

MINUTES OF THE MEETING OF LAWYERS' CHAMBERS ALLOTMENT COMMITTEE HELD ON 18.02.2014 AT 04:00 P.M. IN CONFERENCE HALL, 3rd FLOOR, SAKET COURTS COMPLEX, NEW DELHI.

Coram:-

Sh. R.K. Gauba, District & Sessions Judge (South)	...	Chairman
Sh. Yogesh Khanna, ASJ	...	Member
Sh. Ajay Singh Shekhawat, ACJ (South)	...	Member
Sh. Rajpal Kasana, President, SBA	...	Member
Sh. Karnail Singh, Secretary, SBA	...	Member

The District & Sessions Judge (South) welcomed the new member Mr. Ajay Singh Shekhawat, ACJ (South). He was briefed by the District & Sessions Judge (South) and other members of the Allotment Committee about the action taken so far. It was resolved that as in the past, Mr. Ajay Singh Shekhawat, ACJ/Member shall also work as Secretary to the Allotment Committee.

I. Requests for change of chamber on single occupancy basis:-

Three advocates have requested allotment of some other chamber in lieu of chambers presently in their respective occupation. The office has submitted a report, which is **Annexure "A"** to these minutes. Branch In-Charge, LCAC informed that no chamber on Single Occupancy basis is vacant/available. In this view, the request cannot be granted. The representations were thus filed. The representationists be informed accordingly.

II. Requests for change of chamber on double occupancy basis:-

The Branch In-Charge, LCAC informed that 3 advocates, holding double occupancy chambers, have applied for change of their chambers. The office has prepared a summary of the said requests. The same is **Annexure "B"** to these minutes.

The office has also put up a chart indicating the vacancy positions and the requests for change by the existing allottees of the chambers on double occupancy basis. The said chart is annexed to these minutes as **Annexure "C"**.

The vacancy position and the claims/requests were considered. It was decided to follow the past practice and to allow the changes or make the allotments on the basis of principles set down in earlier minutes.

Accordingly decisions on all the requests for change were taken as reflected

On the basis of the above decisions, **List E-16** and **List HH-3** were finalized. The same be published as per past practice. The office to take all necessary follow-up action.

III.Subsequent Allotments (Category reserved for Physically Challenged Advocates):-

The applications of five advocates for allotment of chambers on double occupancy basis against reserved category of Physically Challenged Advocates were granted vide **List FF-1/B** as per the minutes dated 10.12.2013.

The list was published calling upon each of them to comply with conditions as set out in the notice dated 10.12.2013. The office has submitted a report as per **Annexure “D”** confirming necessary compliance having been made by all the said five advocates with completion of formalities. The allotments of spaces in chambers (on double occupancy basis) from out of those earmarked for this category were finalized as per **List GG-2**, annexed to these minutes. It be published as per past practice.

In the list **FF-1/B** of such advocates as had earlier applied for allotment of space in Lawyers' Chambers Block on double occupancy basis against reserved category of Physically Challenged advocates, three applicants (viz. Mr. Bhullan Singh Tanwar, Mr. Amar Nath and Mr. Dinesh Kumar) had been granted time till 31.01.2014 to submit proof of disability. In addition to the said three pending applications against this reserved category, another application has since been received, which has been shown **List CC-2/B** submitted by the office.

The office has prepared **List FF-1/C**, showing the status of all the four above mentioned applications.

The abovesaid four applications were considered. On the basis of scrutiny, decisions on each of said four applications were taken as reflected in the last column of **List FF-1/C**. The office to take necessary further action.

IV. Subsequent Allotments (Category reserved for Retired Judicial Officers):-

The office has reported the receipt of two more applications against the reserved category of Retired Judicial Officers with reference to notice published on 21.08.2013. **List CC-3/C** has been prepared by the office in such regard and enclosed to these minutes

The applications were subjected to scrutiny and considered. It was resolved that the applicants, whose names are mentioned in **List FF2/C** be offered allotment of chamber (on double occupancy basis) against the said reserved category subject to the same terms and conditions as contained in the notice dated 23.10.2013 to be fulfilled on or before **10.03.2014**. The Branch In-Charge, LCAC to take follow up action.

V. Complaints:-

(A).Complaints dated 20.04.2013 of Mr. Navneet Mishra and Mrs. Ritu Mishra, advocates (co-allottee of Chamber No. 644).

This complaint was considered by the Allotment Committee in the meetings held on 19.08.2013 and 10.12.2013. In spite of two requests and letters dated 21.08.2013 and 12.12.2013, the Hony. Secretary, Saket Bar Association has not sent any response.

Sh. Karnail Singh, Hony. Secretary, Saket Bar Association is a member of the Allotment Committee. He was reminded to the decisions/communications. He assured that he would now send his reply. The complaint was kept pending awaiting reply.

(B).Regarding payment of dues by Sh. Vikas Goyal (Allotment already cancelled):-

This matter was taken up by the Allotment Committee in the meeting held on 10.12.2013. In spite of requests sent to Saket Bar Association and the assurances given by the President and Hony. Secretary, Saket Bar Association in the meeting held on 10.12.2013, neither payment has been made by the advocate in default nor any response has been received.

Sh. Karnail Singh, Hony. Secretary, Saket Bar Association is a member of the Allotment Committee. He was reminded to the decisions/communications. He assured that he would now send his reply. The complaint was kept pending awaiting reply.

(C).Complaint dated 17.10.2013 of Sh. Aslam Kumar, advocate, Co-allottee of space in chamber No.270 (on double occupancy basis) against his co-allottee Sh. Suresh Kumar, Advocates:-

On the complaint of Sh. Aslam Kumar, comments of Sh. Suresh Kumar, advocate have been received by the office on 08.11.2013. Sh. Aslam Kumar has submitted his reply on the said comments on 02.12.2013.

The matter was considered. It was resolved that the President and Secretary, SBA shall call both the advocates and try to bring about an amicable settlement of the disputes between them. Sh. Karnail Singh, Hony.

taken/status on such efforts.

(D).Complaint dated 21.10.2013 of Sh. A. Khan R/o E-11/53, First Floor, Hauz Rani, Malviya Nagar, New Delhi against misuse of chamber No. 354, Saket Court Complex for permission of running of office of Bhartiya Bhawan Nirman Labour Union:-

On receipt of aforementioned complaints, comments of Mohd. Ayube and Mohd. Nauman Khan, co-allottee (on double occupancy basis) were called for. The advocates have denied having allowed the chamber to be used as alleged. The comments of Saket Bar Association were also called for in the matter. Hony. Secretary, SBA vide his letter dated 13.02.2014 has confirmed the word of the two allottee advocates and has stated that the letter-head of the Labour Union, copy which has been received with the complaint, appears to be forged.

The matter was discussed. The President and Secretary, SBA agreed that the chambers cannot be allowed to be used for any purposes except as set out in the Allotment Rules/Allotment Letter. They assured that they would keep a proper vigil and shall report, if any, misuse is noticed. Presently, the said complaint be filed.

VI. Miscellaneous Representations:-

(A).Application dated 24.01.2014 of Sh. Ramesh Madnani, Advcoate:-

The applicant has requested for allotment of space (3ft X 3ft) in any corner of the Complex for social work.

The application was considered. Such request cannot be granted as no space has been earmarked for such purposes. The application be filed. He be informed accordingly.

(B).Representation dated 16.12.2013 of Ms. Anita allottee of Chamber No.608 (on double occupancy basis):-

The applicant has informed that she has been married to Sh. Rajiv Kumar Sharma, advocate. She seeks change of her name and address as also for the name of her husband to be added as joint-allottee.

Sh. Karnail Singh, Hony. Secretary, Saket Bar Association vide certificate dated 27.01.2014 has confirmed that Sh. Rajiv Kumar Sharma, advocate is a member of local bar.

In these circumstances, the request was granted. The change of name and address be noted by the office. Sh. Raiiv Kumar Sharma shall be the joint-

return the Allotment Letter for revised Allotment Letter to be issued.

VII. Non payment of dues by the allottees of chambers:-

This subject came up for consideration before the Allotment Committee in the meeting held on 10.12.2013. Besides the issue concerning non-payment of dues by Sh. Vikas Goyal [already covered by the minutes reflected against Item No. 5 (B)(supra)] and certain issues concerning cafeteria in Lawyers' Chambers Block, the office had given its inputs which were reflected as under:-

“The office has been facing lot many difficulties in ensuring due compliance with the terms of allotment of the chambers and other spaces in the lawyers chambers block. The District & Sessions Judge pointed out to the members of the Allotment Committee that a large number of allottees have been making regular/consistent defaults in payment of licence fee/maintenance charges, some as chronic as resulting in accrual of arrears for more than one year. The office has put up two lists, one containing 127 names of allottees of single occupancy chambers (Annexure-“E”) and the other containing 409 names of allottees of double occupancy chambers (Annexure- “F”). The Branch In-Charge, Lawyers' Chambers Allotment Cell submitted that default notices have been sent to a number of advocates but with no response/results. It was pointed out that under the Allotment Rules, such defaults incur action for cancellation of allotment.”

In above regard, the decision was taken in the meeting of Allotment Committee held on 10.12.2013 to the following effect:-

“The President and Secretary, Saket Bar Association agreed that the terms of allotment have to be properly abided by and the Bar Association has a role to play in maintaining proper discipline in such regard by its members. They assured that all necessary action shall be promptly taken at their end, for compliance with the terms of allotment of all spaces including the cafeteria and the chambers by all concerned. They assured that they shall duly notify to all the defaulting members calling upon them to clear the arrears immediately and strictly abide by the terms of allotment. They agreed that if defaults continue beyond 2nd Jan. 2014, suitable action including for cancellation of the allotments may be taken up by the Court Administration.”

The office has reported that pursuant to the abovementioned decisions

Charge (Genl. Admn.) and duly published calling upon the defaulters/allottees to deposit up-to-date licence fee/maintenance charges on or before 02.01.2014. Though some allottees have made payments, serious defaults for non-payment of dues have continued respecting a large number of advocates. The office has put up two lists, one containing 86 names of allottees of single occupancy chambers (**Annexure-“E”**) and the other containing 235 names of allottees of double occupancy chambers (**Annexure- “F”**) annexed to these minutes, all in default.

The allotments of chambers have been made in terms of, and subject to, the Saket District Court Lawyers’ Chambers (Allotment and Occupancy) Rules, 2010. The relevant provisions thereof may be noted as under:-

“10. Each allottee shall pay the licence fee as may be fixed by the Government of National Capital Territory of Delhi from time to time.

Explanation:- The licence fee shall be payable also for the period during Court vacations and holidays.

12. Water and scavenging charges, maintenance charges for common services and other charges shall also be paid by the allottee at the rates worked out by the District Judge, Saket from time to time.

15. The licence fee and all other charges except electricity charges for each month shall be payable in advance by the tenth day of that month by a crossed cheque or by bank draft drawn on a local bank in favour of the District Judge, Saket.

21. The allottee shall deposit with the District Judge, Saket two month’s licence fee as security deposit for the due fulfilment and performance by him of the terms and conditions herein contained. In the event of an allottee committing any breach of the terms and conditions herein contained the District Judge, Saket may, without prejudice e to other rights and remedies, forfeit the security or any part thereof. In such an event, the allottee shall pay such additional sum immediately as may be called upon by the District Judge, Saket so that the security deposit shall at all times, during the continuance of the allotment, be equivalent to two month’s licence fee. On the expiration or earlier determination of the licence, District Judge, Saket shall return the security deposit or part thereof which has been forfeited as aforesaid to him without interest.

23. If the allottee at any time fails or neglects to perform and observe any of the terms and conditions of the Rules herein contained, The District Judge, Saket may in consultation with the Allotment Committee without prejudice to other rights and

allottee, determine the licence and the allottee shall, upon such determination, hand over vacant possession of the chamber without any right to compensation whatsoever.

28.Arrears of licence fee etc. Shall be treated as arrears of land revenue.”

The Government of NCT of Delhi, inspite of reference, did not immediately communicate its decision on the rate of licence fee chargeable under Rule 10 quoted above and on the directions of Hon’ble High Court as communicated by the Registrar General vide D.O. letter dated 19.10.2011, upon the advice of the Committee appointed for the purpose, the District Judge (South) vide order No. 46/2011 dated 01.11.2011 had fixed provisional licence fee at Rs.1100/- per month for each chamber, subject to final fixation by the Govt. of NCT of Delhi.

The Govt. of NCT of Delhi vide letter No. F.27/24/2010-Judl./Pt.File/10296 dated 01.12.2011 has fixed Rs.59.60 per Sq.Ft. per month as the charges payable towards licence fee, which is leviable in terms of Rule 10 quoted above. The letter also indicated the rate of maintenance charges which, in terms of Rule 12 quoted above, is to be fixed by the District Judge (South).

The Saket Bar Association had questioned the validity of rates of licence fee fixed by the Government by way of Civil Suit bearing No. 551/11 preferred in the court of Senior Civil Judge (South) and communicated, vide letter dated 16.12.2011, a copy of the order dated 13.12.2011, whereby interim injunction had been granted against licence fee /maintenance charges being demanded in terms of letter dated 01.12.2011 of the government, subject to payment of maintenance charges and provisional licence fee.

The present status of the said Civil Suit has not been communicated by either side to the Office of District & Sessions Judge (South) till date. Having regard to the interim order passed by Civil Court, the office has been demanding/collecting licence fee only at the provisional rate fixed by the District Judge (South).

For examining the issue of charges leviable under Rule 12, District Judge had constituted a Committee and, on the basis of its recommendations, vide order No. 44/11 dated 17.10.2011 had fixed Rs.1100/- per month as “Maintenance Charge” for single occupancy chamber to be apportioned accordingly for double occupancy chamber etc.

On the representation of the Saket Bar Association, Hon’ble High Court revisited the issue and as per communication vide letter No. 14996/DHC/Genl II BMCC (Saket Courts) dated 20.06.2013 the

single occupancy chamber and in equal proportions for the double occupancy chamber, w.e.f. June, 2013. The office has been demanding/collecting maintenance charges at the rate thus fixed by the Hon'ble High Court.

In spite of the rates having been fixed as above, and brought to the knowledge of all concerned from time to time, defaults have continued. Having regard to the prolonged periods for which payments have not been made by a large number of allottees, suitable action needs to be initiated in terms of the Allotment Rules, particularly because the defaults have persisted even after caution was administered through notice dated 12.12.2013 duly published.

The matter was discussed. The President and Secretary, Saket Bar Association agreed that in terms of the Allotment Rules, the allotments of such advocates, who have committed default in regard to licence fee/maintenance charges are liable to be determined.

It was thus decided that without prejudice to other rights and remedies, including recovery of the arrears as land revenue, notices be issued in writing by the Officer In-Charge (Genl. Admn.) to each such allottee as has committed default in the payment of licence fee/maintenance charges, as shown in the **Annexure "E"** and **"F"** hereto to show cause within fifteen (15) days of the notice as to why the licence/ allotment be not determined and process initiated for taking-over the possession of the space/ chamber allotted.

Since the allottees to whom notices are being issued in terms of above decision were covered under the process of **"initial allotment"** under the Allotment Rules, and since large number of applicants who had submitted their requests for allotment under the process of initial allotment are still awaiting their turn, it was further resolved that the chambers/space, allotment of which are eventually determined in follow-up of the above decision shall be considered for allotment to the said wait-listed advocates.

VIII. Initial Allotment:-

The Branch In-Charge, LCAC has reported that the allotments of three (03) chambers (on double occupancy basis) have been surrendered and, therefore, cancelled. The said cancellations include space in chamber No.104 (earlier allotted in favour of Sh. Vishnu Dayal), space in chamber No.506 (earlier allotted in favour of Sh. Pradeep Kumar Dubey) and space in chamber No. 508 (earlier allotted in favour of Sh. Sanjive Singh Punyani)

The Branch In-Charge, LCAC has also reported that allotments of space in three (03) other chambers (on double occupancy basis) have been cancelled, they being space in chamber No.347 (earlier allotted to Sh. Satish Chander), space in chamber No.352 (earlier allotted to Sh. Shahid Azad) and space in chamber No.425 (earlier allotted to Sh. Vikas Goyal).

Branch In-Charge, LCAC further reported that one vacancy has arisen in chamber No. 103 (on double occupancy basis) on account of upgradation of allotment accorded to Sh. Shiv Shanker Yadav, since allotted chamber No.441 (on single occupancy basis).

The Branch In-Charge, LCAC also reported that vide order dated 03.01.2014, the Writ Petition (C) No.4047/2012 of Ms. Susheela Prakash Sisodia has been dismissed as withdrawn. In terms of earlier order dated 13.07.2012 of Hon'ble High Court, one space in chamber (on double occupancy basis) had been kept in reserve for the said petitioner. Since the Writ Petition has been dismissed as withdrawn, the said reserved space stands released and is also available for allotment.

Thus eight (08) advocates can be considered for allotment of space on double occupancy basis. In order to fill-in the said eight slots, the cases of applicants awaiting consideration were taken up.

On scrutiny of the next ten (10) applications awaiting for allotment, it was found that most of them have not furnished proper proof of they being primarily practicing at Patiala House Court, which was one of the essential conditions in the process of initial allotment.

It was resolved that each of them be called upon to furnish such proof on or before **10.03.2014**. Branch In-Charge, LCAC to issue necessary communication.

IX. Any other Item:-

(A). Electricity connection for Office and Library of Saket Bar Association.

The office has reported that in spite of various reminders dated 08.10.2013, 12.11.2013, 29.11.2013 and 17.12.2013, Saket Bar Association has not informed as to whether it has arranged for independent electricity connection for the office and library for Saket Bar Association which were allotted vide letter dated 21.08.2013.

The President and Secretary, Saket Bar Association were called upon to give necessary response and take requisite action without further delay. They

(B). Cafeteria in Lawyers' Chambers Block:-

The use of *Bhatti/ Tandoor* by the caterer engaged by Saket Bar Association for running the cafeteria in the Lawyers' Chambers Block was discussed in the meeting of Allotment Committee held on 10.12.2013. The office bearers of the Saket Bar Association had assured that the terms of allotment shall be properly abided by. In spite of said assurances, problem continues.

The President and Secretary, Saket Bar Association assured to take suitable steps within a week.

(C). Status of Civil Suit No. 551/11 regarding licence fee:-

In the meeting of Building Maintenance & Construction Committee (Saket Court Complex), High Court of Delhi held on 10.02.2014, Hon'ble Judges have verbally directed that status of the Civil Suit in which interim stay order was granted against the licence fee rate fixed by the Govt. of NCT of Delhi be ascertained and report be submitted.

The office of District & Sessions Judge (South) is not a party to said Civil Suit. Information about Civil Suit and interim order was conveyed by the Saket Bar Association vide their letter dated 16.12.2011. The President and Secretary, Saket Bar Association have been requested to inform the status to the Office of District & Sessions Judge (South) at the earliest.

Submitted for confirmation.

Sd/-

(Ajay Singh Shekhawat)
ACJ-Member Secretary

Sd/-

(Karnail Singh)
Secretary, SBA-Member

Sd/-

(Rajpal Kasana)
President, SBA-Member

Sd/-

(Yogesh Khanna)
ASJ-Member

Sd/-

(R.K. Gauba)
District & Sessions Judge (South)-Chairman