

The Bar Council of Gujarat

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THE BAR COUNCIL OF INDIA RULES

PART - VI

CHAPTER - II

Standards of Professional Conduct and Etiquette

[Rules under Section 49 (1) (c) of the Act read with the Proviso thereto]

An Advocate shall, at all times, comport himself in a manner befitting his status as an officer of the Court, a privileged member of the community, and a gentleman, bearing in mind that what may be lawful and moral for a person who is not a member of the Bar, or for a member of the Bar in his non-professional capacity may still be improper for an Advocate. Without prejudice to the generality of the foregoing obligation, an Advocate shall fearlessly uphold the interests of his client, and in his conduct conform to the rules hereinafter mentioned both in letter and in spirit. The rules hereinafter mentioned contain canons of conduct and etiquette adopted as general guides; yet the specific mention thereof shall not be construed as a denial of the existence of other equally imperative though not specifically mentioned.

Section I - Duty to the Court

1. An Advocate shall, during the presentation of his case and while otherwise acting before a Court, conduct himself with dignity and self respect. He shall not be servile and whenever there is proper ground for serious complaint against a judicial officer, it shall be his right and duty to submit his grievance to proper authorities.
2. An advocate shall maintain towards the Courts a respectful attitude, bearing in mind that the dignity of the judicial office is essential for the survival of a free community.
3. An Advocate shall not influence the decision of a Court by any illegal or improper means, private communications with a judge relating to a pending case are forbidden.

4. An Advocate shall use his best efforts to restrain and prevent his client from resorting to sharp or unfair practices or from doing anything in relation to the Court, opposing counsel or parties which the Advocate himself ought not to do. An advocate shall refuse to represent the client who persists in such improper conduct. He shall not consider himself a mere mouth piece of the client, and shall exercise his own judgement in the use of restrained language in correspondence, avoiding scurrilous attacks in pleadings, and using intemperate language during arguments in Courts.
5. An Advocate shall appear in Court at all times only in the prescribed dress, and his appearance shall always be presentable.
6. An Advocate shall not enter appearance, act, plead or practise in any way before a Court, Tribunal or Authority mentioned in Section 30 of the Act, if the sole or any member thereof is related to the Advocate as father, grand-father, son, grand-son, uncle, brother, nephew, first cousin, husband, wife, mother, daughter, sister, aunt, niece, father-in-law, mother-in-law, son-in-law, brother-in-law, daughter-in-law or sister-in-law.

For the purpose of this rule, Court shall mean a Court, Bench, or Tribunal in which above mentioned relation of the Advocate is a Judge, Member or the presiding Officer.

7. An Advocate shall not wear bands or gown in public places other than in Courts except on such ceremonial occasions, and at such places as the Bar Council of India or the Court may prescribe.
8. An Advocate shall not appear in or before any Court or Tribunal or any other authority for or against an organisation or an institution, society or corporation, if he is a member of the Executive Committee of such organisation or institution or society or corporation. "Executive Committee", by whatever name it may be called, shall include any Committee or body of person which, for the time being, is vested with the general management of the affairs of the organisation or institution, society or corporation.

Provided that this rule shall not apply to such a member appearing as "amicus curiae" or without a fee on behalf of a Bar Council, incorporated Law Society or a Bar Association.

9. An Advocate should not act or plead in any matter in which he is himself pecuniarily interested.

ILLustration :

- I. He should not act in a bankruptcy petition when he himself is also a creditor of the bankrupt.
 - II. He should not accept a brief from a company of which he is a director.
10. An Advocate shall not stand as a surety, or certify the soundness of a surety, for his client required for the purpose of any legal proceedings.

Section II - Duty of the Client

11. An Advocate is bound to accept any brief in the Courts or Tribunals or before any other authority in or before which he proposes to practise at a fee consistent with his standing at the Bar and the nature of the case. Special circumstances may justify his refusal to accept a particular brief.
12. An Advocate shall not ordinarily withdraw from engagements once accepted, without sufficient cause and unless reasonable and sufficient notice is given to the client. Upon his withdrawal from a case, he shall refund such part of the fee as has not been earned.
13. An Advocate should not accept a brief or appear in a case in which he has reason to believe that he will be a witness and if being engaged in a case, it becomes apparent that he is a witness on a material question of fact, he should not continue to appear as an Advocate if he can retire without jeopardising his client's interests.
14. An Advocate shall at the commencement of his engagement and during the continuance thereof, make all such full and frank disclosures to his client relating to his connection with the parties and any interest in or about the controversy as are likely to affect his client's judgement in either engaging him or continuing the engagement.
15. It shall be the duty of an Advocate fearlessly to uphold the interests of his client by all fair and honourable means without regard to any

unpleasant consequences to himself or any other. He shall defend a person accused of a crime regardless of his personal opinion as to the guilt of the accused, bearing in mind that his loyalty is to the law which requires that no man should be convicted without adequate evidence.

16. An Advocate appearing for the prosecution of a criminal trial shall so conduct the prosecution that it does not lead to conviction of the innocent. The suppression of material capable of establishing the innocence of the accused shall be scrupulously avoided.
17. An Advocate shall not directly or indirectly, commit a breach of the obligations imposed by Section 126 of the Indian Evidence Act.
18. An Advocate shall not at any time, be a party to fomenting of litigation.
19. An Advocate shall not act on the instructions of any person other than his client or his authorised agent.
20. An Advocate shall not stipulate for a fee contingent on the results of litigation or agree to share the proceeds thereof.
21. An Advocate shall not buy or traffic in or stipulate for or agree to receive any share or interest in any actionable claim. Nothing in this Rule shall apply to stock, shares and debentures of government securities, or to any instruments which are, for the time being, by law or custom negotiable, or to any mercantile documents of title to goods.
22. An Advocate shall not, directly or indirectly, bid for or purchase, either in his own name or in any other name, for his own benefit or for the benefit of any other person, any property sold in the execution of a decree or order in any suit, appeal or other proceeding in which he was in any way professionally engaged. This prohibition, however, does not prevent an Advocate from bidding for or purchasing for his client any property which his client may himself legally bid for or purchase, provided the Advocate is expressly authorised in writing in this behalf.
23. An Advocate shall not adjust fee payable to him by his client against his own personal liability to the client, which liability does not arise in the course of his employment as an advocate.

24. An Advocate shall not do anything whereby he abuses or takes advantage of the confidence reposed in him by his client.
25. An Advocate should keep accounts of the client's money entrusted to him, and the accounts should show the amounts received from the client or on his behalf, the expenses incurred for him and the debits made on account of fees with respective dates and all other necessary particulars.
26. Where moneys are received from or on account of a client, the entries in the accounts should contain a reference as to whether the amounts have been received for fees or expenses, and during the course of the proceedings, no Advocates shall, except with the consent in writing of the client concerned, be at liberty to divert any portion of the expenses towards fees.
27. Where any amount is received or given to him on behalf of his client the fact of such receipt must be intimated to the client as early as possible.
28. After the termination of the proceedings the Advocate shall be at liberty to appropriate towards the settled fee due to him any sum remaining unexpended out of the amount paid or sent to him for expenses, or any amount that has come into his hands in that proceedings.
29. Where the fee has been left unsettled, the Advocate shall be entitled to deduct, out of any moneys of the client remaining in his hands, at the termination of the proceeding for which he had been engaged, the fee payable under the rules of the Court in force for the time being, or by then settled and the balance, if any, shall be refunded to the client.
30. A copy of the client's account shall be furnished to him on demand provided the necessary copying charge is paid.
31. An Advocate shall not enter into arrangements whereby funds in his hands are converted in to loans.
32. An Advocate shall not lend money to his client, for the purpose of any action or legal proceedings in which he is engaged by such client.

Explanation : An Advocate shall not be held guilty for a breach of this rule, if, in the course a pending suit or proceeding, and without any arrangement with the client in respect of the same, the Advocate feels compelled by reason of the rule of the Court to make a payment to the Court on account of the client for the progress of the suit or proceedings.

33. An Advocate who has, at any time, advised in connection with the institution of a suit, appeal or other matter or has drawn pleadings or acted for a party, shall, not act appear or plead for the opposite party.

Section III - Duty to Opponent

34. An Advocate shall not in any way communicate or negotiate upon the subject matter of controversy with any party represented by an Advocate except through that Advocate.
35. An Advocate shall do his best to carry out all legitimate promises made to the opposite party even though not reduced to writing or enforceable under the rules of the Court.

Section IV - Duty to Colleagues

36. An Advocate shall not solicit work or advertise, either directly or indirectly whether by circulars advertisements, touts, personal communications, interview not warranted by personal relations, furnishing or inspiring newspaper comments or producing his photograph to be published in connection with cases in which he has been engaged or concerned. His sign board or name plate should be of a reasonable size. The sign board of name plate or stationery should not indicate that he is or has been President or Member of a Bar Council or of any Association or that he has been associated with any person or organisation or with any particular cause or matter or that he specialises in any particular type of work or that he has been a Judge or an Advocate Général.
37. An Advocate shall not permit his professional services or his name to be used in aid of or to make possible, the unauthorised practise of law by any agency.
38. An Advocate shall not accept a fee less than the fee taxable under the rules when the client is able to pay the same.

39. An Advocate shall not enter appearance in any case in which there is already a vakalat or memo of appearance filed by an Advocate engaged for a party except with his consent; in case such consent is not produced he shall apply to the Court stating reasons why the said consent should not be produced and he shall appear only after obtaining the permission of the Court.

Section IV-A

40. Every Advocate borne on the rolls of the State Bar Council shall pay to the State Bar Council a sum of Rs. 90/- every third year commencing from 1st April, 1993 along with a statement of particulars as given in the form set out at the end of these Rules, the first payment to be made on or before 1st April, 1993 or such extended time as notified by the Bar Council of India or the concerned State Bar Council.

Provided further however that an advocate shall be at liberty to pay in lieu of the yearly payment of Rs. 30/-, a consolidated amount of Rs. 300/-. This will be life time payment to be kept in the fixed deposit by the concerned State Bar Council and interest to be used for the purpose of this rule. However, payment made by the concerned Advocate before this consolidated payment shall be exclusive of it and no credit shall be given for the payment, but those advocates who have paid consolidated amount of Rs. 200/- only as a consolidated amount Rs. 100/- will be required to pay.

Explanation 1 : Statement of particulars as required by rule 40 in the form set out shall require to be submitted only once in three years.

Explanation 2 : All Advocate who are in actual practice and are not drawing salary or not in full time service and not drawing salary from their respective employers are only be required to pay the amount referred to in this rule.

Explanation 3 : This rule will be effective from 1-4-1993 and for period prior to this Advocates will continue to be covered by old Rule.

41. (1) All the sums so collected by the State Bar Council in accordance with Rule 40 shall be credited in a separate fund known as "Bar Council of India Advocates Welfare Fund for the State" and shall be deposited in the bank as provided hereunder.

- (2) The Bar Council of India Advocates Welfare Fund Committee for the State shall remit 20% of the total amount collected and credited to its account, to the Bar Council of India by the end of every month which shall be credited by the Bar Council of India and the Bar Council of India shall deposit the said amount in a separate fund to be known as "BAR COUNCIL OF INDIA ADVOCATES WELFARE FUND". This fund shall be managed by the Welfare Committee of the Bar Council of India in the manner prescribed from time to time by the Bar Council of India for the Welfare of the Advocates.
- (3) The rest 80% of the total sum so collected by the Bar Council of India Advocates Welfare Fund Committee for the State under Rule 41(1) shall be utilised for the welfare of advocates in respect of Welfare Schemes sponsored by the respective State Bar Council and this fund shall be administered by the Advocates Welfare Committee for the State which shall submit its report annually to the Bar Council of India.
42. If any advocate fails to pay the aforesaid sum within the prescribed time as provided under rule 40, the Secretary of the State Bar Council shall issue to him a notice to show cause within a month why his right to practice be not suspended. In case the advocate pays the amount together with late fee of Rs. 5/- per month, or a part of a month subject to a maximum of Rs. 30/- within the period specified in notice, the proceedings shall be dropped. If the advocate does not pay the amount or fails to show sufficient cause, a Committee of three members constituted by the State Bar Council in this behalf may pass an order suspending the right of the advocate to practise.
- Provided that the order of suspension shall cease to be in force when the advocate concerned pays the amount along with a late fee of Rs. 50/- and obtain a certificate in this behalf from the State Bar Council.
43. An advocate who has been convicted of an offence mentioned under section 24A of the Advocates Act or has been declared insolvent or has taken full time service or part time service or engages in business or any avocation inconsistent with his practising as an Advocate or has incurred any disqualification mentioned in the Advocates Act or the rules made thereunder, shall send a declaration to that effect to the respective State Bar Council in which the Advocate is enrolled, within ninety days

from the date of such disqualification. If the advocate does not file the said declaration or fails to show sufficient cause for not filing such declaration provided therefor, the Committee constituted by the State Bar Council under rule 42 may pass orders suspending the right of the advocate to practise.

Provided that it shall be open to the Committee to condone the delay on an application being made in this behalf.

Provided further that an advocate who had after the date of his enrolment and before the coming into force of this rule, become subject to any of the disqualifications mentioned in this rule, shall within a period of ninety days of the coming into force of this rule send declaration referred to in this rule to the respective State Bar Council in which the Advocate is enrolled and on failure to do so by such Advocate all the provisions of this rule would apply.

44. An appeal shall lie to the Bar Council of India at the instance of an aggrieved advocate within a period of thirty days from the date of the order passed under Rules 42 and 43.
- 44A. (1) There shall be Bar Council of India Advocates Welfare Committee, consisting of five members elected from amongst the members of the Council. The term of the members of the Committee shall be co-extensive with their in the Bar Council of India.*
- (2) (i) Every State Council shall have an advocate Welfare Committee known as Bar Council India Advocates Welfare Committee for the State.
- (ii) The Committee shall consists of member Bar Council of India from the State concerned who shall be the Ex-Officio Chairman of the Committee and two members elected from amongst the members.
- (iii) The Secretary of the State Bar Council concerned will act as Ex-Officio Secretary of the Committee.
- (iv) The term of the member, Bar Council of India in the Committee shall be co-extensive with his term in the Bar Council of India.

- (v) The term of the members elected from the State Bar Council shall be two years.
- (vi) Two members of the Committee will form a quorum of any meeting of the Committee.
- (3) Every State Bar Council shall open an account in the name of the Bar Council of India Welfare Committee for the State, in any Nationalised Bank,
- (4) No amount shall be withdrawn from the Bank unless that cheque is signed by the Chairman of the Welfare Committee and its Secretary.
- (5) The State Bar Council shall implement Welfare Schemes approved by the Bar Council of India through Advocates Welfare Committee as constituted under sub-clause (2) (i). The State Bar Councils may suggest suitable modifications in the Welfare Schemes or suggest more schemes, but such modifications or such suggested schemes shall have effect only after approval by the Bar Council of India.
- (6) The State Bar Council shall maintain separate account in respect of the Advocate Welfare Fund which shall be audited annually along with other accounts of the State Bar Council and send the same along with Auditors Report to the Bar Council of India.

44B. The Bar Council of India shall utilise the funds received under Rule 41(2) in accordance with the schemes which may be framed from time to time.

FORM UNDER RULE 40

The Bar Council.....

Dear Sirs,

- (1) I am enclosing herewith a Postal order / Bank Draft / Cash for.....being the payment under Rule 40. Chapter II, Part VI of the Rules of the Bar Council of India.

- (2) I am enrolled as an Advocate on the Rolls of your State Bar Council.
- (3) I am ordinarily practising at.....in the territory / State of.....
- (4) I am a member of the.....Bar Association / not a member of any Bar Association.
- (5) My present address is.....

DATED :

PLACE :

SIGNATURE

NAME IN BLOCK LETTERS

ENROLMENT NO.....

Received a sum of Rs. 30/- from.....towards payment under Rule 40. Chapter II, Part VI of the Rules of the Bar Council of India by way of Postal Order / Bank Draft / Cash on.....

DATED :

PLACE :

SECRETARY

BAR COUNCIL OF.....

Section V - Duty in imparting training

45. It is improper for an Advocate to demand or accept fees or any premium from any person as a consideration for imparting training in law under the rules prescribed by a State Bar Council to enable such person to qualify for enrolment under the Advocates Act, 1961.

Section VI - Duty to Render Legal Aid

46. Every Advocate shall in the practice of the profession of law bear in mind that any one genuinely in need of lawyer is entitled to legal assistance even though he cannot pay for it fully or adequately and that within the limits of an Advocate's economic condition, free legal assistance to the indigent and oppressed is one of the highest obligations an Advocate owes to society.

Section VII - Restriction on other Employments

47. An Advocate shall not personally engage in any business but he may be a sleeping partner in a firm doing business provided that, in the

opinion of the appropriate State Bar Council the nature of the business is not inconsistent with the dignity of the profession.

48. An Advocate may be Director or Chairman of the Board of Directors of a company with or without any ordinary sitting fee, provided none of his duties are of an executive character. An Advocate shall not be Managing Director or a Secretary of any company.
49. An Advocate shall not be full-time salaried employee of any person, government, firm, corporation or concern, so long as he continues to practise and shall, on taking up any such employment intimate the fact to the Bar Council on whose roll his name appears, and shall thereupon cease to practise as an Advocate so long as he continues in such employment.

Nothing in this rule shall apply to a Law Officer of the Central Government of a State or of any Public Corporation or body constituted by statute who is entitled to be enrolled under the rules of his State Bar Council made under Section 28(2)(d) read with Section 24(1)(e) of the Act despite his being a full time salaried employee.

Law Officer for the purpose of this Rule means a person who is so designated by the terms of his appointment and who, by the said terms, is required to act and/or plead in Courts on behalf of his employer.

50. An Advocate who has inherited, or succeeded by survivorship, to a family business may continue it, but may not personally participate in the management thereof. He may continue to hold a share with others in any business which has decended to him by survivorship or inheritance or by will provided he does not personally participate in the management thereof.
51. An Advocate may review Parliamentary Bills for a remuneration, edit legal text books at a salary, do 'press-vetting' for newspapers, coach pupils for legal examination, set and examine question papers, and subject to the rules against advertising and full-time employment, engage in broadcasting journalism, lecturing and teaching subjects, both legal and non-legal.
52. Nothing in these rules shall prevent an Advocate from accepting, after obtaining the consent of the State Bar Council part-time employment

provided that in the opinion of the State Bar Council the nature of the employment does not conflict with his professional work and is not inconsistent with the dignity of the profession. This rule shall be subject to such directives if any as may be issued by the Bar Council of India from time to time.

CHAPTER - III

(Conditions for right to practice)

[Rules under Section 49(1) (ah) of the Act]

1. Every Advocate shall be under an obligation to see that his name appears on the roll of the State Council within whose jurisdiction he ordinarily practices.

"Provided that if an Advocate does not apply for transfer of his name to the roll of the State Bar Council within whose jurisdiction he is ordinarily practising within six months of the start of such practice, it shall be deemed that he is guilty of professional misconduct within the meaning of Section 35 of the Advocates Act".
2. An Advocate shall not enter into a partnership or any other arrangement for sharing remuneration with any person or legal Practitioner who is not an Advocate.
3. Every Advocate shall keep informed the Bar Council on the roll of which his name stands, of every change of his address.
4. The Council or a State Council can upon an advocate to furnish the name of the State Council on the roll of which his name is entered, and call for other particulars.
5. (1) An Advocate who voluntarily suspends his practice for any reason whatsoever, shall intimate by registered post to the State Bar Council on the rolls of which his name is entered, of such suspension together with his certificate of enrolment in original.

(2) Whenever any such advocate who has suspended his practice desires to resume his practice, he shall apply to the Secretary of the State Bar Council for resumption of practice, alongwith an

affidavit stating whether he has incurred any of the disqualifications under Section 24A, Chapter III of the Act during the period of suspension.

- (3) The Enrolment Committee of the State Bar Council may order the resumption of his practices and return the certificate to him with necessary endorsement. If the Enrolment Committee is of the view that the Advocate has incurred any of the disqualifications, the Committee shall refer the matter under proviso to section 26(1) of the Act.
 - (4) On suspension and resumption of practice the Secretary shall act in terms of Rule 24 of Part IX".
6. (1) An Advocate whose name has been removed by order of the Supreme Court or a High Court or the Bar Council as the case may be, shall not be entitled to practice the profession of law either before the Courts and authorities mentioned under Section 30 of the Act, or in chambers, or otherwise.
- (2) An Advocate who is under suspension, shall be under same disability during the period of such suspension as an Advocate whose name has been removed from the roll.
7. An officer after his retirement or otherwise ceasing to be in service shall not practise for a period of two years in the area in which he exercised jurisdiction for a period of 3 years before his retirement or otherwise ceasing to be in service.

PROVIDED that nothing these Rules shall prevent any such person from practicing in any Court or Tribunal or Authority of superior jurisdiction to one in which he held office.

EXPLANATION : "Officer" shall include a Judicial Officer, Additional Judge of the high Court and Presiding Officer or member of the Tribunal or authority or such other officer or authority as referred to in Section 30 of the Act.

"Area" shall mean area in which the person concerned exercising jurisdiction.

8. No Advocate shall be entitled to practice if in the opinion of the Council he is suffering from such contagious disease as makes the practice of law a hazard to the health of others this dis-qualification shall last for such period as the Council directs from time to time.
9. "A person who has completed the age of 45 years on the date on which he submits an application for his enrolment as an advocate to the state Bar council shall not be enrolled as an advocate".

"Provided that this Rule be not applicable to those who had been enrolled as a Pleader/Advocate earlier and those who have put in service as Judicial Officer atleast for a period of ten years in case they are not dismissed/removed employees'.

(Amended by the Bar Council of India Resolution No. 20/1994 dated 10-7-1994)

CHAPTER - IV

FORM OF DRESSES TO BE WORN BY ADVOCATES

[Rules under Section 49(1) (gg) of the Act]

Advocate appearing in the Supreme Court, High Courts, Subordinate Courts, Tribunals or Authorities shall wear the following as part of their dress which shall be sober and dignified :-

I. ADVOCATES OTHER THAN LADY ADVOCATES

- (a) a black buttoned up coat, chapkan, achkan, black sherwani and white bands with Advocates' Gowns, or
- (b) a black open breast coat, white shirt, white collar, stiff or soft, and white bands with Advocates' Gowns.

In either case long trousers (white, black striped or grey) or Dhoti.

II. LADY ADVOCATES

- (a) Black and full or half sleeve jacket or blouse, white collar stiff or soft, with white bands and Advocates' Gowns.

OR

White blouse, with or without collar, with white bands and with a black open breast coat.

(b) Sarees or long skirts (white or black or any mellow or subdued color without any print or design) or Flare (white, black or black striped or grey) or Punjabi dress (churidar-Kurta or salwar-kurta with or without dupatta_white or black.*

Provided that the wearing of Advocates' gowns shall be optional except when appearing in the Supreme Court or in a High Court.

Provided further that in Courts other than the Supreme Court, High Court, District Court, Sessions Court or City Civil Court a black tie may be worn instead of bands.

PART - VII

DISCIPLINARY PROCEEDINGS AND REVIEW

CHAPTER - I

Complaints against Advocates and Procedure to be followed by Disciplinary Committees of the State Bar Council and the Bar Council of India

[Rules under Section 49 (1) (f) of the Act]

- A. Complaint and Enquiry under Section, 35, 36 and 36B of the Act.
1. (1) A complaint against an Advocate shall be in the form of a petition duly signed and verified as required under the Code of Civil Procedure. The complaint could be filed in English or in Hindi or in regional language where the language has been declared to be a State language and in case the complaint is in Hindi or in any other regional language, the State Bar Council shall translate the complaint in English whenever a disciplinary matter is sent to the Bar Council of India under the Advocates Act".

Every complaint shall be accompanied by the fees as prescribed in the rules framed under Section 49 (h) of the Act.
 - (2) The Secretary of the Bar Council may require the complainant to pay the prescribed fees if not paid, to remove any defects and all for such particulars or copies of the complaint or other documents as may be considered necessary.
 - (3) On a complaint being found to be in order, it shall be registered and placed before the Bar Council of such order as it may deem fit to pass.
 - (4) No matter taken up by a State Bar Council suo motu or arising on a complaint made under Section 35 of the Act shall be dropped solely by reason of its having been withdrawn, settled or otherwise compromised, or that the complainant does not want to proceed with the enquiry.

2. Before referring a complaint under Section 35 (1) of the Act to one of its Disciplinary Committee to be specified by it, the Bar Council may require a complainant to furnish within a time to be fixed by it, further and better particulars and may also call for the comments from the Advocates complained against.
3. (1) After a complaint has been referred to a Disciplinary Committee by the Bar Council, the Registrar shall expeditiously send a notice to the Advocate concerned requiring him to show cause within a specified date on the complaint made against him and to submit the statement of defence, documents and affidavits in support of such defence, and further informing him that in case of his non-appearance on the date of hearing fixed, the matter shall be heard and determined in his absence.

Explanation : Appearance includes, unless otherwise directed, appearance by an Advocate or through duly authorised representative.

- (2) If the Disciplinary Committee requires or permits, a complainant may file a replication within such time as may be fixed by the Committee.
4. The Chairman of the Disciplinary Committee shall fix the date, hour and place of the enquiry which shall not ordinarily be later than thirty days from the receipt of the reference. The Registrar shall give notice of such date, hour and place to the complainant or other person aggrieved, the advocate concerned and the Attorney General or the Additional Solicitor General of India or the Advocate General as the case may be, and shall also serve on them copies of the complaint and such other documents mentioned in Rule 24 of this Chapter as the Chairman of the Committee may direct at least ten days before the date fixed for the enquiry.
5. (1) The notices referred to in this Chapter shall subject to necessary modification, be in Form Nos. E-1 and E-2 be sent to the Advocates appearing for the parties. Notice to a party not appearing by the advocate shall be sent to the address as furnished in the complaint or in the grounds of appeal. The cost of the notices shall be borne by the complainant unless the Disciplinary Committee otherwise directs".

- (2) The notices may be sent ordinarily through messenger or by registered post acknowledgement due, and served on the Advocate or the party concerned or his agent or other person as provided for in-Order V of the Civil Procedure Code.
 - (3) Notices may also, if so directed by the Committee be sent for service through any Civil Court as provided for under Section 42(3) of the Advocates Act.
 - (4) Where the notice send to any party cannot be served as aforesaid it may be served by affixing a copy thereof in some conspicuous place in the office of the Bar Council, and also upon some conspicuous part of the house (if any) in which the party concerned is known to have last resided or had his office, or in such other manner as the Committee thinks fit. Such service shall be deemed to be sufficient service.
 - (5) Payment of bills and/or charges for summons to witness etc. shall be in accordance with the rules under Section 49(h) of the Act.
6. (1) The parties can appear in person or by an Advocate who should file a vakalatnama giving the name of the Bar Council in which he is enrolled, his residential address, telephone number if any, and his address for service of notices. A senior Advocate is entitled to appear with another Advocate who has filed a vakalatnama.
- (2) The Bar Council or its Disciplinary Committee may at any stage of a proceeding appoint an Advocate to appear as *Amicus Curiae*. Such Advocate may be paid such fee as the Council or the Committee may decide.
 - (3) Excepting when the Committee has otherwise directed, service on the Advocate shall be deemed to be sufficient service on the parties concerned, even if copies of the notices are in addition sent to the parties, whether the parties have or have not been served.
 - (4) Unless otherwise indicated, where more than one Advocate appears for the same party, it is sufficient to serve the notice on any of them.

7. (1) If in any enquiry on a complaint received, either the complainant or the respondent does not appear before the Disciplinary Committee inspite of service of notice, the Committee may proceeds *ex-parte* or direct fresh notice to be served.
- (2) Any such order for proceeding *ex-parte* may be set aside on sufficient cause being shown, when an application is made supported by an affidavit, within 60 days of the passing of the *ex-part* order.

Explanation : The provisions of Section 5 of the Limitation Act, 1963 shall apply to this sub-rule.

8. (1) The Disciplinary Committee shall hear the Attorney General or the Additional Solicitor General of India or the Advocate General as the case may be or their Advocate, and parties or their Advocates, if they desire to be heard, and determine the matter on documents and affidavits unless it is of the opinion that it should be in the interest of justice to permit cross examination of the deponents or to take oral evidence, in which case the procedure for the trial of civil suits, shall as far as possible be followed.
- (2) On every document admitted in evidence; the following endorsement shall be made which shall be signed by the Chairman or any member of the Committee :-

The Disciplinary Committee of the Bar Council of
.....Exhibit No.....Date of Document
.....Produced by.....Date.....Signature
of.....

- (3) The Exhibits shall be marked as follows :-
- (a) Those of the complainant as C1, C2 etc.
 - (b) Those of Respondents as R1, R2, etc.
 - (c) Those of disciplinary Committee as D1, D2, etc.
- (4) The Disciplinary Committee may at any stage direct the parties of their Advocates to furnish such further and better particulars as it considers necessary.

9. (1) Evidence given before the Disciplinary Committee shall be recorded preferably in English by any member of the Committee or any other person authorised by the Committee. The evidence so recorded shall be signed by the Chairman, or if the Chairman is not there when the evidence is recorded, by any member of the Committee.
- (2) Whenever the record of a case decided by the State Bar Council or its Disciplinary Committee in which evidence has been recorded in a language other than English is required to be sent to the Bar Council of India or its Disciplinary Committee, a translation thereof in English made by a person nominated by the Committee, or Registrar certifying the same to be true copy shall also be sent.
10. (1) Every Disciplinary Committee shall make a record of its day to day proceedings.
- (2) The Registrar of the Disciplinary Committee shall maintain a case diary setting out shortly in order of date, all relevant information concerning the date of filing, the date for hearing and despatch and service of the notices on the parties or the Advocates or the Attorney General, or the Additional Solicitor General or the Advocate General as the case may be, of statements or petitions filed and/or of the order thereon, and of other proceedings in the matter before the Committee.
11. (1) If in any enquiry pending before the Disciplinary Committee, the complainant dies and there is no representative who is willing to conduct the case on his behalf the Disciplinary Committee may, having regard to the allegations made in the complaint and the evidence available. Make a suitable order either to proceed with the enquiry or to drop it.
- (2) (a) In the case of an enquiry against only one Advocate, on his death the Disciplinary Committee shall record the fact of such death and drop the proceedings.
- (b) Where the enquiry is against more than one Advocate, on the death of one of them, the Disciplinary Committee may continue the enquiry against the other Advocate unless it decides otherwise.

- (3) No Disciplinary enquiry, shall be dropped solely by reason of its having been withdrawn, settled or otherwise compromised, or that the complainant does not want to proceed with the enquiry.
12. Unless otherwise permitted, counsel appearing before any of the Disciplinary Committees of the State Bar Council or Bar Council of India shall appear in court dress.
13. The Council may from time to time issue instructions on any of the matters provided for in these rules.
14. (1) The finding of the majority of the member of the Disciplinary Committee shall be the finding of the Committee. The reason given in support of the finding may be given in the form of a judgement, and in the case of a different of opinion, any member dissenting shall be entitled to record his dissent giving his own reason. It shall be competent for the Disciplinary Committee to award such costs as it thinks fit.
- (2) The Registrar of the Disciplinary Committee shall send free of charge to each of the parties in the proceedings, a certified copy of the final order or judgement as set out in Rule 36 in this Chapter.
- (3) The date of an Order made by the Disciplinary Committee shall be the date on which the said Order is first received in the office of the Bar Council after it has been signed by all the members thereof.

For the purpose of limitation the date of the Order shall be the date on which the contents of the Order duly signed as aforesaid are communicated to the parties affected thereby.

15. Save as otherwise directed by the Disciplinary Committee or the Chairman thereof, certified copies of the records of a case pending before the Disciplinary Committee may be granted to the parties or to their counsel on an application made in that behalf and on payment of the prescribed fee.
16. (1) The Secretary of a State Bar Council shall send to the Secretary of the Bar Council of India quarterly statements of the complaints

received and the stage of the proceedings before the State Bar Council and Disciplinary Committees in such manner as may be specified from time to time.

- (2) The Secretary of the Bar Council of India may however call for such further statements and particulars as he considers necessary.
- 17. (1) The Secretary of every State Bar Council shall furnish such particulars and send such statements as may be considered necessary by the Secretary of the Bar Council of India for purposes of Section 36B of the Act and sent all the records of proceedings that stand transferred under the said Section.
- (2) The date of receipt of the complaint or the date of the initiation of the proceedings at the instance of the State Bar Council shall be the date on which the State Bar Council refers the case for disposal to its Disciplinary Committee under Section 35(1)*.
- (3) Whenever the records of proceedings are transferred under Section 36B of the Act to the Council, the requirements in Rule 9(2) of this Chapter shall be followed by the Disciplinary Committee of the State Bar Council.

B. Withdrawal of Proceedings under Section 36 of the Act

- 18. (1) Where a State Bar Council makes a report referred to in Section 36(2) of the Act, the Secretary of the State Bar Council shall send to the Secretary of the Bar Council of India all the records of the proceedings along with the report.
- (2) An application by a person interested in the withdrawal of a proceeding referred to in Section 36(2) of the Act, shall be signed by him and it shall sent out the necessary facts supported by an affidavit and accompanied by the fee prescribed.
- (3) For making an order on an application of a party or otherwise under Section 36 (2) of the Act, the Disciplinary Committee of the Bar Council of India may :

- (a) Call for a Report of the Disciplinary Committee seized of the proceeding;
 - (b) issue notice to the respondent;
 - (c) require the parties to file such statements as it considers necessary;
 - (d) call for the records of the proceedings; and
 - (e) examine any witnesses:
- (4) In the proceedings before the Disciplinary Committee of the Bar Council of India under Section 36, unless otherwise directed, the parties may appear in person or by Advocate who shall file vakalatnama as provided for under Rule 6(1) in this Chapter.
- (5) On a consideration of the Report of a State Bar Council or otherwise the Disciplinary Committee of the Bar Council of India shall pass such orders as it considers proper.

Appeal to the Bar Council of India under Section 37 of the Act.

19. (1) An appeal to the Council provided for under Section 37 of the Act, shall be in the form of a memorandum in writing as set out in Rule 21 in this Chapter. If the appeal is in a language other than English, it shall be accompanied by a translation thereof in English.
- (2) In every appeal filed under Section 37(1) of the Act, all persons who were parties to the original proceedings, shall alone be impleaded as parties.
- (3) Save as otherwise directed by the Disciplinary Committee of the Council, in an appeal by the Advocate against an order under Section 35, in case of death of the complainant the legal representatives of the complainant shall be made parties.
20. (1) An appeal may be presented by the appellant or his Advocate or by his recognised agent in the office of the Bar Council of India, or sent by registered post with acknowledgement due so as to

reach the Secretary, Bar Council of India on or before the last day of limitation.

- (2) Any appeal may be admitted after the period of limitation if the appellant satisfies the Disciplinary Committee that he has sufficient cause for not preferring the appeal within such period. Any such application for condonation of delay shall be supported by an affidavit.
21.
 - (1) The memorandum of appeal referred to in Rule 19(1) of this Chapter shall contain necessary particulars as in the Form G. The memorandum of appeal shall state when the order was communicated to be appellant, and how it is in time.
 - (2) Along with the memorandum of appeal, the appellant shall file:
 - (a) either authenticated or the certified copy of the order appealed against signed by the Registrar of the Disciplinary Committee, and
 - (b) five additional copies of the memorandum of appeal, and of the order appealed against, if there is only one Respondent, if there is more than one Respondent, such number of additional copies as may be necessary. All copies shall be certified as true copies by the appellant or by his counsel.
 - (3) Every memorandum of appeal shall be accompanied by the prescribed fees in cash. In case the memo is sent by post, it shall be accompanied by the M.O. Receipt issued by the Post Office.
 - (4) If the papers filed in a appeal are not in order, the Registrar shall require the appellant to remove such defects within a specified time.
22.
 - (1) Subject to the provisions contained in Rule 29(2) in this chapter, the Chairman of the Executive Committee or in his absence the Vice-Chairman of the Executive Committee or such other member authorised in this behalf by the Council shall have the power to allocate matters relating to the disciplinary Committee, save when

any such case has been allotted by the Council to any particular Disciplinary Committee*.

- (2) Any matter allotted to a particular Disciplinary Committee which has not been heard may be reallocated to a different disciplinary Committee.
 - (3) Notwithstanding the provisions of Rule 30 in this Part the Chairman of any Disciplinary Committee shall have powers to issue interim order on urgent matters which may be placed before him by the Registrar.
23. Subject to any resolution of the Bar Council of India, in this behalf relating to the places of hearing, the Chairman of the Disciplinary Committee concerned shall fix the date, hour and place for the hearing of the appeal.
24. (1) The appellant shall be required to file six typed sets of the following papers properly paged and indexed if there is only one Respondent, and as many more sets as there may be additional respondents for the use of the Disciplinary Committee and by the other parties, and for the record :-
- (a) the complaint, statement in the defence of the Advocate,
 - (b) the evidence oral and documentary and such other papers on which parties intend to rely.
 - (c) any other part of the record as may be directed by the Committee.
- Where any of the above papers is in a language other than English, English translation thereof shall be filed.
- (2) The Respondent shall if he so desires, or if so called upon, file six sets of typed papers of any part of the record on which he intends to rely. He shall also file English translations of such papers as are not in English.
25. The Registrar shall give notices to the parties or their Advocates or their recognised agents informing them of the date, time and place of the hearing of the appeal.

A copy of the memorandum of appeal shall be sent to the Respondent along with the notice of the appeal.

26. (1) No appeal filed under Section 37 of the Act against an order of punishment of an Advocate shall be permitted to be withdrawn on account of settlement or compromise or adjustment of the claim against the Advocate.
- (2) Every appeal filed under Section 37 of the Act by or against an Advocate shall abate on the death of the Advocate so far as he is concerned.
27. In regard to appearance of a party in appeal, Rule 6 of this chapter will apply.
28. (1) The Registrar shall issue notice to the State Council concerned for the complete records to be sent the Council.
- (2) The Registrar of the State Council Concerned shall send along with the records list containing particulars under the following columns, and comply with such other directions as may be issued.

Serial No. of Document	Date of Document	Description of Document	Page
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D. Application for Stay, and other matters

29. (1) An application for stay made under Section 40, sub-section (1) or (2) of the Act shall be accompanied by an affidavit and the fees, if any prescribed by the rules of the Council made under Section 49 (h) of the Act. Where the affidavit is not in English, a translation thereof in English shall be filed. The applicant shall file with his application at least 5 copies of the application, and the affidavit and as many additional copies thereof as there are respondents. Where the application is not in English 5 copies with translation thereof in English shall also be filed.

In every application for stay made to the Council, the applicant shall state if any application has been made to the State Council, and the orders thereon.

- (2) Before a matter is allotted to a Disciplinary Committee under Rule 22 above, the registrar may obtain orders on applications for interim stay or other urgent applications from the Chairman of any of the Disciplinary Committees.

The orders passed under this sub-rule shall be communicated to the parties and to the Secretary of the Bar Council concerned.

30. After allotment of a case under Rule 22 in this Chapter to a Disciplinary Committee, the Registrar may obtain its orders on any matter of an emergent nature arising therein, by circulation.
- 30A. The Disciplinary Committee of the Bar Council of India shall exercise all the powers exercised by the Civil Court of Court of appeal under C.P.C.
31. The order of the Disciplinary Committee disposing of an appeal shall be communicated to the parties. The date of an order made by the Disciplinary Committee shall be the date on which the said order is first received in the office of the Council after it has been signed by all the members thereof.

E. Rules applicable to all proceedings before the Disciplinary Committee of the State Bar Councils and the Bar Council of India

32. The Rules in this Chapter so far as may be, shall apply to all proceedings of the Disciplinary Committee of State Bar Councils or of the Bar Council of India.

Proceedings to be in camera

33. All the proceeding before the Disciplinary Committee shall be held in camera.

Inspection of records and Copies

34. (1) Save as otherwise directed by the Disciplinary Committee or the Chairman thereof, inspection of any of the records in any proceeding before the Disciplinary Committee may be permitted to the parties or their Advocates on presentation of an application duly signed

by the applicant or his Advocate and on payment of the prescribed fee on any working day except during the summer or other vacations of the Supreme Court.

- (2) An application for inspection shall be made to the Registrar of the Disciplinary Committee. The Registrar of disciplinary Committee may permit the inspection in his presence or in the presence of any member of the staff authorised by him.

The person inspecting shall not be entitled to make copies of the record of which inspection is granted. He shall, however, be permitted to make short notes in pencil.

- (3) Save as otherwise directed by the Disciplinary Committee or the Chairman, thereof, certified copies of the records of a case pending before the Disciplinary Committee may be granted to the parties or to their counsel on an application made in that behalf and on payment of the prescribed fee.
- (4) A copy of a final judgement in a decided case may be given to any person applying for the same on payment of the prescribed fee therefor, provided however that the name of the advocate against whom the proceedings were taken shall be omitted.

Order awarding Costs : Decretal Order

35. (1) All orders where costs are awarded in Disciplinary proceedings shall specify the amount of costs awarded and also state the party against whom the order is made, and the time within the amount is payable.
- (2) As soon as possible after the order is made by the Disciplinary Committee, in respect of every order where costs are awarded to any of the parties, a decretal order shall be drawn up as in Form J-1/J-2 at the end of this Chapter signed by the Secretary of the State Bar Council or the Council as the case may be, as Registrar of the Disciplinary Committee and bearing the seal of the State Bar Council or the Council as the case may be.
- (3) The Decretal Order aforesaid shall be furnished to any party to

the proceeding on application made therefor, and on payment of the charges prescribed under the rules.

Copies of Final Orders

36. The Secretary of the Bar Council or the Bar Council of India as the case may be, shall send to each of the parties in the proceedings, a certified copy of the final order made under Section 35, 36, 36B or 37, signed by him as Registrar of the Disciplinary Committee and bearing the seal of the State Bar Council / Bar Council of India as the case may be. No charge shall be payable on the copies so sent. Charges as prescribed under the rules shall however be payable for all additional copies of the said order applied for.

Form - E - 1

[Under Rule 5 in Chapter I, Part VII]

Notice of hearing of Complaint under Section 35/36 of the Advocates Act, 1961 and Rule 5, Chapter I, Part VII of the Rules of the Bar Council of India.

BEFORE THE DISCIPLINARY COMMITTEE OF THE BAR
COUNCIL OF.....

D.C. ENQUIRY NO.....19.....

.....
(With Address) Complainant/s

Vs.

.....
(With Address) Respondent/s

WHEREAS a complaint dated.....against respondent/s, a copy of which is sent herewith has been referred for disposal to the above Committee of the Bar Council.....under Section 35/36 of the Advocates Act, 1961 and the disciplinary Committee has fixed.....(time) on.....(date) for the hearings of the case at.....(place) in accordance with the procedure prescribed under the relevant rules of the Council.

The Respondent may submit his statement of defence together with any

documents or affidavits in support of his defence within.....day from the date of this notice. The respondent shall send one copy of his statement of defence to the complainant and one copy to the Advocate General direct under registered A.D. cover. The complainant may be entitled to file a reply to the statement of defence together with such documents on which he proposes to rely in support thereof within.....days.

The parties above named are required to appear in person or through Advocate before the said Committee on the said date, time and place or any other date or dates and place to which the matter may be adjourned. It shall be open to the parties to examine the witnesses that may be permitted before the Disciplinary Committee.

If, on any date of hearing any party is absent, the hearing will proceed ex-parte against him.

.....is required to file.....
copies of.....to the registrar, disciplinary Committee,
Bar Council of.....on or before.....
Dated this the.....day of the month.....19.....
By Order

Registrar
Disciplinary Committee,
Bar Council of.....

FORM - E - 2

The Disciplinary Committee of the Bar Council of India (Notice of hearing under Rule 5 in Chapter I, Part VII of the Rules of the Bar Council of India)

(Subject to necessary modifications)

DCL/D/ /19 Date.....
In the Matter of

No. on the file of the Disciplinary Committee of the Bar Council of
(B.C.I. Tr. Case No. /19)

.....Complainant(s)

Vs.

.....Respondent(s)

**Notice under Section 36B read with Section 35 and 36(2)
of the Advocates Act and the Rules made thereunder**

WHEREAS the proceedings between the parties above referred to before the Disciplinary Committee of the Bar Council of.....stand transferred to the Bar Council of India under Section 36B of the Advocates Act, 1961, and the records in the same have been received by the Bar Council of India for disposal by the Disciplinary Committee of the Bar Council of India as provided for the said Section 36B read with Section 36A and the other provisions of the Act and the Rules of the Bar Council of India in this behalf.

The parties in the above proceedings will take notice that the hearing in the same has been fixed :-

At (Place)

For (Dates and time)

The Disciplinary Committee will continue the proceedings from the stage at which it was so left by the Disciplinary Committee of the Bar Council of.....and will hear arguments on the evidence, oral and documentary already on record.

The parties are required to be ready with all their evidence oral and documentary and for arguments.

The parties above named are required to appear in person or through Advocate or through duly authorised agents before the said Committee on the said date, time and place or any other date or dates and place to which the matter may be adjourned.

In view of the pendency of these proceedings for a long time and its automatic transfer to the Bar Council of India under Section 36B of the Advocates Act, *the hearing will be peremptory* and no adjournment may be granted.

If the parties fail to appear in person or by Advocate or to comply with the other requirements of this notice, the Committee will proceed *ex-parte* or make such other orders as it may deem fit.

The parties engaging any counsel may send their Vakalatnama duly signed by the counsel giving the address of the Advocate for the purpose of future communication.

Please note that notice of the hearing sent to the Advocate will be sufficient notice to the party even if a copy of the notice is sent to any of the parties.

Registrar,
Disciplinary Committee of
the Bar Council of India

Copy to :
The Attorney General of India,
New Delhi

FORM - F

(Under Rule 4 in Chapter I, Part VII)

(Subject to necessary modifications)

From :
The Secretary
Bar Council of.....

To
The Attorney General/
Additional Solicitor General of India/Advocate General
.....
.....

Notice under Section 35(2) / 36(3) of the Advocates Act, 1961.

Sir,
Please find enclosed copy of a notice dated.....issued under

Section 35(2) / 36(3) of the Advocates Act, 1961 for the hearing of a case before the Disciplinary Committee of the Bar Council of.....

Registrar,
Disciplinary Committee,
Bar Council of.....

Date :

Place :

FORM - G

Memorandum of Appeal

(Under Rule 21 in Chapter I, Part VII of the Rules of the Bar Council of India)

(Subject to necessary modification)

BEFORE THE DISCIPLINARY COMMITTEE OF THE BAR COUNCIL OF INDIA

Under Section 37 of the Advocates Act, 1961

D.C. APPEAL NO./19.....

..... Appellant

Versus

..... Respondent

1.(a) Appellant.....son of.....
(residing at)

Age.....(to be filled in).....

(To be filled up if the vakalatnama is filed by the Advocate)

The appellant appears by Advocate Shri.....
Roll No.....enrolled in the Bar Council of.....

The Address for the service of Appellant is.....
that of his advocate.....

(b) Respondent(s) (1).....
S/o.....
residing at.....

2. The appellant files this appeal against the Order dated.....
.....in case No.....of the Disciplinary Committee
the Bar Council of.....

3. The Complaint against the advocate, who is the Appellant/
Respondent in this appeal was filed on.....in the Bar Council
of.....

The Bar council referred the Complaint for enquiry to its Disciplinary
Committee on.....The Disciplinary Committee of the
Bar Council to which the matter was referred has dismissed the complaint/
made an Order for punishment against the advocate, reprimanding him/
suspending him/removing his name.

4. The Committee has passed no Order for costs/also passed an
order for costs of Rs.....payable by.....
to.....

5. The Order of the Disciplinary Committee will come into operation
w.e.f.....

6. The appellant has made no application to the Disciplinary Committee
of the State Bar Council of.....The appellant has made an
application before the Disciplinary Committee of the State Bar Council
of.....on.....which has made an Order for stay
upto...../which has dismissed the application for stay.

7. 6 copies of the Order of the Disciplinary Committee of the State
Bar Council on the Stay Application are filed with this appeal.

The order of the Disciplinary Committee of the Bar Council
of.....was received / communicated to the appellant
on.....

The appeal is in time / Not in time)

The appeal is filed after the period of limitation an application for condonation of delay supported by an affidavit is filed herewith.

The appellant has paid Rs. 100/- fee for the appeal on.....in cash /is paying Rs. 100/-.....

The appellant files this appeal for the following amongst other grounds :-

1..... 2..... 3..... etc.
Appellant / Advocate for
Appellant.

Place :

Date :

Enclosures :

1. Certified copy of the Order complained against with 5 extra copies.
2. Memo of grounds of appeal with 5 extra copies.
3. Application, if any, for stay with 5 extra copies.
4. Affidavit in support of application for stay with 5 extra copies.

FORM - H

(Under Rule 25 in Chapter I, Part VII)

(Subject to necessary modifications)

BEFORE THE DISCIPLINARY COMMITTEE(.....) OF THE BAR
COUNCIL OF INDIA

D.C. Appeal..... /19
against

Order of the Disciplinary Committee of Bar Council of
.....Dated.....in case / Complaint no.
.....In the matter of Shri.....Advocate.....

..... Appellant(s)

Versus

..... Respondent(s)

Notice of Appeal under Section 37 of the Advocates Act, 1961 and intimation of the date of hearing

WHEREAS an appeal has been filed by the appellant above named against the Order of the Disciplinary Committee of the State Bar Council of.....in Case / Complaint No.....dated.....

The parties to the appeal will please take notice that the hearing of the above appeal before the said Committee has been fixed for.....the.....at.....(Place).....at.....

If any of the parties to the appeal fail to appear in person or through advocate on the date of the hearing or any date on which it may be adjourned, the matter will be proceeded with *ex-parte*.

Please also take notice that stay of the operation of the Order filed against has been granted by Order of the Disciplinary Committee dated.....

.....
New Delhi
.....

Registrar
Disciplinary Committee,
Bar Council of India

Note : One copy of the grounds of appeal is sent to each of the respondents.

FORM - I

(Under Rule 29 in Chapter I, Part VII)

(Subject to necessary modifications)

DISCIPLINARY COMMITTEE(.....) OF THE BAR COUNCIL OF INDIA

.....(Chairman)
.....
.....

Miscellaneous Petition No.....(Stay)

IN

D.C. Appeal No.....

Appellant(s)

Vs

Respondent(s)

Dated the.....

Petition for stay and suspension of the operation of Order of the Disciplinary Committee of the Bar Council of.....in case / Complainant No.....dated.....suspending the petitioner from practice under Section 35(3) of the Advocates Act, 1961 for a period of..... pending the disposal of the appeal filed against the said Order.

ORDER

The operation of the order of the Disciplinary Committee of the Bar Council of.....dated.....in Case / Complaint No.....is stayed.

By Order

Registrar,
Disciplinary Committee of
The Bar Council of India

FORM - J - 1

(Under Rule 35 (2) in Chapter I, Part VII)

BEFORE THE DISCIPLINARY COMMITTEE OF THE BAR COUNCIL
OF.....ORIGINAL
JURISDICTION (To be added in matter before the Bar Council of India)

Complaint / Case No.....19.....

(On a complaint made by Shri.....(Address)

Complainant(s)

(Name & address)

Vs.

Respondent(s)

(Name & address)

.....19 (Date)

Present :-

Shri.....(Chairman)

Shri.....(Member)

Shri.....(Member)

For the Complainant; Shri....., Advocate in / person

For the Respondent; Shri....., Advocate in / person

The Case above mentioned being called on for hearing before the Disciplinary Committee of the Bar Council of.....on the.....day of.....19....., UPON hearing Advocate for the Complainant / the Complainant in persons AND Advocate for the Complainant / the Complainant in persons AND Advocate for the Respondent (Respondent in person) / Respondent not appearing either in person or through Counsel though served; the Disciplinary Committee of the Bar Council of.....determining (state the gist of the punishment) DOTH ORDER :

That the Complaint / Case be and the same is hereby dismissed / allowed.

That there shall be no order as to costs;

That the Complainant / Respondent Do pay to the Respondent / Complainant herein the sum of Rs...../- (Rupees.....(inwords) being the costs incurred in the Bar Council of..... within.....month from the date of this order;

That this Order be punctually observed and carried into execution by all concerned;

WITNESS Shri.....Chairman of the Disciplinary Committee of the Bar Council of.....at.....this the.....day of.....19.....

Registrar

Disciplinary Committee of the
Bar Council of.....

FORM - J - 2

(Under Rule 35 (2) in Chapter I, Part VII)

THE DISCIPLINARY COMMITTEE OF THE BAR COUNCIL OF INDIA

D.C. Appeal No.....of 19.....

(On appeal from the Order dated the.....day of 19..... of
the Bar Council of.....in Case No.....of 19.....)

.....
Appellant(s)
(Name & address)

Vs.

.....
Respondent(s)
(Name & address)19 (Date)

Present :-

Shri.....(Chairman)

Shri.....(Member)

Shri.....(Member)

For the Complainant; Shri....., Advocate in / person

For the Respondent; Shri....., Advocate in / person

The appeal above mentioned being called on for hearing before the
Disciplinary Committee of the Bar Council of India on the.....day
of.....19....., UPON hearing Advocate for the appellant (the appellant
in person) AND Counsel for the Respondent (the Respondent in person) /
Respondent not appearing either in person or through Advocate though
served. The Disciplinary Committee of the Bar Council of India DOTH ORDER.

That the original order dated.....is hereby confirmed / set
aside / set modified as under :

That the Appeal be and the same is hereby dismissed / allowed;

That there shall be no order as to costs;

That the Appellant / Respondent DO pay to the Respondent / Appellant
herein the sum of Rs...../- [Rupees.....(in words)]
being the costs incurred in the Bar Council of India as well as the same of

Rs.....in words.....
being the costs incurred in the Bar Council of.....within
.....months from the date of this Order.

That this Order be punctually observed and carried into execution by
all concerned.

WITNESS Shri.....Chairman of the Disciplinary
Committee of the Bar Council of India at (Place) this the.....day
of.....19.....

Registrar
Disciplinary Committee of
The Bar Council of India.

CHAPTER - II

Review under Section 44 of the Act

1. An application for Review under Section 44 of the Act shall be in the form of a petition duly signed and supported by an affidavit accompanied by the prescribed fee and filed within 60 days from the date of the Order sought to be reviewed.
2. Every such application shall be accompanied by :
 - (a) a certified copy of the Order complained of,
 - (b) five additional copies of the application, affidavit and the order, and
 - (c) if there are more respondents than one, as many additional true copies as may be necessary.
3. Every such application shall set out the grounds on which the Review is sought and shall further state whether any proceeding in respect thereof was filed and is still pending or the result thereof as the case may be.
4. If a Disciplinary Committee of a Bar Council does not summarily reject the application under Section 44 of the Act, or wishes to exercise its

powers under Section 44 *suo motu*, the Secretary of a Bar Council shall issue as nearly as may be in the Form K at the end of this Chapter, notice to the parties and to the Advocate-General concerned or the Additional Solicitor-General of India in the case of the Bar Council of Delhi.

5. (1) If after the hearing referred to in Rule 4, the Disciplinary Committee of the State Bar Council does not dismiss the application, and decides that the application for review should be allowed, the copy of the Order along with the relevant record shall be sent to the Bar Council of India for approval.

(2) If the Bar Council of India approves the order of the State Bar Council the Disciplinary Committee of the State Bar Council shall communicate the Order to the parties, if the Bar Council of India does not approve it, the Disciplinary Committee of the State Bar Council shall make its order dismissing the application and inform the parties.
6. The decision of the Disciplinary Committee of the Bar Council of India on an application for Review of its Order shall be communicated to the parties.
7. In the proceedings under this Chapter, unless the Disciplinary Committee of the State Bar Council or the Bar Council of India, as the case may be, otherwise decides, the parties may appear by the Advocate who shall file a vakalatnama signed by the party.

FORM-K

Notice under Section 44 of the Advocates Act, read with Rule 4 in Chapter II, Part VII of the Rules Bar Council of India.

(Subject to the necessary modifications)

THE BAR COUNCIL OF.....
REVIEW APPLICATION...../19.....

..... Petitioner/s

..... Respondent/s

WHEREAS on the application of...../suo motu the
Disciplinary Committee of the Bar Council of.....having
considered that there are *prima facie* grounds for Review of the Order
made in Case No.....19.....on.....

The Respondent is informed that the said application will be heard by
the Disciplinary Committee of the Council of.....
on.....19.....at (time).....at (place).....
and that if the Respondent does not appear in person or through his
advocate on the said date or on such other date on which the hearing
may be adjourned, the matter will be heard and disposed of in his
absence.

Date this.....day of.....19.....
Office of the Bar Council of.....

Registrar,
Disciplinary Committee of the
Bar Council of India.

THE BAR COUNCIL OF GUJARAT

(Enrolment Rules)

(Rules framed under Section 28 (2) (d) read with Section 24 (1) (e) of the Advocates Act, 1961.)

- (1) A person who is otherwise qualified to be admitted as an Advocate but is either in full or part-time service or employment or is engaged in any trade, business or profession shall not be admitted as an Advocate.

"PROVIDED however that this rule shall not apply to

- (i) Any person who is a Law Officer of the Central Government or the Government of a State or of any Public Corporation or body constituted by statute. For the purpose of this clause a 'Law Officer' shall mean a person who is so designated by the terms of his appointment and who by the said term is required to act and/or plead in courts on behalf of his employer.
- (ii) Any person who is an Article Clerk of an Attorney.
- (iii) Any person who is an assistant to an Advocate or to an attorney who is an Advocate;
- (iv) Any person who is in service as a part-time professor, part-time lecturer or part-time teacher in law if the hours of his duty in the institution where he teaches law are not in conflict with the hours of his duty in the Court and if it is not inconsistent with the dignity of the profession. This shall be subject to such directions, if any, as may be issued by the Bar Council of India from time to time;
- (v) Any person who by virtue of being a member of a Hindu Joint Family has an interest in a Joint Hindu Family business, provided he does not take part in the management thereof; and
- (vi) Any other person or class of persons as the Bar Council may from time to time exempt after the approval of the Bar Council of India.

- (2) Every person applying to be admitted as an Advocate shall in his application make a declaration that he is not in full or part-time service or employment and that he is not engaged in any trade, business or profession contrary to the rules of the State Bar Council and of the Bar Council of India made under the Act. But in case he is in such full or part-time service or employment or is engaged in any trade, business

or profession he shall in the declaration disclose full particulars of his service, employment or engagement. He shall also undertake that if, after his admission as an Advocate, he accepts full or part-time service or employment or is engaged in any trade, business or profession disqualifying him from admission, he shall forthwith inform the Bar Council of such service or employment or engagement and shall cease to practise as an advocate, provided that the above undertaking shall not apply to a person who accepts service as a part-time professor, part-time lecturer or part-time teacher-in-law if the hours of his duty in the Court are not in conflict with the hours of his duty in the institution where he teaches law and if it is not inconsistent with the dignity of the profession. This shall be subject to such directions, if any as may be issued by the Bar Council of India from time to time.

- (3) Deleted;
- (4) A breach of the above-mentioned rules or any undertaking given in pursuance thereof shall amount to professional misconduct.
- (5) (1) The form of application for enrolment shall, subject to necessary modifications or additions as may be made when necessary, be ordinarily in prescribed form and be furnished to the applicant by the Bar Council of Gujarat on such payment as the Bar Council of Gujarat may fix for it.
- (2) The application shall be accompanied by the following :-
 - (a) A diploma or a certificate showing that the applicant has taken a degree in law of a University of India provided that a District Pleader applying for admission as an Advocate on the State Roll of Advocates may not be required to produce his law degree or diploma if the Enrolment Certificate granted to him by the High Court mentions his law degree.
 - (b) Certificate, in the form prescribed, as to his moral character and of fitness to be an Advocate on the Roll of Advocates of the Bar Council of Gujarat from at least two persons of respectability and position (not being his relations) preferably Advocates on the roll of the Bar Council of Gujarat. Where the applicant is a person already enrolled as a Vakil, Pleader or an Attorney, he shall not be required to produce such certificate.

- (c) A declaration in writing by the applicant that he will faithfully observe and abide by all rules made by the Bar Council and the Bar Council of India as amended from time to time for regulating the Conduct of Advocates on the State Roll and the Common Roll of India.
 - (d) A declaration as to whether the applicant has made any previous application for admission as a Advocate to any High Court and the result thereof.
 - (e) A declaration that he is a citizen of India or a national of a country.....where citizens of India, duly qualified, are permitted to practise in Law.
 - (f) A receipt from the Secretary of the Bar Council, that the applicant has paid the fee prescribed for enrolment under Section 24(1)(f).
 - (g) A declaration that the applicant has completed 21 years of his age on or before the day of the application.
 - (h) A declaration that the applicant is not in full or part-time, employment or service and is not engaged in any trade, business or profession except as provided in Rules 1 and 2 of the Rules of the State Bar Council made under Section 28(2) (d) and the Rules of the Bar Council of India.
 - (i) A declaration under Section 25.
 - (j) A declaration that the applicant had no previous conviction of any kind by any Court.
 - (k) A declaration that the applicant has not been adjudged insolvent by any Court.
 - (l) A declaration that the applicant has not been found guilty of any moral turpitude by any authority.
 - (m) The undertakings to be given in the following terms :-
- (A) I do hereby undertake that if after my admission as an Advocate I accept full or part-time service or I am engaged in any trade, business or profession (other than such as is exempted by the State Bar Council from the operation of this undertaking) I shall forthwith inform the Council of such employment or engagement and shall cease to practise as an Advocate.

- (B) I do hereby undertake that I shall not accept any employment which, in the opinion of the Bar Council, is derogatory to the status of an Advocate.
 - (C) I do hereby undertake that I shall furnish such other particulars as may be required for the purposes of the Enrolment Application.
 - (D) I do hereby undertake that I shall furnish particulars regarding the change of address of residence and place of practice.
 - (E) I do hereby undertake that I shall furnish the information as to the conviction, adjudgment as insolvent, any moral turpitude subsequent to the date of enrolment.
- (6) No enrolment certificate shall be corrected by the Bar Council except upon discovery of an error made by the Bar Council in writing its Certificate or upon being shown that an error has otherwise crept in which is likely to affect adversely the Advocate's right to practise. For correcting such errors no charge shall be collected from the Advocate.
- (7) Upon the advocate showing by an affidavit that he has lost his Enrolment Certificate issued to him by the Bar Council, the Bar Council shall issue to him a Duplicate Enrolment Certificate in conformity with the office copy of his original certificate maintained by the Bar Council or in conformity with the entries made in the State Roll in that behalf. A charge of Rs. 500/- shall be levied and collected from the Advocate so applying.
- (8) The applicant who is not a law graduate but who is a District Pleader and who applies for admission as an advocate on the State Roll under Section 24(3) of the Advocates Act, 1961 shall make a declaration stating that he has passed the Advocate's Examination held by the Bar Council prior to June, 1941 under its own rules which entitled him to be enrolled as an advocate under the Indian Bar Councils Act, 1926 and in any other case he shall state how he is entitled to be enrolled as an advocate.
- (9) A District Pleader applying for admission as an Advocate on the State Roll of Advocates shall surrender to the Bar Council his Enrolment Certificate issued to him by the High Court which enrolled him as a District Pleader and the Bar Council shall send it to the High Court for such action in respect thereof as the High Court thinks fit.

- (10) In the event of the Rule 2 coming into force, the Advocate shall deposit his Enrolment Certificate with the Bar Council as a mark of his having ceased to practise and it shall lie in deposit with the Council until the Advocate makes a declaration that the circumstances mentioned in the Rule 2 have ceased to exist and that he intends to resume his practise.
- (11) The Bar Council shall publish in the Official Gazette the names of the persons who are admitted by it to the State Roll under Section 24 of the Advocates Act or who cease to practise or who are suspended or removed from practise.
- (12) An applicant may be required to appear at his cost before the Enrolment Committee of the Bar Council for the purpose of furnishing such further and other particulars and undertakings as may be required by the Enrolment Committee for the purpose of its satisfaction.

THE BAR COUNCIL OF GUJARAT

(Rules under Section 28(2) (e) read with section 24(1) (f) of the Advocates Act, 1961.)

1. Any person applying to be admitted as an advocate on the Roll of advocates maintained by the Bar Council of Gujarat shall pay in one lump sum Rs. 750-00*/125-00 as required by Section 24(1) (f) of the Advocates Act, 1961.
2. The applicant shall pay or remit the said amount in cash or by a bank draft drawn in favour of and payable to the Bar Council of Gujarat and drawn on a bank in the city of Ahmedabad.

*** Amendment of Section 24.**

In Section 24 of the principal Act, in clause (f) of sub-section (1),-

- (i) in the opening portion, for the words "two hundred and fifty rupees", the words "six hundred rupees and to the Bar Council of India, one hundred and fifty rupees by way of bank draft drawn in favour of that Council" shall be substituted;
- (ii) in the proviso, for the words "one hundred and twenty-five rupees", the words "one hundred rupees and to the Bar Council of India, twenty-five rupees" shall be substituted".