



THE STUDY
By Manikant Singh



DAILY NEWS



New guidelines for designation of senior advocates in the SC

Why in the news?

- ◆ The Supreme Court has published new guidelines for the designation of senior advocates practicing mainly in the Apex Court.



Advocates of SC

- ◆ These guidelines were formulated under the supervision of a three-judge bench led by Justice S.K. Kaul.
- ◆ The revision of the guidelines came in response to the demand for amendments to the directions related to the designation of 'Senior Advocates' given in the 2017 SC judgment.
- ◆ The guidelines issued by the Supreme Court in 2018, which were based on the 2017 judgment in the case of Indira Jaising vs Union of India, have also been revised.

What do the new guidelines say?

- ◆ The new guidelines prescribe the minimum age as 45 years to apply for the 'senior advocate' designation.
- ◆ The age limit can be relaxed by the committee if a particular advocate is recommended by the Chief Justice of India (CJI) or a Supreme Court judge.
- ◆ The previous 2017 guidelines did not specify a minimum age and left the decision to the discretion of the Permanent Committee and the Supreme Court.
- ◆ In the guidelines of 2017, it was mentioned that the Chief Justice of India (CJI) can recommend an advocate's name for



210, Virat Bhawan, 2nd Floor Near Post Office, Dr. Mukherjee Nagar, Delhi-09

Contact Us 9999516388, 8595638669

designation along with "any judge" of the Supreme Court. However, in the updated guidelines of 2023, it is specifically stated that the CJI can make such a recommendation for an advocate's name for designation, but this recommendation must be made in written form and can be done with "any judge of the Supreme Court."

- ◆ In the earlier guidelines, a separate score of 15 marks was assigned for publications. However, in the new guidelines, it has been specified that only 5 marks will be awarded for "publications, teaching experience in the field of law," and "guest lectures delivered at law schools and as a professional."
- ◆ Furthermore, in the new guidelines, the weightage given to reported and unreported judgments (excluding orders not laying down any law) has been increased from 40 to 50 marks.

What are the 2018 guidelines?

- ◆ In October 2018, the Apex Court released a list of "Guidelines to Regulate the Conferment of Designation of Senior Advocates" while acting on a plea filed by India's first woman Senior Advocate, Indira Jaising, for greater transparency in the designation process. The guidelines discouraged the system of 'voting by secret ballot', except in cases where it was "unavoidable."
- ◆ According to the 2018 guidelines, a "Committee for Designation of Senior Advocates," or "permanent committee," was created and empowered with powers of conferment. The CJI-chaired committee was to consist of two senior-most SC judges, the Attorney General of India, and a "member of the Bar" nominated by the chair and other members. The Committee was to meet twice a year, at least.

Eligibility

- ◆ The CJI or any other judge could recommend the name of an advocate for designation. Alternatively, advocates could submit their applications to the "Permanent Secretariat", which would evaluate them on criteria like 10-20 years of legal practice, be it as an advocate, district judge, or judicial member of an Indian tribunal where the qualification for eligibility is not less than that prescribed for a district judge.

What did the court decide in the Indira Jaising case?

- ◆ On October 12, 2017, a three-judge bench of the Apex Court headed by then-Justice Ranjan Gogoi laid down guidelines for itself and all High Courts on the process of designating senior advocates.



210, Virat Bhawan, 2nd Floor Near Post Office, Dr. Mukherjee Nagar, Delhi-09

Contact Us 9999516388, 8595638669

- ◆ Indira Jaising had challenged the existing process as “opaque”, “arbitrary,” and “fraught with nepotism.”
- ◆ Section 16 of the Advocates Act, 1961, governed the appointment of senior advocates. Section 16 (1) stated, “There shall be two classes of advocates, namely, senior advocates and other advocates.”
- ◆ Besides this, Section 16 (2) allowed an advocate to be designated as a senior advocate if he consented to it and “if the Supreme Court or a High Court” was of the opinion that by “virtue of his ability, standing at the Bar, or special knowledge or experience in law, “he is deserving of such distinction.”
- ◆ Further, it was the Chief Justice and the judges who designated an advocate as a ‘senior’ advocate. It was this ruling that decided the setting up of a “permanent committee” and a “permanent secretariat”, a body tasked with receiving and compiling all applications for designation with relevant data, information, and the number of reported and unreported judgments.
- ◆ After this, the proposal for designation is to be published by it on the official website of the concerned court, inviting suggestions and views, which shall then be forwarded to the permanent committee for scrutiny.
- ◆ The committee then interviewed the candidate and made an overall evaluation based on a point system that gave marks for years of practice, pro-bono work undertaken, judgements, publications, and a personality test.
- ◆ Once a candidate’s name was approved, it was forwarded to the Full Court to decide on the basis of the majority. The Full Court could also recall the designation of a senior advocate.

Why are the guidelines being changed?

- ◆ In February 2023, the Central Government sought to change guidelines for the designation of senior lawyers, issued by the Supreme Court after the 2017 ruling.
- ◆ Looking to revisit parameters for determining the designation of senior advocates, the Centre cited the 74th paragraph of the 2017 ruling (Para. 36 in the main judgment), which acknowledged that the guidelines are not exhaustive and left them “open for consideration by this Court at such point of time that the same becomes necessary.”

