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What is the process for designating senior advocates, how has it changed

The Supreme Court designated 39 lawyers as senior advocates on Monday. Who are senior advocates? And what is the process for their selection?

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Advocates outside the Chief Justice's Court in the Supreme Court. (Express photo by Praveen Khanna)

The Supreme Court on Wednesday (August 14) designated 39 lawyers, including 10 women, as senior advocates.

Among those who received the designation are [Indra Sawhney](#), who filed the case which led to the landmark 1992 SC ruling which placed a 50% ceiling for reservations, the Additional Advocate General of Punjab Shadan Farasat, [BJP MP Bansuri Swaraj](#), and the Vice-President of the Bar Association of India Anindita Pujari.

These designations were given based on [new guidelines](#) which were delivered on May 12, 2023, by a three-judge Bench led by Justice S K Kaul in a case seeking modifications to the 2018 guidelines on how the 'senior advocate' designation is granted.

What is a senior advocate?

Section 16 of the Advocates Act, 1961 prescribes two different classes of advocates, "senior advocates and other advocates". As Justice Kaul said in his May 2023 decision, the designation of senior advocate is "a mark of excellence to advocates who have distinguished themselves and have made a significant contribution to the development of the legal profession. It identifies advocates whose standing and

achievements would justify an expectation...that they can provide outstanding services as advocates in the best interest of the administration of justice.”

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Section 16 also states that senior advocates may be subject to certain additional restrictions. For those designated by the SC, these restrictions can be found in the Supreme Court Rules, 2013. They are barred from filing a *vakalatnama*, appearing before a court without a junior or an advocate-on-record, doing drafting work, or directly accepting briefs for cases from clients.

What do the latest guidelines for the designation of senior advocates say?

The Chief Justice of India, along with any other Supreme Court judge, can recommend in writing the name of an advocate for the designation.

The new guidelines prescribe the minimum age as 45 years to apply for the ‘senior advocate’ designation. This age limit may, however, be relaxed by the Committee for Designation of Senior Advocates (more on that later), the CJI, or a Supreme Court judge, if they have recommended an advocate’s name. No minimum age was prescribed under the 2018 guidelines.

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Applicants for the designation are graded out of 100 marks, with new guidelines reserving only 5 marks in total for the “publication of academic articles, experience of teaching assignments in the field of law,” and “guest lectures delivered in law

schools and professional institutions connected with law". Previously, 15 marks were set aside for publications.

On the other hand, the weightage given to reported and unreported judgements (excluding orders that do not lay down any principle of law) has increased from 40 to 50 points in the new guidelines.

What did the 2018 guidelines say? Why did they come into effect?

In October 2018, the SC released a list of 'Guidelines to Regulate the Conferment of Designation of Senior Advocates'. The guidelines discouraged the system of 'voting by secret ballot', except in cases where it was "unavoidable". They also created a 'Committee for Designation of Senior Advocates' (henceforth, the Committee) which is chaired by the CJI and comprises the two senior-most SC judges, the Attorney General of India, and a "member of the Bar" nominated by the chair and other members.

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' (henceforth, the Secretariat), which would evaluate them on various criteria including years of legal practice as an advocate, district judge, or a judicial member of an Indian tribunal.

These guidelines came into effect following an October 12, 2017 SC verdict by a three-judge Bench headed by Justice [Ranjan Gogoi](#) on a plea filed by Senior Advocate Indira Jaising for greater transparency in the designation process. Jaisingh, India's first woman senior advocate, had challenged the existing process as "opaque", "arbitrary," and "fraught with nepotism."

Prior to 2018, Section 16 of the Advocates Act, 1961, governed the appointment of senior advocates. It stated that "There shall be two classes of advocates, namely, senior advocates and other advocates", and allowed for a senior advocate designation "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." The Chief Justice and other judges made this designation.

The 2017 judgment made provisions for the establishment of the Secretariat, which would handle applications, publish proposals on the official website of the concerned court and invite suggestions, and subsequently forward applications to the Committee. The Committee would then interview a candidate, and make an overall evaluation based on a point system. After approval, a candidate's name would be 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 were new guidelines issued in 2023?

On February 16, 2023, the Centre filed an application for the modification of the guidelines before the SC. In its application, the Centre challenged the "point-based system", which awarded 40 per cent weightage to publications, personality, and suitability gauged through the interview. It argued that this system is subjective, ineffective, and dilutes the "esteem and dignity of the honour being conferred traditionally", citing the rampant circulation of "bogus" and "sham" journals where people could publish their articles without any academic evaluation of the contents and quality of the articles, by "paying a nominal amount".

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Further, the Centre argued that the current requirements for designation are “extraneous” and have resulted in “ousting otherwise eligible candidates” based on factors that are “not germane to the issue of being designated as a Senior Advocate.

Lastly, the application sought to reinstate the rule of a simple majority by a secret ballot, where the judges can express their views about the suitability of any candidate “without any embarrassment,” reasoning that the secret ballot will minimise campaigning for votes by lawyers.

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However, the May 2023 ruling upheld the 2018 guidelines but reduced the number of marks awarded for publications from 15 to 5. The court also clarified that voting by secret ballot was meant to be used in exceptional circumstances, adding that if it has to be resorted to, the reasons for the same should be recorded.

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