
BEYOND POINTS: MAKING SENIOR ADVOCATE DESIGNATION REVIEWABLE, PREDICTABLE, AND FAIR AFTER THE SUPREME COURT'S 2025 RESET

Chaitanya Palem, NALSAR University

ABSTRACT

The designation of Senior Advocates under Section 16 of the Advocates Act, 1961, is formally framed as an opinion of constitutional courts but operates, in substance, as an administrative state action subject to Article 14. Between 2017 and 2025, the Supreme Court attempted to discipline this discretion through a point-based evaluation framework, recalibrated it, and ultimately deleted it as unworkable.¹ This trajectory has produced a post-2025 procedural vacuum. While quantification has been rejected, many High Courts have reverted to unstructured Full Court voting without articulated criteria or reasons, reviving the opacity that earlier reforms sought to address.

This Article advances a narrow claim: transparency in Senior Advocate designation is achieved neither through mechanical scoring nor through bare collective discretion. Constitutional compliance instead requires a *reviewability minimum* composed of three elements, ex ante intelligibility of criteria tethered to Section 16(2), procedural fairness where adverse material is relied upon, and ex post accountability through reasons sufficient to permit limited judicial review.² Drawing on the Supreme Court's 2017–2025 designation jurisprudence and settled administrative law principles, the Article shows how subjectivity predictably re-enters the system through undefined proxies such as judgment counts, unstructured interactions, and sponsorship-based gatekeeping.

The Article's principal contribution is institutional. It proposes a rubric, draft-ready procedural rules that preserve Full Court primacy while rendering designation decisions constitutionally reviewable, including a non-binding self-assessment rubric mapped to statutory heads, structured evidentiary standards, a mandatory adverse-material clarification mechanism, conflict-of-interest screening, and calibrated reason-giving. A focused comparative reference to the United Kingdom's King's Counsel regime demonstrates that qualitative discretion and transparency can coexist

¹ *Indira Jaising v. Supreme Court of India*, (2017) 9 SCC 766; *Indira Jaising v. Supreme Court of India* (Modification of Guidelines), (2023) 10 SCC 1; *Jitender @ Kalla v. State (NCT of Delhi)*,

² *S.N. Mukherjee v. Union of India*, (1990) 4 SCC 594.

through institutional design rather than arithmetic.³

Introduction and Research Question

A. The Post-2025 Design Problem

The designation of Senior Advocates under Section 16 of the Advocates Act, 1961, is often described as a professional honour conferred by constitutional courts. That description, however, understates the legal character of the power. The authority to designate flows from statute, is exercised by constitutional courts acting institutionally, and carries significant professional and reputational consequences. As such, designation constitutes administrative state action and is subject to the discipline of Article 14 of the Constitution.⁴

The Supreme Court confronted this reality in *Indira Jaising v. Supreme Court of India* (2017), where it upheld the validity of Section 16 while acknowledging that prevailing designation practices were opaque, inconsistent, and vulnerable to allegations of favouritism.⁵ The Court responded by imposing a uniform procedural architecture and introducing a point-based evaluation framework intended to discipline discretion through transparency and comparability. That framework was later recalibrated in 2023 but retained its reliance on numerical proxies for qualitative assessment.⁶

In *Jitender @ Kalla v. State (NCT of Delhi)* (2025), the Supreme Court abandoned point-based assessment altogether, holding that numerical scoring was not a rational method for evaluating the qualitative criteria embedded in Section 16(2).⁷ The Court's reasoning was explicit: quantification created a false appearance of objectivity and failed to capture attributes such as standing, integrity, and professional judgment. At the same time, the Court did not relax the constitutional constraints governing the exercise of designation power. The limitations on relevance in Section 16(2), the prohibition on arbitrariness under Article 14, and settled administrative law requirements of procedural fairness continue to apply.

The difficulty after 2025 lies in what replaced the scorecard, namely, nothing. With quantification removed but no alternative procedural discipline articulated, many High Courts have reverted to unstructured Full Court voting or consensus-based selection without disclosed criteria or recorded reasons. This creates a compliance trap: formal adherence to the deletion

³ King's Counsel Appointments, *KC Competency Framework* (Mar. 2024), <https://kcappointments.org>.

⁴ Constitution of India art. 14; Advocates Act, No. 25 of 1961, § 16 (India).

⁵ *Indira Jaising v. Supreme Court of India*, (2017) 9 SCC 766.

⁶ *Indira Jaising v. Supreme Court of India* (Modification of Guidelines), (2023) 10 SCC 1.

⁷ *Jitender @ Kalla v. State (NCT of Delhi)*

of points coupled with substantive regression to opacity. The post-2025 problem is therefore not excessive regulation of discretion, but discretion operating without institutional design.

B. Research Question

Against this backdrop, this Article addresses a single, tightly framed question:

How should High Courts constitutionally structure the process of Senior Advocate designation after the Supreme Court rejects point-based evaluation, to preserve Full Court discretion while complying with Article 14's requirements of non-arbitrariness, procedural fairness, and judicial reviewability?

The inquiry is deliberately narrow. It does not seek to rank candidates, judicialise merit, or convert designation into an entitlement. Instead, it focuses on procedural architecture: the minimum institutional commitments required to ensure that discretionary designation decisions remain constitutionally defensible in the absence of numerical scoring.

C. Contribution

The Article advances three linked claims.

First, the Supreme Court's 2025 decision is properly understood as a negative holding. It rejects numerical scoring as an evaluative tool, but it does not license a return to standardless discretion. Transparency survives the demise of points and must now be secured through alternative institutional mechanisms.

Second, the Article articulates a *reviewability minimum* for Senior Advocate designation under Article 14. This minimum consists of three elements: ex ante intelligibility of criteria tethered to the statutory heads in Section 16(2); procedural fairness where adverse material is relied upon; and ex post accountability through reasons sufficient to permit limited, process-based judicial review. This formulation does not invent new constitutional obligations; it synthesises settled administrative law doctrine governing discretionary state action.⁸

Third, the Article translates this reviewability minimum into a rubric, draft-ready procedural rules that preserve Full Court primacy while stabilising discretion through design rather than

⁸ *S.N. Mukherjee v. Union of India*, (1990) 4 SCC 594.

arithmetic. The aim is not to constrain outcomes, but to render decision-making intelligible, fair, and institutionally defensible in the post-2025 landscape.

Historical Foundations of Senior Advocate Designation

A. Colonial Bar Hierarchies and Informal Professional Seniority

Prior to Independence, the Indian legal profession inherited much of its institutional culture from the British Bar, including a strong but informal hierarchy of professional seniority. In England, professional distinction among barristers was historically conferred not through formal examinations or numerical assessment, but through reputational markers such as the complexity of briefs handled, courtroom authority, peer recognition, and judicial confidence.⁹ This culture was transplanted into colonial India, particularly within the High Courts established under the Indian High Courts Act, 1861, where a small group of advocates came to be regarded as leaders of the Bar without any codified designation regime.¹⁰

Colonial High Courts thus operated with an implicit professional rubric: seniority was recognised through sustained engagement with complex litigation, repeated judicial reliance, and demonstrable mastery of legal domains.¹¹ Importantly, this system was neither random nor opaque to those within the profession. While discretionary, it was socially legible and internally intelligible, functioning through shared professional norms rather than formal metrics.¹²

This historical context is significant because it demonstrates that professional hierarchy at the Bar pre-dated statutory designation and operated without quantification. The absence of numerical assessment did not imply arbitrariness; rather, discretion was disciplined through professional culture and institutional continuity.¹³

B. Early Post-Independence Practice and the Continuity of Informality

Following Independence, the Indian legal profession largely retained these inherited conventions. The Constitution of India did not attempt to restructure professional hierarchy at

⁹ See David Lemmings, *Professors of the Law: Barristers and English Legal Culture in the Eighteenth Century* (2000).

¹⁰ Indian High Courts Act, 1861, 24 & 25 Vict. c. 104.

¹¹ M.P. Jain, *Outlines of Indian Legal History* 372–78 (7th ed. 2014).

¹² B.B. Mitra, *The Legal Profession and the Courts in British India* 211–15 (1968).

¹³ Jain, *supra* note 11, at 375.

the Bar, nor did it mandate any formal system of ranking or certification beyond enrolment.¹⁴ High Courts continued to recognise senior advocates informally, relying on reputation, experience, and perceived expertise, without statutory intervention.

During this period, seniority remained an emergent property of practice rather than an administratively conferred status. Advocates who repeatedly appeared in complex constitutional, commercial, or criminal matters gradually acquired professional authority and judicial trust.¹⁵ This informal recognition coexisted with constitutional values precisely because it was not exercised through coercive state power but through professional consensus.

However, this informality also depended heavily on relatively stable institutional conditions: smaller Bars, limited caseloads, and shared professional networks. As the size and diversity of the Indian Bar expanded, these informal mechanisms became increasingly strained, setting the stage for statutory intervention.¹⁶

C. Drafting History of the Advocates Act, 1961

The Advocates Act, 1961, marked the first comprehensive statutory intervention into the organisation of the Indian legal profession. Section 16 of the Act formally introduced the category of “Senior Advocate,” empowering the Supreme Court and High Courts to designate advocates of “ability, standing at the Bar, or special knowledge or experience in law,” with the advocate’s consent.¹⁷

The legislative history of the Act reveals a deliberate choice to preserve professional discretion while avoiding rigid formalisation. Parliamentary debates and committee discussions surrounding the Bill do not indicate any serious consideration of examinations, numerical scoring, or ranking mechanisms for senior designation.¹⁸ Instead, Parliament adopted open-textured criteria, reflecting an understanding that professional excellence in advocacy resists mechanical measurement.

This drafting choice is instructive. By conferring designation power on constitutional courts

¹⁴ INDIA CONST. art. 19(1)(g).

¹⁵ Granville Austin, *Working a Democratic Constitution* 277–79 (1999).

¹⁶ Marc Galanter, Why the “Haves” Come Out Ahead: Speculations on the Limits of Legal Change, 9 LAW & SOC’Y REV. 95, 120–22 (1974).

¹⁷ Advocates Act, No. 25 of 1961, § 16(2).

¹⁸ Advocates Act, No. 25 of 1961, § 16(2).

while leaving the criteria broadly framed, Parliament sought to institutionalise professional recognition without displacing judicial judgment.¹⁹ The statutory design thus assumed that courts would act as custodians of professional standards, exercising discretion in a manner consistent with constitutional values and institutional responsibility.

Crucially, nothing in the Advocates Act mandates quantification, comparative ranking, or reasons for non-selection. At the same time, the Act does not immunise the designation process from constitutional scrutiny, as the power exercised remains statutory and public in character.²⁰

D. Formalisation, Uniformity, and the Distortion of Discretion

Over time, however, the institutional environment in which Section 16 operated changed significantly. The expansion of the Bar, increased litigation volumes, and growing demands for transparency led to calls for proceduralisation and uniformity in the designation process.²¹ These pressures culminated in judicial interventions aimed at systematising discretion, most notably through the formulation of guidelines in *Indira Jaising v. Supreme Court of India*.²²

While these reforms were motivated by legitimate concerns about opacity and favouritism, they also marked a decisive shift away from the historically informal, reputation-based model of seniority. The introduction of structured criteria and, later, quantification, transformed discretion from a socially embedded professional judgment into an administratively managed process.²³

This formalisation had unintended consequences. By attempting to convert qualitative professional assessment into measurable proxies, the system risked incentivising performative compliance rather than genuine expertise.²⁴ In this sense, the arbitrariness associated with the points-based regime was not a return to pre-statutory informality, but a product of over-formalisation divorced from historical practice.

Understanding this trajectory is essential to the present inquiry. The constitutional difficulty confronting senior designation today does not arise from discretion as such, but from the loss

¹⁹ S.P. Sathe, *Judicial Activism in India* 84–86 (2d ed. 2002).

²⁰ *Indira Jaising v. Supreme Court of India*, (2017) 9 SCC 766.

²¹ Austin, *supra* note 15, at 281.

²² *Indira Jaising*, (2017) 9 SCC 766.

²³ *Indira Jaising v. Supreme Court of India* (Modification Order), 2023 SCC OnLine SC 614.

²⁴ See *Jitender @ Kalla v. State (Govt. of NCT of Delhi)*, 2025 INSC 667.

of historically grounded mechanisms that once disciplined discretion without reducing it to metrics. The challenge, therefore, is not to eliminate discretion, but to redesign institutional processes in a manner that restores its legitimacy while satisfying contemporary constitutional expectations.

Article 14 and the Administrative Law Framework

A. Article 14, Discretion, and Statutory Relevance Constraints

Article 14 does not prohibit discretion; it prohibits arbitrariness. Indian constitutional doctrine has long rejected the view that discretionary power, merely because it is vested in constitutional or high public authorities, is immune from judicial scrutiny. Equality under Article 14 operates not only as a rule against irrational classification but as a substantive restraint on unstructured and unguided state action.²⁵

This understanding was crystallised in *E.P. Royappa v. State of Tamil Nadu*, where the Supreme Court held that arbitrariness is the antithesis of equality and that any arbitrary state action is inherently violative of Article 14.²⁶ The shift was decisively entrenched in *Maneka Gandhi v. Union of India*, which required that discretionary power be exercised on relevant considerations, through fair procedure, and in a manner that is just, reasonable, and non-arbitrary.²⁷ Subsequent decisions have reaffirmed that Article 14 applies across the spectrum of state action, irrespective of whether the power exercised is legislative, executive, or administrative, or whether the benefit conferred is characterised as a privilege rather than a right.²⁸

Administrative law doctrine reinforces this constitutional constraint through the concept of statutory relevance. Even where a statute confers broad or subjective discretion, such as where an authority acts “if it is of the opinion”, courts have insisted that such opinion be formed on relevant material and for permissible purposes. In *State of Punjab v. Gurdial Singh*, the Court held that unfettered discretion is incompatible with the rule of law and that statutory power must be exercised reasonably and in furtherance of its legislative object.²⁹

²⁵ *Ramana Dayaram Shetty v. Int’l Airport Auth. of India*, (1979) 3 SCC 489.

²⁶ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3.

²⁷ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

²⁸ *Ajay Hasia v. Khalid Mujib Sehravardi*, (1981) 1 SCC 722; *Shrilekha Vidyarthi v. State of U.P.*, (1991) 1 SCC 212.

²⁹ *State of Punjab v. Gurdial Singh*, (1980) 2 SCC 471.

Section 16(2) of the Advocates Act embodies such relevance constraints. The statute specifies the grounds on which Senior Advocate designation may be granted: ability, standing at the Bar, and exceptional knowledge or experience in law. These heads are limiting, not illustrative. Indian courts have repeatedly held that where a statute identifies relevant considerations, reliance on extraneous or undisclosed factors renders the exercise of power constitutionally suspect.³⁰ Discretion that migrates toward informal proxies unmoored from statutory purpose risks degenerating into arbitrariness, even where exercised collectively or in good faith.

B. Procedural Fairness, Reasons, and Institutional Accountability

A central feature of Article 14 review is procedural fairness. Indian constitutional law has firmly rejected the notion that natural justice applies only where vested rights are taken away. In *A.K. Kraipak v. Union of India*, the Supreme Court held that administrative decisions affecting interests or legitimate expectations must conform to principles of fairness where the circumstances so require.³¹ The Court has since reiterated that the absence of an enforceable right does not exempt state action from procedural scrutiny.³²

This principle assumes particular significance where discretionary decisions carry reputational and institutional consequences. The conferment or denial of Senior Advocate status materially affects professional standing and recognition at the Bar. Procedural fairness in this context does not require adversarial hearings or comparative evaluation. It requires that the process be intelligible, even-handed, and responsive to adverse material relied upon.

The duty to give reasons is the principal mechanism through which procedural fairness is operationalised. In *Union of India v. Mohan Lal Capoor*, the Supreme Court emphasised that reasons act as a check on the arbitrary exercise of power and as a means of institutional accountability.³³ This requirement was reinforced in *Siemens Engineering & Manufacturing Co. v. Union of India*, which held that reasoned decisions are an essential component of fairness in administrative action.³⁴ The modern articulation of this duty appears in *S.N. Mukherjee v. Union of India*, where the Court recognised that recording reasons disciplines discretion, facilitates judicial review, and promotes public confidence in decision-making.³⁵ In *Kranti*

³⁰ *Mohinder Singh Gill v. Chief Election Comm'r*, (1978) 1 SCC 405.

³¹ *A.K. Kraipak v. Union of India*, (1969) 2 SCC 262.

³² *Union of India v. Tulsiram Patel*, (1985) 3 SCC 398.

³³ *Union of India v. Mohan Lal Capoor*, (1973) 2 SCC 836.

³⁴ *Siemens Eng'g & Mfg. Co. v. Union of India*, (1976) 2 SCC 981.

³⁵ *S.N. Mukherjee v. Union of India*, (1990) 4 SCC 594.

Associates v. Masood Ahmed Khan, the Court went further, describing reasons as the “heartbeat” of every conclusion.³⁶

Importantly, the duty to give reasons is contextual. In the case of Senior Advocate designation, constitutional adequacy does not require disclosure of deliberative discussions, voting patterns, or comparative ranking. It requires only minimal, structured reasons sufficient to demonstrate that statutory criteria were applied and that irrelevant considerations were excluded.

C. Reviewability Without Substitution of Merit

Concerns that proceduralisation will invite intrusive judicial review are misplaced. Indian administrative law has consistently distinguished between review of the decision-making process and substitution of substantive judgment. In *Tata Cellular v. Union of India*, the Supreme Court clarified that judicial review concerns the legality of the process, not the correctness of the outcome.³⁷ Later decisions have reaffirmed that courts may intervene where discretion is exercised arbitrarily, irrationally, or in disregard of relevant considerations, but not merely because an alternative view is possible.³⁸

This distinction is decisive. Rendering the Senior Advocate designation reviewable does not entail judicialisation of merit. It involves only that discretion be exercised within a constitutionally disciplined framework. Proper procedural design narrows, rather than expands, the scope of successful challenge by ensuring that decisions are intelligible, fair, and grounded in statutory purpose.

State High Court Rules on Senior Advocate Designation: A Comparative and Constitutional Critique

Constitutional Status of State High Court Rules

Although the authority to designate Senior Advocates derives from Section 16(2) of the Advocates Act, 1961, the exercise of that power is shaped almost entirely by State High Court rules and internal procedures. These rules determine how applications are invited, assessed, and approved, and therefore constitute the primary institutional framework through which

³⁶ *Kranti Assocs. (P) Ltd. v. Masood Ahmed Khan*, (2010) 9 SCC 496.

³⁷ *Tata Cellular v. Union of India*, (1994) 6 SCC 651.

³⁸ *B.C. Chaturvedi v. Union of India*, (1995) 6 SCC 749; *Reliance Airport Developers (P) Ltd. v. Airports Auth. of India*, (2006) 10 SCC 1.

statutory discretion is exercised.³⁹

The characterisation of senior designation as a “privilege” does not place these rules beyond constitutional scrutiny. The designation power remains statutory and public in nature, and its exercise by constitutional courts continues to attract the discipline of Article 14.⁴⁰ While High Courts possess wide latitude in matters of internal administration, that latitude does not extend to the institutionalisation of unguided discretion through rule design.⁴¹

The Supreme Court’s intervention in *Indira Jaising v. Supreme Court of India* reflected an awareness that unstructured diversity in High Court rules could itself generate inequality, permitting similarly situated advocates to be assessed under radically different procedural regimes solely based on geography.⁴² Yet, despite this concern, many State High Court rules continue to operate without articulated criteria, evaluative rubrics, or safeguards that provide reasons.

B. Gujarat High Court as a Case Study

The Gujarat High Court rules governing senior designation illustrate the constitutional fragility of such regimes. Under the prevailing framework, applications are considered by the Full Court, which retains complete discretion to accept or reject a candidate without any obligation to record or disclose reasons.⁴³ The rules do not prescribe substantive criteria beyond the bare statutory language of Section 16(2), nor do they provide any structured method for evaluating professional merit.

This design produces three interrelated problems. First, the absence of reasons forecloses even minimal judicial review, making it impossible to assess whether statutory criteria were applied or displaced by extraneous considerations.⁴⁴ Second, the lack of any evaluative rubric deprives candidates of an intelligible basis for self-assessment, encouraging reliance on informal networks rather than demonstrable expertise. Third, the concentration of unstructured discretion in the Full Court risks converting institutional judgment into a site of opacity and implicit bias, precisely the concerns that procedural reform was meant to address.⁴⁵

³⁹ Advocates Act, No. 25 of 1961, § 16(2).

⁴⁰ *Indira Jaising v. Supreme Court of India*, (2017) 9 SCC 766.

⁴¹ *State of Punjab v. Brijeshwar Singh Chahal*, (2016) 6 SCC 1.

⁴² *Indira Jaising*, (2017) 9 SCC 766.

⁴³ Gujarat High Court Rules (Senior Advocate Designation provisions).

⁴⁴ *S.N. Mukherjee v. Union of India*, (1990) 4 SCC 594.

⁴⁵ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3.

The Gujarat framework is therefore not merely incomplete; it is constitutionally vulnerable. By embedding discretion without procedural architecture, it insulates the designation process from meaningful constitutional discipline.

C. Structural Parallels Across Other High Courts

The deficiencies evident in Gujarat are not isolated. A brief survey of other High Court rules, including those of the Delhi and Bombay High Courts, reveals similar patterns: Full Court–centric decision-making, minimal disclosure of criteria, and no obligation to furnish reasons for rejection.⁴⁶ While some courts invite applications or seek inputs from Bar Associations, these steps are rarely accompanied by structured evaluative standards.

The result is a fragmented national landscape in which the constitutional content of “ability,” “standing at the Bar,” or “special knowledge” varies not by law, but by institutional custom. Discretion has thus been decentralised without being disciplined.

D. Discretion Without Architecture

The critique advanced here is not an indictment of judicial discretion itself. Rather, it identifies a structural pathology: when discretion is exercised through rules that lack criteria, rubrics, or minimal safeguards for reason-giving, arbitrariness becomes a systemic risk rather than an exceptional failure.

This risk is amplified by changing political and institutional contexts. A designation regime that relies on unstructured discretion may appear benign under stable conditions, yet become deeply problematic under less favourable ones. The constitutional response, therefore, is not to eliminate discretion or revive rigid quantification, but to redesign the procedural architecture within which discretion operates. This task requires moving beyond abstract “model rules” toward a rubric-based framework that disciplines judgment without displacing it.

Judicial Control Without Institutional Design: The Limits of the Supreme Court’s Approach

A. Transparency as Procedure, Not as Design

⁴⁶ Delhi High Court Rules; Bombay High Court Rules (Senior Advocate Designation).

The Supreme Court's engagement with the Senior Advocate designation since 2017 reflects a consistent concern with opacity, but an inconsistent understanding of how transparency is constitutionally secured. Across its decisions, the Court has treated transparency primarily as a function of *procedure*, committees, points, and interviews, rather than as an *institutional design problem*. This procedural emphasis explains both the adoption and the subsequent rejection of quantification, without resolving the underlying constitutional difficulty. In *Indira Jaising v. Supreme Court of India* (2017), the Court correctly identified Senior Advocate designation as state action subject to Article 14. It rejected the view that it was insulated as an internal matter of judicial administration.⁴⁷ However, the remedial response was instrumental rather than structural. By introducing a committee-based process supplemented by numerical scoring, the Court assumed that transparency could be achieved through aggregation of measurable proxies.⁴⁸ That assumption sits uneasily with established administrative law, which cautions that procedural form cannot substitute for relevance-based justification.⁴⁹

The absence of an articulated design principle meant that the 2017 framework constrained discretion without explaining its constitutional limits. Transparency was operationalised mechanically rather than normatively.

B. Quantification and the Problem of Proxy Substitution

The point-based framework adopted in 2017 and retained, with modifications, in 2023 exemplifies a familiar administrative law error: substituting administrability for relevance. Indian courts have repeatedly warned that reliance on convenient proxies, untethered from statutory purpose, renders discretion arbitrary even when applied uniformly.⁵⁰ Numerical indicators such as reported judgments, publications, or years of practice may correlate imperfectly with “ability” or “standing,” but correlation is not a constitutional justification. In the 2023 modification of *Indira Jaising*, the Supreme Court recalibrated weights and criteria but did not interrogate whether quantification itself was compatible with Section 16(2).⁵¹ This approach mirrors earlier administrative law failures in which calibration was treated as a cure

⁴⁷ *Indira Jaising v. Supreme Court of India*, (2017) 9 SCC 766.

⁴⁸ *d. ¶¶* 73–74.

⁴⁹ *Mohinder Singh Gill v. Chief Election Comm'r*, (1978) 1 SCC 405.

⁵⁰ *State of Punjab v. Gurdial Singh*, (1980) 2 SCC 471; *Ramana Dayaram Shetty v. Int'l Airport Auth. of India*, (1979) 3 SCC 489.

⁵¹ *Indira Jaising v. Supreme Court of India* (Modification of Guidelines), (2023) 10 SCC 1.

rather than questioning whether the metric was constitutionally appropriate in the first place.⁵² The persistence of the scorecard thus reflected fidelity to procedure rather than to statutory purpose.

As a result, the framework incentivised strategic compliance rather than substantive excellence, a risk long recognised in Indian public law where discretion is reduced to checklist governance.⁵³

C. *Jitender @ Kalla* and the Negative Holding Problem

In *Jitender @ Kalla v. State (NCT of Delhi)* (2025), the Supreme Court decisively rejected point-based evaluation, holding that qualitative attributes cannot be reduced to numerical scores without distortion.⁵⁴ This conclusion is doctrinally sound and consistent with administrative law scepticism toward mechanical discretion.⁵⁵

What is constitutionally significant, however, is what the Court did *not* do. Having rejected quantification, the Court did not articulate the minimum procedural commitments necessary to render discretion reviewable. It did not specify how statutory relevance constraints are to be operationalised, how adverse material is to be handled, or whether reasons are constitutionally required in some minimal form. The judgment thus operates as a negative holding: it tells courts what they may not do, but not what they must do.

Indian administrative law has repeatedly cautioned that unguided discretion, even when exercised by high authorities or collective bodies, is constitutionally suspect.⁵⁶ The deletion of points without replacement standards, therefore, creates a structural risk of regression rather than reform.

D. The Institutional Consequence: Regression by Default

The cumulative effect of the Court's approach is an institutional vacuum. By oscillating between quantification and deference without articulating design principles, the Court has left

⁵² *Ajay Hasia v. Khalid Mujib Sehravardi*, (1981) 1 SCC 722.

⁵³ *Shrilekha Vidyarthi v. State of U.P.*, (1991) 1 SCC 212.

⁵⁴ *Jitender @ Kalla v. State (NCT of Delhi)*, 2025 SCC OnLine

⁵⁵ *B.C. Chaturvedi v. Union of India*, (1995) 6 SCC 749.

⁵⁶ *A.K. Kraipak v. Union of India*, (1969) 2 SCC 262; *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

High Courts with discretion unmoored from constitutional discipline. In such conditions, inherited practices reassert themselves predictably.

This outcome is not accidental. Where discretion predates design, the removal of formal structure predictably results in opacity unless replaced by relevance-based procedural architecture. Indian equality jurisprudence has long rejected the notion that collective decision-making or seniority of decision-makers cures arbitrariness.⁵⁷ Without intelligible criteria, procedural fairness, and minimal reason-giving, discretion becomes effectively unreviewable, undermining Article 14's core function.

The constitutional failure, therefore, does not lie in the rejection of numerical scoring. It lies in the failure to translate that rejection into a principled institutional framework capable of disciplining discretion without mechanising it.

Post-2025 Design Vacuum and the Re-Entry of Opacity

A. The Compliance Trap

The Supreme Court's 2025 rejection of point-based evaluation has produced a distinctive compliance trap. High Courts are now formally compliant with the deletion of numerical scoring, yet substantively unconstrained in how discretion is exercised. Quantification has been removed, but no replacement procedural discipline has been articulated. The result is not neutral discretion, but a regression to opacity through inherited institutional practices. This pattern is familiar in Indian administrative law. Where a constraint is removed without articulating alternative relevance-based standards, discretion does not remain suspended; it reverts to informal decision-making structures. The Supreme Court has repeatedly cautioned that the absence of explicit criteria or procedural safeguards does not create freedom from arbitrariness, but heightens the risk of it.⁵⁸ Formal adherence to a judicial mandate, unaccompanied by institutional design, therefore produces only superficial compliance.

In the context of the Senior Advocate designation, the deletion of points has eliminated one visible mechanism of evaluation without addressing how statutory relevance constraints under Section 16(2) are to be operationalised. Full Court decisions continue to be taken, but often

⁵⁷ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3; *Union of India v. Tulsiram Patel*, (1985) 3 SCC 398.

⁵⁸ *State of Punjab v. Gurdial Singh*, (1980) 2 SCC 471; *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

without intelligible criteria, disclosure of adverse material, or recorded reasons. This combination, formal compliance with Supreme Court directions and substantive opacity in decision-making, defines the post-2025 design vacuum.

B. Proxy-Based Subjectivity

In the absence of a structured design, discretion re-enters predictably through informal proxies. These proxies are not accidental; they are administratively convenient substitutes for articulated criteria.

One such proxy is judgment counts. Although numerical scoring has been abandoned, informal emphasis on the number of reported judgments argued by a candidate continues to function as a surrogate for “ability” or “standing.” Indian courts have consistently warned that reliance on such proxies, untethered from statutory purpose, risks substituting relevance with convenience.⁵⁹ Judgment volume, without qualitative assessment, bears no necessary relationship to legal mastery or professional excellence.

A second proxy is informal interaction. In the absence of structured interviews or recorded evaluations, subjective impressions formed through unregulated interaction, courtroom familiarity, visibility, or personal rapport inevitably influence outcomes. Administrative law doctrine recognises that unstructured discretion invites precisely this form of subjectivity, even where decision-makers act in good faith.⁶⁰

A third proxy is sponsorship within professional networks. Where no intelligible criteria exist, informal endorsement by senior members of the Bar or perceived institutional alignment becomes a tacit signal of merit. Indian equality jurisprudence has repeatedly cautioned that collective decision-making or professional consensus does not cure arbitrariness when the criteria guiding that consensus remain undisclosed.⁶¹

These proxies do not reflect corruption or mala fides. They reflect the predictable behaviour of institutions operating without design.

⁵⁹ *Ramana Dayaram Shetty v. Int’l Airport Auth. of India*, (1979) 3 SCC 489; *Ajay Hasia v. Khalid Mujib Sehravardi*, (1981) 1 SCC 722.

⁶⁰ *A.K. Kraipak v. Union of India*, (1969) 2 SCC 262; *Union of India v. Tulsiram Patel*, (1985) 3 SCC 398.

⁶¹ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3; *Shrilekha Vidyarthi v. State of U.P.*, (1991) 1 SCC 212.

C. Illustrative High Court Practice: Structural, Not Personal

The post-2025 pattern across High Courts illustrates that the problem is structural rather than personal. In several jurisdictions, Full Court resolutions on Senior Advocate designation continue to be issued without accompanying reasons, criteria, or disclosure of evaluative material. Candidates are informed of outcomes, but not of the basis on which statutory criteria were applied or rejected.

This practice mirrors pre-2017 norms and underscores the central institutional lesson of this paper: when discretion precedes design, the removal of formal structure results in a default regression. Indian constitutional law has long rejected the notion that seniority of decision-makers, collective deliberation, or institutional prestige substitutes for procedural fairness.⁶² Absent intelligible criteria and minimal reason-giving, discretion becomes effectively unreviewable, undermining Article 14's role as a constraint on arbitrary state action.

The post-2025 design vacuum thus does not reflect resistance to reform or judicial bad faith. It demonstrates the absence of a constitutionally grounded procedural architecture capable of disciplining discretion without mechanising it. This structural failure makes the articulation of model rules and a rubric-based self-evaluation framework not merely desirable, but necessary.

Comparative Constitutional Design: Institutional Solutions to Discretion

A. Why Comparison Matters

Comparative constitutional analysis in this context is not undertaken for purposes of transplantation or convergence. The objective is institutional diagnosis. Where a domestic system faces a post-2025 design vacuum, having rejected quantification without articulating replacement standards, comparative experience provides evidence of how qualitative discretion can be structured without mechanisation. The comparison is therefore functional rather than formal.

Indian constitutional doctrine has long recognised that comparative material may be used to illuminate institutional design choices, particularly where domestic law has reached an

⁶² *S.N. Mukherjee v. Union of India*, (1990) 4 SCC 594; *Kranti Assocs. (P) Ltd. v. Masood Ahmed Khan*, (2010) 9 SCC 496.

impasse.⁶³ The present moment is such a case. Following the deletion of point-based evaluation, Indian courts confront a structural question: how can discretion be preserved while remaining intelligible, disciplined, and reviewable? Comparative law is relevant not because foreign models are binding, but because they demonstrate that transparency obligations can be satisfied without numerical scoring.

The comparison below deliberately focuses on two common-law systems that sit at opposite ends of the design spectrum. The United Kingdom's King's Counsel regime represents a *positive comparator*, where qualitative distinction is conferred through structured institutional design. The United States serves as a *negative comparator*, where courts avoid formal ranking altogether, and professional excellence is signalled through decentralised mechanisms. Together, these models clarify the range of constitutionally viable design choices and the institutional consequences of each.

B. United Kingdom: King's Counsel as a Positive Comparator

1. Pre-Reform Opacity and Institutional Critique

Historically, the appointment of Queen's Counsel (now King's Counsel) in England and Wales has been subject to criticisms strikingly similar to those raised in India: opacity, perceived favouritism, and a lack of articulated criteria. Prior to reform, appointments were made through informal consultation and judicial patronage, with minimal disclosure regarding standards or reasoning.⁶⁴ The lack of a transparent procedure eroded confidence in the designation's legitimacy, despite its professional prestige.

This critique culminated in a comprehensive institutional overhaul beginning in the early 2000s. Rather than abandoning the distinction altogether, the United Kingdom undertook procedural redesign aimed at preserving qualitative judgment while eliminating opacity.

2. Competency Frameworks and Articulated Criteria

A publicly articulated competency framework underpins the reformed KC regime. Candidates are assessed against clearly defined competencies, including legal knowledge, advocacy skills, integrity, diversity awareness, and professional excellence.⁶⁵ These criteria are qualitative, not

⁶³ *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241.

⁶⁴ Kate Malleon, *Reforming the Appointment of Queen's Counsel*, 64 MOD. L. REV. 689 (2001).

⁶⁵ King's Counsel Appointments, **Competency Framework** (2024).

quantitative, and are expressly designed to guide judgment rather than replace it.

Crucially, the framework functions as an *ex ante* transparency mechanism. Applicants are informed in advance of what counts as relevant excellence, allowing self-selection and disciplined applications. This addresses the core problem identified in the Indian context: the absence of intelligible criteria guiding discretion.

3. Structured Evidence and Assessor Triangulation

KC appointments rely on structured evidentiary submissions rather than informal impressions. Applicants must submit detailed evidence mapped to each competency, supported by judicial assessments, peer references, and professional feedback.⁶⁶ Decision-making is conducted through assessor triangulation, involving lay members, senior practitioners, and judicial figures, thereby diffusing discretion across multiple institutional perspectives. Administrative law scholarship has noted that such triangulation reduces individual bias without eliminating discretion.⁶⁷ Importantly, discretion is structured through evidence discipline rather than constrained through scoring.

4. Limited Interviews, Feedback, and Reasons

Interviews, when conducted, are limited in scope and guided by competency-based questioning. Unsuccessful applicants receive structured feedback indicating areas for development, without disclosure of deliberative details or comparative ranking.⁶⁸ This practice satisfies transparency and fairness obligations while preserving institutional confidentiality. The UK experience demonstrates that qualitative discretion and transparency are not mutually exclusive. Institutional design, rather than quantification, enables legitimacy.

C. United States: Non-Designation as a Negative Comparator

The United States presents a contrasting model. Federal and state courts uniformly avoid formal ranking or designation of advocates. There is no equivalent of Senior Advocate or King's Counsel status conferred by courts. This institutional choice is grounded in a constitutional culture wary of judicial endorsement of professional hierarchy.⁶⁹

⁶⁶ King's Counsel Appointments, *Application and Assessment Process* (2024).

⁶⁷ JERRY L. MASHAW, *DUE PROCESS IN THE ADMINISTRATIVE STATE* 109–12 (1985).

⁶⁸ King's Counsel Appointments, *Feedback Policy* (2024).

⁶⁹ Judith Resnik, *Managerial Judges*, 96 HARV. L. REV. 374 (1982).

1. Avoidance of Judicial Rank and Equality Concerns

American courts have expressed concern that judicial designation of professional rank risks entangling courts in market signalling and reputational endorsement inconsistent with judicial neutrality.⁷⁰ As a result, no transparency obligation arises in relation to designation, because no designation exists.

2. Alternative Signalling Mechanisms

Professional excellence in the United States is signalled through decentralised mechanisms: peer-review listings, law firm reputation, academic appointments, bar leadership roles, and judicial clerkship histories.⁷¹ These signals operate outside the judiciary and do not involve state action triggering constitutional scrutiny.

3. Constitutional Consequence of Non-Designation

The absence of designation eliminates the design problem. Where courts do not confer professional distinction, Article-equivalent equality constraints do not arise. This model illustrates a constitutional trade-off: opacity is avoided by foregoing designation entirely, but at the cost of relinquishing institutional recognition of excellence.

D. Comparative Synthesis: Design Levers for Transparency

The comparative analysis yields four design levers that explain how qualitative discretion can coexist with transparency:

1. Articulated Criteria: Publicly defined competencies, discipline, discretion without mechanising judgment.
2. Structured Discretion: Evidence-based assessment and assessor triangulation stabilise qualitative evaluation.
3. Evidence Discipline: Relevance is maintained through mapped submissions rather than informal proxies.

⁷⁰ *Republican Party of Minn. v. White*, 536 U.S. 765 (2002).

⁷¹ *Republican Party of Minn. v. White*, 536 U.S. 765 (2002).

4. Minimal Reasons and Feedback: Limited explanation satisfies fairness and legitimacy without exposing deliberation.

These levers demonstrate that the Indian post-2025 vacuum is not inevitable. Transparency is not synonymous with scoring, nor is discretion synonymous with opacity. Institutional design bridges the gap between the two.

From Judicial Control to Institutional Design: A Rubric Architecture for Senior Advocate Designation

A. Why a Rubric (and Not Points, Exams, or Unguided Discretion)

The failure of both numerical scoring and unstructured deference demonstrates that the constitutional problem in senior designation is not the presence of discretion, but the absence of institutional design to discipline it. Section 16(2) of the Advocates Act deliberately employs open-textured criteria, “ability,” “standing at the Bar,” and “special knowledge or experience in law”, which resist mechanical measurement.⁷² Any design solution that converts these criteria into points or examinations distorts statutory purpose by substituting administrability for relevance, a move consistently rejected in Indian administrative law.⁷³

The Supreme Court’s experience with the scorecard framework confirms this difficulty.

In *Indira Jaising v. Supreme Court of India* (2017), the Court sought to address opacity by using committee-based evaluation supplemented by numerical scoring.⁷⁴ That approach assumed that transparency could be secured through the aggregation of proxies. The Court’s later rejection of quantification in *Jitender @ Kalla v. State (NCT of Delhi)* (2025) reflects a recognition that qualitative professional judgment cannot be meaningfully reduced to numerical indicators without distortion.⁷⁵

A rubric-based architecture offers a constitutionally superior alternative. Unlike points, rubrics do not rank candidates or generate comparative scores; unlike unguided discretion, they render judgment intelligible and reviewable. Properly designed, a rubric enables candidates to conduct advanced self-assessment while preserving judicial authority to evaluate professional

⁷² Advocates Act, No. 25 of 1961, § 16(2).

⁷³ *Barium Chemicals Ltd. v. Co. Law Bd.*, (1967) 1 SCR 898; *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

⁷⁴ *Indira Jaising v. Supreme Court of India*, (2017) 9 SCC 766.

⁷⁵ *Jitender @ Kalla v. State (NCT of Delhi)*, 2025 INSC 667.

excellence contextually, consistent with Article 14's requirement that discretion be structured by relevance rather than by form.⁷⁶

B. Design Principles Governing the Rubric

The proposed rubric is governed by five principles drawn from Indian public law:

1. No Quantification: Discretion may be structured, but not arithmetised. Mechanical scoring substitutes ease of administration for statutory relevance.⁷⁷
2. Statutory Relevance: Each dimension of the rubric must map directly onto Section 16(2), preventing the displacement of legislative criteria by institutional convenience.⁷⁸
3. Self-Assessment: Candidates must be able to assess readiness *ex ante*, reducing arbitrariness without creating entitlement.
4. Judicial Calibration: Judges retain discretion to weigh dimensions holistically; the rubric disciplines judgment without substituting it.
5. Reviewability Minimum: Decisions must leave a minimal procedural trace sufficient to demonstrate relevance-based consideration, without requiring disclosure of deliberations or comparative ranking.⁷⁹

These principles reflect the settled position that Article 14 does not require elimination of discretion, but forbids its exercise without intelligible standards.⁸⁰

C. The Rubric Architecture

The rubric operates across core dimensions of professional excellence, expressed as qualitative ranges rather than numerical weights:

Dimension	Indicative Range	What May Be Considered
Domain Mastery	Foundational to	Depth of legal understanding;

⁷⁶ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3.

⁷⁷ *State of Punjab v. Brijeshwar Singh Chahal*, (2016) 6 SCC 1.

⁷⁸ *Indira Jaising v. Supreme Court of India*, (2017) 9 SCC 766.

⁷⁹ *S.N. Mukherjee v. Union of India*, (1990) 4 SCC 594.

⁸⁰ *Ajay Hasia v. Khalid Mujib Sehravardi*, (1981) 1 SCC 722.

	Exceptional	consistency across matters; originality in argument
Nature & Complexity of Work	Routine to Structurally Complex	Constitutional interpretation; precedent-shaping advocacy; complex statutory regimes
Sustained Specialisation	General Practice to Deep Specialisation	Long-term focus in a defined area; evolution of expertise
Peer & Institutional Recognition	Limited to Established	Nature of briefs entrusted; professional reputation at the Bar (not volume metrics)
Ethical Standing & Professional Integrity	Unblemished to Exemplary	Conduct before courts; credibility; reliability

Three constraints are essential. First, no single dimension is mandatory or determinative. Second, indicators such as reported judgments, publications, or years of practice are not treated as proxies; they are relevant only to the extent that they illuminate statutory criteria.⁸¹ Third, the rubric does not privilege academic output over courtroom mastery, thereby avoiding systemic bias against senior counsel whose expertise is primarily practice-based.

Judicial Role, Departures, and Reviewability

Judges apply the rubric holistically at the Full Court stage. The Court may depart from the rubric's indicative assessment where professional judgment so requires, provided that the decision records, internally and minimally, that the statutory criteria under Section 16(2) were considered. No comparative ranking, disclosure of deliberations, or reasons for unsuccessful candidates are constitutionally required.

This structure satisfies Article 14's core demand: discretion constrained by relevance and intelligibility. Indian administrative law has consistently held that even high-level or collective discretion becomes constitutionally suspect when exercised without guiding standards.⁸² By requiring relevance-based consideration without mechanisation, the rubric preserves judicial

⁸¹ *Jitender @ Kalla*, 2025 INSC 667.

⁸² *Kumari Shrilekha Vidyarthi v. State of U.P.*, (1991) 1 SCC 212.

independence while ensuring that the designation process does not regress into unreviewable opacity.

Objections and Institutional Concerns

A. Discretion Versus Discipline

A predictable objection is that structured rules impermissibly constrain judicial discretion. Indian constitutional law rejects this premise. Article 14 does not treat discretion and discipline as opposites; it treats discipline as the condition of legitimate discretion. Unguided power is not autonomy but constitutional vulnerability.⁸³ Discretion, even when broadly conferred, must operate through relevance, purpose, and fair procedure.⁸⁴

The proposed rubric does not substitute judicial judgment on professional excellence. They supply procedural architecture that gives effect to the relevance constraints already embedded in Section 16(2) of the Advocates Act. This is consistent with the settled distinction between review of the decision-making *process* and non-substitution of the decision on *merits*.⁸⁵ Proper procedural discipline, therefore, strengthens, rather than weakens, judicial discretion.

B. The “Privilege, Not a Right” Argument

A second objection asserts that the Senior Advocate designation is a privilege and, therefore, exempt from procedural constraint. This argument is doctrinally unsustainable. Article 14 applies to all state action, irrespective of whether the benefit conferred is characterised as a right, privilege, or concession.⁸⁶ Even the distribution of state largesse must conform to the principle of non-arbitrariness.⁸⁷

Designation is exercised under statutory authority. Section 16(2) expressly conditions the conferment of this distinction on ability, standing, and exceptional knowledge or experience. Where Parliament has specified relevant heads of evaluation, decision-makers are constitutionally obliged to demonstrate that those heads were applied and that irrelevant

⁸³ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 S.C.C. 3.

⁸⁴ *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248; *State of Punjab v. Gurdial Singh*, (1980) 2 S.C.C. 471.

⁸⁵ *Tata Cellular v. Union of India*, (1994) 6 S.C.C. 651; *B.C. Chaturvedi v. Union of India*, (1995) 6 S.C.C. 749.

⁸⁶ *Ajay Hasia v. Khalid Mujib Sehravardi*, (1981) 1 S.C.C. 722.

⁸⁷ *Ramana Dayaram Shetty v. Int’l Airport Auth. of India*, (1979) 3 S.C.C. 489.

considerations did not drive outcomes.⁸⁸ The rubric does not create an enforceable entitlement; it ensures that a statutory privilege is conferred through a constitutionally intelligible process.

C. Litigation Anxiety

A final concern is that procedural structure will invite litigation and judicialise professional assessment. Indian administrative law indicates the opposite. Reasoned, structured decision-making reduces successful challenges by narrowing the review to legality and procedure.⁸⁹ Opaque processes generate suspicion; intelligible processes discourage it.

Judicial review in discretionary domains remains limited to relevance, fairness, and legality, not to merit reassessment.⁹⁰ The Rubric is designed around this boundary. By avoiding numerical scoring, comparative ranking, and merit-based appeal, they preserve institutional confidentiality while enabling minimal constitutional review.

No Residual Constitutional Objection

Once these objections are examined doctrinally, no residual constitutional argument remains against structured rubric. Discretion is not diminished by discipline; privilege does not exempt state action from Article 14; and reviewability does not entail merits substitution. What remains is an institutional choice between discretion exercised within a relevance-based framework and discretion exercised through opacity by default. Indian constitutional law has consistently rejected the latter.⁹¹

Institutional Implementation and Remedies

A. High Court Rule-Making Power

The proposed rubric is institutionally workable because it operates within the existing statutory and constitutional framework governing senior designation. The power to designate Senior Advocates is expressly conferred by Section 16(2) of the Advocates Act, 1961, which entrusts the constitutional courts with the responsibility of assessing ability, standing at the Bar, and

⁸⁸ Advocates Act, No. 25 of 1961, § 16(2) (India); *Mohinder Singh Gill v. Chief Election Comm'r*, (1978) 1 S.C.C. 405.

⁸⁹ *S.N. Mukherjee v. Union of India*, (1990) 4 S.C.C. 594.

⁹⁰ *A.K. Kraipak v. Union of India*, (1969) 2 S.C.C. 262.

⁹¹ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 S.C.C. 3; *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248.

exceptional knowledge or experience in law.⁹² The procedural elaboration of this statutory discretion falls within the High Court's administrative control over its own processes, a control preserved by Article 225 of the Constitution, subject to statutory law.⁹³

Indian constitutional practice has long recognised that where statutory discretion is open-textured and decentralised, institutional actors are expected to give it procedural shape through internal rules and practices.⁹⁴ *The rubric proposed in this paper performs this function precisely: it disciplines the exercise of discretion already conferred by Section 16(2) without expanding, displacing, or judicialising it. It therefore operates as a self-authored institutional safeguard rather than an externally imposed constraint.*

B. Prospectivity and Transitional Application

A second institutional concern is whether redesigned rules would unsettle existing designations. The answer lies in prospectivity. Indian courts have consistently applied procedural reforms prospectively where retrospective application would disrupt settled expectations or institutional continuity.⁹⁵ There is no constitutional requirement that revised procedures reopen past discretionary decisions taken under a different legal regime.

The rubric is forward-looking. They govern future applications and reconsideration cycles, without disturbing existing Senior Advocate designations. This preserves institutional stability while ensuring that future exercises of discretion conform to Article 14 and administrative law norms.

C. Process-Only Remedies and Limited Review

Finally, the rubric is paired with deliberately narrow remedial consequences. Challenges arising under the proposed framework are confined to process-based review, not substantive reassessment of professional merit. Indian administrative law has repeatedly emphasised that judicial review polices *how* power is exercised, not *what* outcome is reached.⁹⁶

⁹² Advocates Act, No. 25 of 1961, § 16(2) (India).

⁹³ INDIA CONST. art. 225.

⁹⁴ *Kumari Shrilekha Vidyarthi v. State of U.P.*, (1991) 1 SCC 212; *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3.

⁹⁵ *Orissa Cement Ltd. v. State of Orissa*, (1991) 2 S.C.C. 430; *Harla v. State of Rajasthan*, A.I.R. 1951 S.C. 467.

⁹⁶ *Tata Cellular v. Union of India*, (1994) 6 S.C.C. 651; *B.C. Chaturvedi v. Union of India*, (1995) 6 S.C.C. 749.

Accordingly, the only permissible remedies would be:

- remand for reconsideration where statutory criteria were ignored, or
- correction of procedural defects, such as the absence of reasons or reliance on extraneous material.

Courts would not rank candidates, substitute their assessment of excellence, or mandate designation. This remedial minimalism reinforces judicial autonomy and prevents litigation anxiety from becoming a barrier to procedural reform.

Conclusion

The constitutional difficulty surrounding Senior Advocate designation in India is not a dispute about merit, nor a conflict between discretion and accountability. It is a problem of institutional design. Post-2025, this problem has become decisive. With numerical scoring rejected and no replacement architecture articulated, discretion now operates in a vacuum where opacity predictably re-enters by default.

Article 14 does not demand mechanical equality or judicial self-disclosure. It requires that discretionary power be exercised in accordance with intelligible criteria, relevant material, and fair procedure. The failure to supply such a design does not preserve autonomy; it renders it constitutionally fragile. Indian administrative law has never treated unstructured discretion as a virtue.⁹⁷

This paper has argued that the solution lies not in further judicial correction, but in self-regulation through High Court rule-making. A rubric grounded in doctrine allows courts to discipline their own discretion without surrendering authority. They preserve professional judgment while securing legitimacy.

Institutional legitimacy, once lost, is difficult to reclaim. Design, once adopted, prevents that loss. The choice before the judiciary is therefore not between reform and restraint, but between discretion structured by law and discretion exposed to constitutional erosion. Indian constitutional tradition points unambiguously to the former.

⁹⁷ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 S.C.C. 3; *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248.