules** deals with procedure for designation, which stipulates as follows:

(1) All the written proposals or applications for designation of an Advocate as a Senior Advocate shall be submitted to the Secretariat.

Provided further that in case the proposal emanates from a Judge, the Secretariat shall request such Advocate to submit Form No. 2 duly filled in within such time as directed by the Committee.

(2) On receipt of an application or proposal for designation of an Advocate as a Senior Advocate, the Secretariat shall compile the relevant data and the information with regard to the reputation, conduct, integrity of the Advocate concerned and on the matters covered



by Sl. Nos. 2 & 3 of Appendix-B covering a period of last 5 years.

(3) The Secretariat shall notify the proposed names of the Advocates to be designated as Senior Advocates on the official website of the High Court of Orissa, inviting suggestions and views within such time as may be fixed by the Committee.

(4) After the material in terms of the above is complied and all such information, as may be specifically required by the Committee to be obtained in respect of any particular candidate, has been obtained and the suggestions and views have been received, the Secretariat shall put up the case before the Committee for scrutiny.

(5) Upon submission of the case by the Secretariat, the Committee shall examine the same in the light of the material provided and, if it so desires, may also interact with the concerned Advocate(s) and thereafter make its overall assessment on the basis of the point based format provided in APPENDIX-B to these Rules.

(6) After the overall assessment by the Committee, all the names listed before it shall be submitted to the Full Court along with its Assessment Report.

(7) Normally voting by ballot shall not be resorted to unless unavoidable. The motion shall



be carried out by consensus, failing which voting by ballot may be resorted to. In the event of voting by ballot, the views of the majority of the Judges present and voting shall constitute the decision of the Full Court. However the Seniormost Judge or Chief Justice as the case may be present in the Full Court shall not cast his vote. In case the Judges present be equally divided, the Chief Justice or in his absence the Seniormost Judge present shall have the casting vote.

(8) The cases that have not been favourably considered by the Full Court may be reviewed/reconsidered after the expiry of a period of two years, following the same procedure as prescribed above as if the proposal is being considered afresh.

*(9) Notwithstanding the above noted procedure for designation of an Advocate as Senior Advocate, Full Court on its own can designate an Advocate as Senior Advocate even without any proposal from Hon'ble Judges or application from the Advocate if it is of the opinion that by virtue of his/her ability or standing at the Bar, said Advocate deserves such designation. [Declared as ultra vires by virtue of judgment of the Court in the case of **Banshidhar Baug v. Orissa High Court**, represented through its Registrar General*



**& Ors, W.P.(C) Nos.17009 & 17110 of 2019]**

**Rule 7 of the 2019 Rules** speaks about Designation of Advocate as Senior Advocates by the Chief Justice, which states as follows:

(1) On the approval of the name of the Advocate by the Full Court, the Chief Justice shall designate such an Advocate as a Senior Advocate under section 16 of the Advocate's Act, 1961.

(2) The Registrar General shall notify the designation to the Secretary General of the Supreme Court of India, Registrar General of other High Courts, the Bar Council of Odisha, Bar Council of India and also to all the District & Sessions Judges subordinate to the High Court of Orissa.

(3) A record of the proceedings of the Committee and the record received from the Full Court in this regard shall be maintained by the Permanent Secretariat for further reference.

The 2019 Rules were amended through a Gazette Notification dated 8<sup>th</sup> December 2023 titled 'High Court of Orissa (Designation of Senior Advocate) Amendment Rules, 2023, which *inter alia* substituted/inserted some portions in Rule 6 of the said Rules.



Sub-Rule (9) of Rule 6 has been substituted in the following manner:

“(9) Notwithstanding the above noted procedure for designation of an Advocate as Senior Advocate, the Full Court suo motu may designate an exceptional and eminent Advocate as Senior Advocate through consensus, if it is of the opinion that by virtue of his/her ability or standing at the bar, the said Advocate deserves such designation.”

In the amended Rule, sub-Rule (10) has been inserted in the following manner:

“(10) The process of designation of Advocate as Senior Advocate shall be carried out at least once in a year.”

**Re : Question No.(i)**

9. Mr. Baug contended that Rule 6(6) of the 2019 Rules explicitly mandates that the Permanent Committee must submit all names it has assessed to the Full Court, accompanied by its evaluation reports. He argued that the 2019 Rules do not provide for the deferral of any Advocate's case after the interaction stage, and thus the Permanent Committee lacks the authority to withhold or defer the submission of an Advocate's name to the Full Court.



In contrast, Mr. Patnaik, the learned Government Advocate, argued that the Permanent Committee inherently possesses the power to defer an Advocate's case. He maintained that after reviewing the suggestions, views, and interacting with the Advocate, the Committee may at its discretion, choose to defer the case if deemed necessary, and this action falls within its inherent authority.

To resolve this issue, it is crucial to understand the origins and objectives of the Permanent Committee. The Hon'ble Supreme Court, in its judgment in **Indira Jaising** (supra), established detailed guidelines for the designation of Senior Advocates under Section 16 of the Advocates Act, 1961. The Court directed the formation of a 'Permanent Committee'—referred to as the 'Committee for Designation of Senior Advocates'—tasked with evaluating each candidate based on the data provided by the Secretariat of the Permanent Committee, conducting interviews, and making a comprehensive assessment using a point-based system.

In para 35(VIII) of the judgment, the Hon'ble Supreme Court directed as follows:

"VIII. All the names that are listed before the Permanent Committee/cleared by the Permanent Committee will go to the Full Court."



The following words employed in the above directive are critical for this case: 'listed before the Permanent Committee' and 'cleared by the Permanent Committee.' The plain meaning suggests that the Advocates whose names are either 'listed' before the Permanent Committee or 'cleared' by the Permanent Committee shall be placed before the Hon'ble Full Court for final consideration and designation.

From the foregoing discussion, it is evident that the Hon'ble Supreme Court, in its directives issued in the ***Indira Jaising*** (supra) case, has left it to the High Courts to determine the scope of the Permanent Committee's jurisdiction and authority. Specifically, a High Court may choose to empower the Permanent Committee to establish a cut-off score based on the criteria outlined in the ***Indira Jaising*** (supra) and to recommend only those Advocates who meet this threshold. Conversely, another High Court might decide to restrict the Permanent Committee's role to merely reviewing applications, conducting interviews, and presenting all names, along with its recommendations, to the Full Court. In such a scenario, the Permanent Committee would not have the authority to exclude any Advocates based on a cut-off score it has set.



In this context, we may gainfully refer to the decision of the High Court of Karnataka in the case of ***T.N. Raghupathy -Vrs.- High Court of Karnataka through its Registrar General and Ors., reported in 2020 SCC OnLine Kar 93***, where it had the occasion to discuss, among other things, the role of the Permanent Committee in the designation of Senior Advocates. The relevant conclusions arrived at by the Division Bench, headed by the then Chief Justice Hon'ble Mr. Justice Abhay S. Oka, are as follows:

"**151.** xx            xx            xx            xx            xx

(f) The function of the Permanent Committee constituted by the High Court is firstly, to direct its Permanent Secretariat to collect certain information/data from certain sources about the Advocates who have applied for designation, if the Permanent Committee finds it necessary. The second function of the Permanent Committee is to examine each case in the light of the data compiled by the Secretariat of the Permanent Committee, hold interactions/interviews with each candidates and to make overall assessment of all candidates by assigning points/marks out of 100, as provided in the table, forming a part of paragraph 73.7 of the directions issued by the Apex Court. The Apex Court has not conferred any specific power on





the Permanent Committee to make any recommendation of any particular candidate. At highest, the points assigned by the Permanent Committee to the candidates will constitute its recommendation;

(g) The overall assessment made by the Permanent Committee in respect of every candidate shall be placed before the Full Court for decision, as the decision making authority vests in the Full Court;

(h) The Full Court is not bound by the overall assessment or points/marks assigned by the Permanent Committee. The Full Court may agree or may not agree or may partially agree with the overall assessment made by the Permanent Committee. The members of the Full Court can always ignore the point based overall assessment of the Permanent Committee and call for the records of each candidate and take appropriate decision."

The Division Bench of the Karnataka High Court clearly outlined the functions of the Permanent Committee established by the High Court as follows: (i) to instruct its Permanent Secretariat to gather necessary information and data about the Advocates applying for designation if deemed necessary; (ii) to review each case based on the data collected



by the Secretariat; (iii) to conduct interviews with each candidate and to make an overall assessment by assigning points or marks out of 100, as detailed in paragraph 73.7 of the Supreme Court's directions. The Court emphasized that the Supreme Court has not explicitly granted any specific powers to the Permanent Committee; thus, it is governed by the rules established by the High Court. Furthermore, the Court noted that the overall assessment by the Permanent Committee must be submitted to the Full Court for a final decision, as the ultimate decision-making authority lies with the Full Court. The Full Court is not obligated to adhere to the Permanent Committee's assessments or scores and may choose to fully agree, partially agree, or disagree with them.

While adjudicating a similar issue, the High Court of Madras in the case of ***S. Lawrence Vimalraj v. Registrar (Judicial), High Court of Madras & Ors reported in 2022 SCC OnLine Mad 6088*** referred to the decision of the Karnataka High Court in the case of ***T.N. Raghupathy*** (supra) and held as follows:

"29. From the above, it is clear that after discussing at length, the Karnataka High Court has concluded that the Permanent Committee



only makes an overall assessment of the candidates. The ultimate power to designate an Advocate as a Senior Advocate lies with the Full Court. The Full Court can take a contrary view if necessary."

It is needless to say that the 2019 Rules has been framed by Orissa High Court on the bedrock of the guidelines issued by the Hon'ble Supreme Court in the case of **Indira Jaising** (supra). Rule 6(6) of the 2019 Rules reads as follows:

"After the overall assessment by the Committee, all the names listed before it will be submitted to the Full Court along with its Assessment Report."

**[Emphasis supplied]**

The 2019 Rules do not grant the Permanent Committee the authority to set a cut-off score based on the criteria outlined in the **Indira Jaising** (supra) directives, nor does it empower the Committee to advance only those Advocates who meet such a cut-off. The counter-affidavit submitted by Opposite Parties Nos. 1 and 2 does not indicate that the Permanent Committee has the power to submit only the names of candidates who pass a cut-off score to the Full Court. There is no evidence that the High Court has conferred upon the



Permanent Committee the authority to exclude candidates during the scrutiny process. The ultimate authority to designate an Advocate as a Senior Advocate clearly resides with the Hon'ble Full Court, not the Permanent Committee. Therefore, the Permanent Committee's role is confined to making an assessment and submitting a comprehensive assessment report to the Hon'ble Full Court for consideration. It does not have the authority to make final decisions on designation or exclude candidates from consideration based on its recommendations.

We respectfully conclude that under the 2019 Rules, the Permanent Committee is required to perform its overall assessment based on the point-based format outlined in APPENDIX-B after reviewing the materials provided by the Secretariat and, if necessary, interacting with the concerned Advocates. The Permanent Committee does not possess the discretion to withhold, eliminate, or defer the name of any Advocate at this stage.

According to the counter affidavit submitted by Opposite Parties Nos. 1 and 2, the Permanent Committee, following its individual assessments and awarding marks based on the point-based format, submits only those names of Advocates who have secured 70% or more points to the Full



Court for consideration. However, we assert that even if an Advocate scores below 70 points as per the APPENDIX-B format, this should not serve as a basis for withholding their name or deferring their case. Instead, all names listed before the Committee, regardless of their score, must be submitted to the Hon'ble Full Court along with the assessment report, in accordance with Rule 6(6). The Full Court has the authority to review any Advocate's case based on their overall merits, position of eminence at the Bar, seniority, legal acumen, and ethical standards, independent of the points assigned by the Permanent Committee.

The withholding, elimination, or deferral of an Advocate's name after scrutiny falls outside the permissible functions of the Permanent Committee. This stance is consistent with established legal principles from cases such as **Deep Chand** (supra) and **Nazir Ahmed** (supra), which affirm that when a statute or rule prescribes a specific method for carrying out a task, it must be adhered to precisely, or not undertaken at all.

Sub-rule (3) of Rule 3 of the 2019 Rules empowers the Permanent Committee to issue directions concerning the collection, compilation, and presentation of data related to the designation of Senior Advocates. However, these directions must



adhere to the stipulations of Rule 6. Specifically, Rule 6(6) requires that all names considered by the Permanent Committee, together with its assessment report, be submitted to the Full Court. This provision does not grant the Permanent Committee the authority to restrict submissions to only those names meeting a specified cut-off score, or to withhold, eliminate, or defer any candidate's name following the interactions mandated by Rule 6(5). Actions contrary to these requirements would violate the provisions of Rule 6(6) of the 2019 Rules.

Question no. (i) is answered accordingly.

**Re : Question No.(ii)**

10. The counter affidavit indicates that the Permanent Committee submitted the point-based evaluations of all applicant-Advocates who participated in the interaction under the 2019 Rules to the Full Court, applying a 70% cut-off point. However, based on our analysis in response to question No. (i), it is our view that the Permanent Committee does not have the authority to exclude Advocates solely based on the points they obtained in the overall assessment. The Committee is not authorized to forward only the names of those who meet the cut-off score to the Full Court. Additionally, the High Court has not delegated such jurisdiction to the Permanent Committee to



eliminate candidates based on whether they scored below 70 points according to the point-based format in APPENDIX-B.

Unless explicitly provided in the 2019 Rules or granted to the Committee, the imposition of a 70% cut-off for submitting applicants' cases to the Full Court for Senior Advocate designation is not justifiable. Merely notifying the Full Court about the adoption of a 70% cut-off point is insufficient. There is no evidence indicating that the Full Court was informed that the petitioner's case was deferred or provided with any reasoning for such deferral. Deferring the petitioner's case indefinitely, particularly in light of the judgment dated 10.05.2021 in W.P.(C) Nos.17009 & 17110 of 2019, effectively denies him his right to be considered.

Question no.(ii) is answered accordingly.

**Re : Question No.(iii)**

11. Based on the submissions of Mr. Baug and Mr. Patnaik, the following facts are not disputed i.e. the petitioner was admitted as an Advocate on 28.02.1981 and began practicing law in March 1981. It is also acknowledged that the petitioner initially sought designation as a Senior Advocate under the 2011 Rules and subsequently reapplied under Advertisement No. 1 dated 22.04.2019, following the implementation of the



2019 Rules. According to Rule 6(6) of the 2019 Rules, the petitioner was invited to provide suggestions and views on his candidacy, and to submit reported and unreported decisions, articles, and other relevant documents as per the notice dated 03.10.2019. He participated in the interaction held on 18.10.2019.

We find that the Permanent Committee's decision to defer the petitioner's case on 23.10.2019 was not appropriate at that juncture. It is pertinent to note that, at that time, both the writ petitions i.e. W.P.(C) No.17009 of 2019 filed by the petitioner and W.P.(C) No.17110 of 2019 filed by other Advocates were pending before this Court. Following the Division Bench's order dated 15.10.2019, the petitioner attended the interaction on 18.10.2019. It appears that the Permanent Committee's decision to defer the petitioner's case was not communicated to the Division Bench overseeing the matter. Such communication should have occurred. Consequently, it is our view that the Permanent Committee should not have deferred the petitioner's case on 23.10.2019 after the interaction held on 18.10.2019.

If the Permanent Committee acquired any new information post-interaction with the petitioner that could





adversely impact his candidacy, such information should have been presented to the Full Court along with the overall assessment conducted by the Permanent Committee. At a minimum, such information should have been disclosed to the Court.

The minutes, counter affidavit, and written submissions by the opposite parties nos. 1 and 2 do not provide any reasons for deferring the petitioner's case. According to the principle established in ***East Coast Railway*** (supra), an order issued by a public authority exercising administrative, executive, or statutory functions must be justified by reasons stated either in the order itself or in contemporaneous records. Any absence of such reasoning cannot be remedied by later justifications presented in affidavits when the validity of the order is challenged. Likewise, in ***Chandra Nandi*** (supra), it was held that both the parties involved and the Court must be made aware of the rationale behind the authority's decision. Without such discussion, the basis of the authority's decision remains unclear.

In light of these considerations, it is our view that, following the petitioner's interaction on 18.10.2019, the



Permanent Committee should not have deferred his case on 23.10.2019.

Question no. (iii) is answered accordingly.

**Re : Question No. (iv)**

12. In its judgment dated 10.05.2021 in W.P.(C) Nos. 17009 and 17110 of 2019, the Division Bench of this Court specifically directed that all 48 applications, including the petitioner's, be considered. This indicates that the Permanent Committee's decision to defer the petitioner's case on 23.10.2019 was not communicated to the Court. Even if it had been, the Court's directive required the consideration of the petitioner's application along with the other applicants, including opposite parties nos. 5 to 9.

Given this context, the Permanent Committee's decision of 23.10.2019 to defer the petitioner's case has effectively been rendered null and void. There was no justification for excluding the petitioner from participating in the second interaction on 24.04.2022 based on the prior deferral noted in the counter affidavit filed by the opposite parties.

If the Permanent Committee believed that deferring the petitioner's case was warranted due to newly obtained information, it should have sought a modification of the



judgment, specifically addressing paragraph 32(iii). Without such a modification, the petitioner should not have been barred from participating in the second interaction solely on the basis of the prior deferral. Thus, the deferral of the petitioner's case could not be extended indefinitely.

Question no. (iv) is answered accordingly.

**Conclusion:**

13. Having addressed all the questions in favour of the petitioner, we would ordinarily have directed the Permanent Committee to submit the petitioner's name to the Full Court for consideration for designation as Senior Advocate, following an overall assessment and the point-based format as per Appendix-B of the 2019 Rules. However, it has come to our attention through the counter affidavit filed by the learned Registrar General of this Court that Advertisement No. 1 dated 08.05.2024 has been issued, inviting applications for Senior Advocate designation. Several Advocates have already submitted applications in response.

According to the notice dated 07.08.2024, Advocates are requested to rectify any defects or deficiencies in their submissions within two weeks from 08.08.2024. Additionally, the Registrar (Judicial)'s notice dated 07.08.2024 indicates that the



petitioner has also been asked to submit a fresh application in the new format (Form-2 of Appendix-A of the High Court of Orissa (Designation of Senior Advocate) Amendment Rules, 2023) within two weeks from 08.08.2024.

During the proceedings, the petitioner indicated that he had refrained from submitting a fresh application due to the pendency of this writ petition, fearing it would render the petition infructuous. Nevertheless, he expressed his willingness to file a fresh application and requested that his name be considered without further deferral. He also sought a reasonable extension of time to submit the application, acknowledging that the original deadline had passed. The learned Government Advocate has raised no objections to this request.

In light of these considerations, we dispose of the writ petition with the following directions:-

The petitioner shall submit a fresh application in the new format, i.e., Form-2 of Appendix-A of the High Court of Orissa (Designation of Senior Advocate) Amendment Rules, 2023, within two weeks from today. Upon receipt of the fresh application, the Permanent Committee shall proceed in accordance with Rule 6 of the 2019 Rules, as amended by the 2023 Amendment Rules. The Committee shall conduct an overall



assessment and submit the petitioner's name to the Hon'ble Full Court along with its assessment report.

Before concluding, we wish to acknowledge and express our deep appreciation for the meticulous preparation, presentation, and invaluable assistance provided by the petitioner Mr. Bansidhar Baug and the learned Government Advocate, Mr. Jyoti Prakash Patnaik.

.....  
**(S. K. Sahoo, J.)**

**Dr. S.K. Panigrahi, J.** I agree.

.....  
**(Dr. S.K. Panigrahi, J.)**

Orissa High Court, Cuttack  
The 19th September 2024/PKSahoo