

Reservation - Rajasthan Higher Judicial Service - Provided that the direct recruitment to the Rajasthan Higher Judicial Service would be limited to the Advocates who had practised in the Rajasthan High Court or the Courts subordinate, for a period of not less than 7 years - Ultra vires of Article 14

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Rajasthan High Court had provided that the direct recruitment to the Rajasthan Higher Judicial [service](#) would be limited to the Advocates who had practised in the Rajasthan High Court or the Courts sub-ordinate, for a period of not less than 7 years. Thus, all other Advocates practising outside Rajasthan were debarred. The said Rule had been upheld by the High Court and the appeal filed was allowed, by the Apex Court taking the view that Rule 8(ii) and 15(ii) which provided for such a condition of the Rajasthan Higher Judicial Service Rules 1969 to be ultra vires of Article 14 of the Constitution of India. It was held that the basis of classification has to be based on intelligible differentia which differentiates persons or things grouped together and there must be a reasonable relation to the object to be achieved by the Rules or the statutory provision(s) in question. It was, accordingly, held that there was no intelligible differentia between all those working in the Rajasthan Bar and those practising outside Rajasthan. Relevant paras read as under:

*“12. While considering the attack on the Rule, the Court observed that when any Rule or a statutory provision is assailed on the ground that it contravenes Article 14, its validity can be sustained if two tests are satisfied. The first test is that the classification on which it is founded must be based on an intelligible differentia which distinguishes persons or things grouped together from others left out of the group; and the second is that the differentia in question must have a reasonable relation to the object sought to be achieved by the Rule or a statutory provision in question. It was observed that the object of the Rule was to recruit suitable and proper persons to the judicial service in the State of Andhra Pradesh with a view to secure fair and efficient administration of justice, and so there can be no doubt that it would be perfectly competent to the authority concerned to prescribe qualifications for eligibility for [appointment](#) to the said service. Knowledge of local laws as well as knowledge of regional language and adequate experience at the Bar may be prescribed as a qualification which the applicants must satisfy before they apply for the post. In that case, it was contended before this Court that the Rules were framed to require an applicant to possess knowledge of local laws. Though this Court in the case of Pandurangaro (supra) has expressly laid down that validity of such a rule can be sustained on the ground that the object intended to be achieved thereby is that the applicant should have adequate knowledge of local laws and regional language, but while saying so, it has observed that for achieving this object, the proper course could be to prescribe a suitable examination which a candidate should pass whereby knowledge of local laws can be tested.*

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*18. From a perusal of these decisions, it appears that the same do not support the respondents much rather run more counter to their submission. It has been observed that there should be no interference with the law laid down in the old decisions merely on the ground that different view is possible but the Court would be justified in interfering if decision is manifestly wrong or unfair. In the present case, we have clearly held that the Rules are violative of Articles 14 and 16 of the Constitution, as such Division Bench and Full Bench decisions of Rajasthan High Court are manifestly wrong and if the law laid down therein is approved, the same would be unfair to members of the Bar practising in all the courts throughout the country, excepting the State of Rajasthan. Thus, we have no option but to hold that Rules 8(ii) and 15(ii) are ultra vires Articles 14 and 16 of the Constitution and liable to be struck down.”*

*Ganga Ram Moolchandani v. State of Rajasthan* 2001 (3) SCR 992

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