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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision : 05.05.2025**

+ **W.P.(C) 14703/2022**

SANDEEP KUMAR SRIVASTAVA AND ANR.Petitioners
Through: Mr. Ravindra Kumar Srivastava, Adv.
(through v/c)

versus

UNION OF INDIARespondent
Through: Mr. Ripudaman Bhardwaj, CGSC,
Mr. Kushagra Kumar, Mr. Abhinav
Bhardwaj and Mr. Amit Kumar Rana,
Adv. for UOI.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (Oral)

1. The present petition is filed by the petitioners seeking the following prayers:

“A. Issue Writ of mandamus directing the Respondent to include the names of petitioners in the list of empanelled counsels for the UOI for the year 2022 to Dec. 2024.

OR

B. scrap the List of empanelled counsels for the year 2022 - 2024 being arbitrary, prepared in violation of natural justice without following any rule or procedure.

C. Pass any other order as may be deemed fit and necessary in the circumstances of the case.”

2. The petitioners in the present petition have averred that despite their application for appointment as a Panel Counsel for the Union of India being forwarded to the respondent, the list issued by the respondent, containing



details of selected empanelled counsels for the year 2022 to 2024 failed to record their names.

3. It is submitted that *vide* letter dated 14.10.2021, a fresh recommendation was forwarded to the respondent for appointing the petitioners as empanelled counsel. However, again, despite several follow-up/representations, the concerned authority failed to add names of the petitioners in the final list of Panel Counsel for the respondent.

4. Aggrieved, the petitioner made a written representation on 01.09.2022, requesting the respondent to include their names in the final list of empanelled counsel for the year 2022 to 2024. However, the representation has neither been responded to nor any action has been initiated / undertaken by the respondents to update the list as requested.

5. In the aforesaid conspectus, the petitioners have filed the present petition. It is the case of the petitioners that the aforesaid discrepancy has infringed upon their rights enshrined under Article 14 and 16 of the Constitution of India and is violative of the principle of natural justice.

6. Learned counsel on behalf of the respondent, relying upon judgments rendered by a Division Bench of this Court in ***Rajinder Nischal vs. Union of India through its Secretary &Anr.***, 2023:DHC:4420-DB and order dated 31.10.2023 passed by a co-ordinate Bench of this Court in W.P(C) 14106/2023 titled as '***WG CDR RETD V.S. Tomar Advocate vs Union of India and Ors.***' submits that the State is free to appoint advocates of its own choice and no one has a vested right to claim any empanelment or to continue in a panel.

7. Having heard the submissions of the parties, I find merit in the



contention of the respondent that the present challenge is precluded by the judgment of the Division Bench in ***Rajinder Nischal vs. Union of India through its Secretary & Anr*** (supra) and ***WG CDR RETD V.S. Tomar Advocate vs Union of India and Ors*** (supra).

8. A bare perusal of order passed by this Court in ***WG CDR RETD V.S. Tomar Advocate vs Union of India and Ors*** (supra) brings out that the issue agitated by the petitioners in the present petition is similar to the issue which has already been considered therein. The petitioner in that case *inter-alia* sought a direction to the Union of India, Ministry of Law and Justice, for inclusion of his name in the Panel of Counsels for the Union of India across various courts and tribunals. The contention of the petitioner therein was also that the decision to not include his name in the list of Panel Counsel is completely arbitrary and affects his reputation. The said petition was dismissed by observing as under:

“6. There is no legal right of the Petitioner to be appointed as a Government Counsel.

7. The Petitioner cannot claim empanelment as a Counsel for the Union of India as a matter of right. It is the pure discretion of the Government whether to appoint an Advocate as a Counsel or not. The fact that the Petitioner was a Standing Counsel for six years does not give him any right to continue as a panel counsel. The facts of Shrilekha Vidyarthi (supra) is not applicable to the facts of the present case. In that case, the Government of Uttar Pradesh, by a general order, terminated the appointments of all the Government Counsels engaged throughout the State of U.P. for Civil/Revenue/Criminal. In that case, an objection was raised that since the issue arises out of contractual obligation, a Writ Petition would not be maintainable. That argument was repealed by the Apex Court by stating that even in matters of contract a Writ Petition would be maintainable if the arbitrariness is writ large in the decision taken. The Apex Court has held that whether the impugned act is arbitrary or not would be decided in the facts and circumstances of the given case.

8. As stated earlier, the Government prepares a list of Advocates whom



the Government wishes to engage. No person should claim that he must be selected by the Government. The reliance placed on Brijeshwar Singh Chahal (supra) is also not applicable to the facts of this case. In the said case, the judgment was passed by the Apex Court while hearing a transfer petition and the question that was raised in the Apex Court was as to whether the appointment of law officers by the State Governments can be questioned or the process by which such appointments are made, can be assailed on the ground that the same are arbitrary, hence, violative of the provisions of Article 14 of the Constitution of India. In the said case, the transfer petition was filed for the transfer of a Writ Petition which was challenged by a person who was initially appointed as Assistant Advocate General by order dated 23.04.2002. The appointment was on contractual basis and it was valid till to 31.03.2003, but the same was continued till 31.03.2004 by an order dated 19.07.2003. Thereafter, the Petitioner therein was appointed as Deputy Advocate General in the pay scale of Rs 18,40,022,400/- by order dated 11.01.2008 and his tenure was later extended up to year 2011-2012. It is also pertinent to mention that the law officers in Punjab and Haryana High Court, from where the issue before the Apex Court arose, are entitled to a monthly salary and one of the allegations made by the Petitioner therein was that a number of Law Officers are without work and are only receiving the salary, which, according to the Petitioner therein, was idle salary. Therefore, the challenge before the Apex Court was for a post. In the present case the challenge is for the mode of empanelment of lawyers and not appointment of lawyers to a post. In the present case, there is no salary which is attached to the post of a Panel Counsel. A Panel Counsel is paid on the basis of appearance. It is purely the discretion of the Government to engage a lawyer of its choice to represent it before the Courts.

9. As the Petitioner has not been able to show any right, the Writ Petition is not maintainable and the same is accordingly dismissed along with the pending applications, if any.

9. Furthermore, in ***Rajinder Nischal vs. Union of India through its Secretary & Anr*** (supra) a Division Bench of this Court while dismissing a petition challenging the method of empanelment of Advocates to represent the Union of India, *inter-alia*, observed as under:

“5. It seems that the Petitioner, who is an Advocate, has filed the present petition after being a beneficiary of the very same process which has been assailed in the present Writ Petition only because he has been denied extension or reappointment. A litigant can always choose a



lawyer to represent him and the Government of India, which is one of the largest litigant in the country, has the freedom to appoint its own lawyers. This Court is of the view that the present petition is nothing but a Publicity Interest Litigation.

10. In the circumstances, considering the observations made in ***Rajinder Nischal vs. Union of India through its Secretary &Anr.***, (supra) and ***WG CDR RETD V.S. Tomar Advocate vs Union of India and Ors*** (supra), this Court is not inclined to entertain the present petition.

11. The present petition is, accordingly, dismissed.

SACHIN DATTA, J

MAY 5, 2025/sl