

SUPREME COURT OF INDIA

Indira Jaising

Vs.

Supreme Court of India through Secretary General & Ors.

WP(Civil)No.454 of 2015

(T.S.Thakur,CJI., DR. D.Y. Chandrachud and L.Nageswara Rao,JJ.,)

02.01.2017

ORDER

T.S.Thakur,CJI.,

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 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. 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.

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 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 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 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.