

Supreme Court Scraps Points System for Senior Advocate Designation in India

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Senior Advocate Designation Latest News

- The Supreme Court has scrapped the existing points-based system for designating senior advocates in the Supreme Court and High Courts.
- Instead, it issued new guidelines stating that the decision to confer the designation will now rest solely with the Full Court of the respective courts.

Senior Advocates in India

- Senior advocates are highly experienced and knowledgeable legal professionals recognized for their expertise and contribution to the legal field.
- They are typically involved in high-profile cases and play a crucial role in upholding the **Rule of Law**.

Legal basis

- Section 16 of the Advocates Act, 1961 classifies advocates into two categories: Senior Advocates; Other Advocates (Non-designated or Junior Advocates).

Legal Provisions for Designation

- Section 16(2) of the Advocates Act, 1961 and Rule 2(a) of Order IV of the Supreme Court Rules, 1966 govern the designation process.

Key Conditions for Designation

- The Chief Justice and judges of the court must be satisfied with the advocate's fitness for the designation.
- The advocate must have exceptional legal knowledge and expertise.
- Prior consent of the advocate is mandatory.
- The selection must be based solely on merit, not influence or seniority.

Restrictions on Senior Advocates

- Senior Advocates are bound by specific ethical and procedural restrictions to maintain the dignity of their position:
 - Cannot appear in court without a junior or an Advocate-on-Record.
 - Prohibited from drafting pleadings or affidavits themselves.
 - Cannot accept briefs or instructions directly from clients.
 - Not allowed to file applications or represent clients independently.
 - Must adhere to a distinct code of conduct separate from other advocates.

Background: 2017 Framework

- India's first woman Senior Advocate Indira Jaising had filed a petition in SC challenging the existing process of designation.
 - She termed this process as opaque, arbitrary and fraught with nepotism and sought greater transparency in the process of designating.
- The 2017 SC ruling on senior advocate Indira Jaising's petition led to the formation of:
 - A Permanent Committee headed by the CJI or HC Chief Justice.
 - Guidelines including interviews and a points system.

2017 System (Indira Jaising - I)

- Under the 2017 system, a Permanent Committee for Designation of Senior Advocates was formed.
- It was headed by the Chief Justice (of SC or respective HC), the two senior-most judges, the Attorney General (for SC), or Advocate General (for HCs).
- The committee evaluated candidates using a **point-based system** based on:
 - Years of legal practice
 - Reported judgments
 - Publications
 - Personal interviews

Amendment in 2023 (Indira Jaising - II)

- In response to the Centre's concerns over the subjectivity and misuse of the 2017 point-based system for designating senior advocates, the Supreme Court issued new guidelines in May 2023.
- The new guidelines set a minimum age of 45 for senior advocate designation (with possible relaxation), reduce marks for publications to 5, and increase weightage for reported/unreported judgments to 50 points, aiming for a fairer, merit-based system.

Supreme Court Abolishes Point-Based System for Senior Advocate Designation

- The Supreme Court scrapped the points-based assessment system it had introduced in 2017 for designating senior advocates in the Supreme Court and High Courts.

New Guidelines Issued

- **Full Court Authority:** The Full Court of the SC or respective HC will now make final decisions on designation.
- **Role of Permanent Secretariat:** The Permanent Secretariat created under the 2017 rules will continue to scrutinize applications and submit eligible names to the Full Court.
- **Decision by Consensus or Voting:** The Full Court should aim for consensus, but may adopt a **voting process**—including a **secret ballot**, if required.
- **Minimum Eligibility Unchanged:** The requirement of a minimum **10 years of legal practice** remains valid.
- **Application Not Mandatory:** Designation may be conferred even without a formal application.
- **No Individual Recommendations:** Judges are barred from individually recommending candidates.

Why the Change

- The system had not achieved desired results over the past 7.5 years.
- Caliber and legal experience cannot be quantified through a numerical score or brief interview.

Current Trigger for Change

- The decision came during the hearing of an unrelated case regarding remission, when the apex court expressed concern over the conduct of a senior advocate.
- This prompted the court to revisit and revise the senior designation guidelines to make the process more transparent and effective.

Senior Advocate Designation FAQs

Q1. Why did SC scrap the point-based system?

Ans. SC found the system arbitrary and ineffective in reflecting the real merit of senior advocate candidates over 7.5 years.

Q2. Who will now decide senior designations?

Ans. The Full Court of SC or HCs will finalize senior advocate designations by consensus or voting, replacing prior assessment method.

Q3. What were 2017 guidelines for designation?

Ans. A Permanent Committee evaluated candidates on points from interviews, judgments, and publications based on Indira Jaising's petition.

Q4. What is the legal basis for senior designation?

Ans. Section 16 of the Advocates Act, 1961, and Supreme Court Rules govern senior advocate classification and designation process.

Q5. Are formal applications still required?

Ans. No, courts can confer senior designation even without a formal application, ensuring more discretion and transparency in the process.

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