

High Court of Jammu and Kashmir at Jammu

Notification

No:- 33

Dated:- 25-04-2018

In pursuance of the Judgment dated 12.10.2017 passed by Hon'ble Supreme Court in Writ Petition (C), No. 454 of 2015 titled Ms. Indira Jaisingh V/s Hon'ble Supreme Court of India through Secretary General & Ors. and in exercise of the powers conferred by section 16(2) of the Advocates Act, 1961, the High Court of Jammu and Kashmir is pleased to frame the following criteria for designating Senior Advocates in the State of Jammu and Kashmir:

- a. This criteria shall be called "Criteria for Designating Senior Advocates, 2018."
- b. It shall come into force from the date of publication in the Government Gazette.

(1) Definitions:-

- a. '**Advocate**' means a Permanent Resident of the State of Jammu and Kashmir who is duly registered/enrolled with a Bar Council constituted under the Advocates Act 1961;
- b. '**Advocate General**' means Advocate General of the State of Jammu and Kashmir;
- c. '**Advocates Act**' means Advocates Act, 1961 (Act 26 of 1961);
- d. '**Chief Justice**' means Chief Justice of the High Court of Jammu and Kashmir and includes a Judge appointed under the Constitution to perform the duties of the Chief Justice;
- e. '**High Court**' means the High Court of Jammu and Kashmir;
- f. '**Judge**' means Judge of the High Court of Jammu and Kashmir.
- g. '**Registrar General**' means Registrar General of the High Court of Jammu and Kashmir;
- h. '**Registry**' means the Registry of the High Court of Jammu and Kashmir;
- i. '**Rules**' means the Jammu and Kashmir High Court Rules, 1999;
- j. '**State**' means the State of Jammu and Kashmir;
- k. '**State Bar Council**' means the Bar Council of Jammu and Kashmir;

(2) Eligibility Conditions:-

- (a) An Advocate shall be eligible to be designated as a Senior Advocate, if he/she:
 - (i) has attained the position of eminence at the Bar;
 - (ii) possesses ability, legal acumen, special knowledge or distinction and reputation achieved in practice of law;

- (iii) has completed 40 years of age and is ordinarily practising in the High Court of Jammu and Kashmir for not less than ten years preceding the date of consideration of his/her case for designation as a Senior Advocate;
- (iv) is a duly assessed income tax payee for the last continuous ten years and his/her annual gross professional income is not less than rupees ten lacs in each of the last three financial years preceding the date of consideration;
- (v) has been assisting the Court in administration of Justice maintaining high ethical standards, both inside and outside the Court expected of a Senior Advocate;
- (vi) has furnished at least 15 judgments, in the preceding five years, where he has contributed to the growth of law;

(3) Procedure:-

- (i) All matters relating to designation of Senior Advocates shall be dealt with by a Permanent Committee to be known as "Committee for Designation of Senior Advocates"
- (ii) The Permanent Committee will be headed by the Chief Justice and consist of two senior-most Judges of the High Court; Advocate General will be a Member of the Permanent Committee. The above four Members of the Permanent Committee will nominate another Member of the Bar to be the fifth Member of the Permanent Committee;
- (iii) The Committee shall have a permanent Secretariat the composition of which will be decided by the Chief Justice in consultation with the other Members of the Permanent Committee;
- (iv) All applications including written proposals by the Judges will be submitted to the Secretariat. On receipt of such applications or proposals from the Judges, the Secretariat will compile the relevant data and information with regard to the reputation, conduct, integrity of the Advocate(s) concerned including his/her participation in pro-bono work; reported judgments in which the concerned Advocate(s) had appeared; the number of such judgments for 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 will publish the proposal of designation of a particular Advocate in the official website of the High Court inviting the suggestions/views of other stakeholders in the proposed designation;
- (vi) After the data-base in terms of the above is compiled and all such information as may be specifically directed by the Permanent Committee to be obtained in respect of any particular

12/

candidate is collected, the Secretariat shall put up the case before the Permanent Committee for scrutiny;

- (vii) The Permanent Committee will examine each case in the light of the data provided by the Secretariat of the Permanent Committee; interview the concerned Advocate; and make its overall assessment on the basis of a point-based format indicated below:-

S.No	Matter	Points
1.	Number of years of practice of the applicant advocate from the date of enrolment. (10 points for 10-20 years of practice; 20 points for practice beyond 20 years).	20 points
2.	Judgments (Reported and unreported) which indicate the legal formulations advanced by the concerned Advocate in the course of the proceedings of the case; pro-bono work done by the concerned Advocate; domain Expertise of the Applicant Advocate in various branches of law, such as Constitution law, Inter-State Water Disputes, Criminal Law, Arbitration 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 & 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 will go to the Full Court.
- (ix) Voting by secret ballot will not normally be resorted to by the Full Court except when unavoidable.
- (x) The decision in any event shall be carried by a majority. However, in case of a tie, the Chief Justice shall have deciding vote.

(4) Undertaking:-

An Advocate who has been designated as "Senior Advocate" shall furnish an undertaking that;

- (a) He/she will abide by the rules regulating the practice of Senior Advocates;
- (b) He will not draft or file pleadings in any Court and shall in all cases be assisted by another Advocate;
- (c) He/she shall not directly give consultation to any litigant.

(5) Registration as Senior Advocate:-

- (i) Upon furnishing of the undertaking in the manner stated in clause (4), the name of the Advocate who has been designated as Senior Advocate, shall be entered in the Register of Senior Advocates to be maintained by the Court. The order to this effect shall be issued conferring such distinction on the Advocate, by the Registrar General. The Advocate shall thereafter be addressed a "Senior Advocate" of the High Court.
- (ii) Upon an Advocate being designated as Senior Advocate, the Registrar General shall communicate the same to the Supreme Court of India, all the High Courts, Bar Council of India, the State Bar Councils and Bar Associations of Jammu and Srinagar.

(6) Review of Proposals:-

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.

(7) Rights and privileges of the Senior Advocates:-

- (a) The Senior Advocate shall have a preferential right of audience in all Courts according to his/her seniority as such Advocate;
- (b) The Senior Advocate shall be entitled to wear special robes meant for Senior Advocates;
- (c) The Senior Advocate shall be entitled to such other rights and privileges conferred by the practice of Senior Advocate under the Advocates Act.

(8) Withdrawal of designation of Senior Advocate by the Court in the event of violation of rules:-

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, after complying with principles of natural justice.

(9) Repeal and Savings:-

The criteria governing enrolment of an Advocate as a "Senior Advocate" and in force immediately before the commencement of these criteria are hereby repealed.

Notwithstanding such repeal, any action taken under the criteria, so repealed shall be deemed to have been made or taken under the corresponding provisions of these criteria; and all undertakings furnished by Senior Advocates under the criteria in force immediately before the commencement of these criteria shall be deemed to have been modified to comply to these criteria.

By order of the Hon'ble High Court.

(Sanjay Dhar)
Registrar General

Copy to the:-

No:- 25191-37/LP

Dated:- 25/4/2018

1. Principal Secretary to the Hon'ble Chief Justice High Court of Jammu and Kashmir
2. Secretary to Hon'ble Mr. Justice _____
..... for information of His Lordship.
3. Registrar Vigilance, High Court of J&K, Jammu.
4. Registrar Judicial High Court of J&K, Jammu/Srinagar.
..... for information.
5. President, High Court Bar Association, Jammu/ Srinagar.
6. Private Secretary to the Advocate General, Jammu.
..... for information and necessary action.
7. Central Project Coordinator E-Courts High Court of J&K, Jammu for uploading on the High Court website.
8. Manager Government Press, Jammu for publication in the Government Gazette.

Registrar General

PROFORMA OF BIO-DATA AND CONSENT

1. Name:
2. Father's/Husband's Name:
3. Address:
4. Date of Birth:
5. Qualification:
6. No. and date of enrolment as an Advocate and where enrolled:
7. Date from which continuously practicing and place where practicing:
8. If a former member of the State Judicial Service, length of such service and the experience at the Bar:
9. Fields of speciality in branches of law:
10. Whether an assessee under the Income Tax Act?
If so, state gross and net professional Income during the preceding three financial years. (Attached copies of relevant returns with acknowledgement showing their filing):
11. Whether considered for designation as Senior Advocate by the Jammu and Kashmir High Court or any other High Court or Supreme Court at any time prior to the date of proposal/consent. (Also state if any proposal is pending before any Court):
12. Any other information which the learned Advocate may like to furnish.

Note: Separate sheet can be used for providing answers to the aforesaid questions, if the space in this proforma is considered insufficient.

CONSENT

I _____, Advocate, do hereby consent to be designated as a Senior Advocate in terms of Section 16(2) of the Advocates Act 1961 and agree and undertake to abide by all laws, rules, regulations, norms, guidelines and criteria as are for the time being in force or which may be prescribed hereafter for this purpose.

Place:

Date:

SIGNATURE.