

Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015¹

The Council considered the Draft Rules with regard to verification of Certificate and Place of Practice of Advocates and to repeal the Bar Council of India Certificate of Practice and Renewal Rules, 2014 and passed the following resolution:

Resolution No. 216/2014:

(e) The Council resolves to modify the Resolution No. 169 of 2014 (Item No. 276/2014), dated 17th October, 2014. The Council further resolves that Draft Rules with regard to Verification of Certificate and Place of Practice submitted by the sub-Committee be and is hereby approved. These new rules shall be named as Bar Council of India Certificate and place of Practice (Verification) Rules, 2015 depending on the year of its publication in the Gazette of India) and it shall come into force from the date of its publication in the Gazette of India. The Council further resolves to repeal Bar Council of India Certificate of Practice and Renewal Rules, 2014, accordingly the Bar Council of India Certificate of Practice Renewal Rules, 2014 stand repealed.

(f) Bar Council of India Certificate and Place of Practice (Verification) Rules have been framed in exercise of powers conferred on Bar Council of India by Section 49(1)(ag), 49(ah) and 49(i) of the Advocates Act, 1961 and in exercise of powers under Part V, Chapter 1, Rule 1(1) and 2 and Rule 2 of Bar Council of India Rules, Chapter III, sub-rules (3), (4) and Part IX Rules, 17, 18(h), 20, 22, 24 of Bar Council of India Rules.

Statement of Objects and Reasons.—The legal profession is an Honourable one and it has critical role to play in protecting and promoting the Civil and Constitutional rights of the people. An independent and fearless Bar is vital and crucial for sustaining and promoting a true and healthy democracy. The Bar which is subject to manipulation and influence from extraneous powers, howsoever mighty and esteemed they may be, cannot do justice either to the Legal Profession or to the Rule of Law. Bench and Bar are the two wheels of a chariot and one cannot function without the other. Sadly, this profession has fallen under a cloud.

In the Joint Meeting of the representatives of all State Bar Councils and Bar Council of India, concerns were raised by all that trend of Advocates switching over to other professions/services/business without any information to the State Bar Council has reached alarming proportions. This trend is endangering the legal profession as a whole. It has also made a dent in its sanctity and standards. Names of such advocates continue to be included in the "Roll of Advocates" being maintained by the State Bar Councils, notwithstanding the fact that they have left the legal profession or have since died. Though under Section 19 of the Advocates Act, the State Bar Councils are under legal obligation to send a copy of the Roll of Advocates prepared by it under Section 17 of the Act

1. Bar Council of India, Item No. 330/2014, dated January 12, 2015, published in the Gazette of India, Extra., Part III, Section 4, dated 13th January, 2015, pp. 13-26, No. 15.

the List of such advocates under Rule 20.4, the State Bar Council shall create and maintain a separate record of such Advocates with all particulars as to name, address, date of birth, date of enrolment, enrolment number, particulars of application for issuance/verification of Certificate of Practice, if any, and of its dismissal.

This record shall be updated regularly.

22.2 Every State Bar Council shall send to the Bar Council of India an authenticated soft copy of the record as maintained under Rule 22.1 every year.

22.3 All the Advocates whose Certificate of Practice are duly verified shall be issued a Certificate of Practice affixing his photograph and mentioning the period of its validity Form 'B'; And the State Bar Council shall also issue an Identity Card to such Advocates containing a xerox copy of his photograph and the period of its validity FORM 'D'. The Advocates would be supposed to carry it while practicing in Courts/Tribunals or other Forums, so that in case of demand by any Law Court/Authority or any Advocate or any Litigant or citizen one can easily establish that he is an Advocate.

22.4 An Advocate after getting the verified Certificate of Practice under these rules can appear before any Court of Law/Tribunal or other forum in India as per Section 30 of the Advocates Act subject to fulfilment of any condition imposed by any competent or Court of Law.

23. Updating of the electoral rolls of the State Bar Council for the purposes of elections.—On the publication of list of Non-Practicing Advocates under Rule 20.4 and after sending copy of such record to the Bar Council of India under Rule 22.2, the State Bar Councils shall start the process of preparation of electoral roll for elections to the State Bar Councils as per Chapter I, Part III of the Bar Council of India Rules. No State Bar Council shall undertake to prepare electoral roll or to conduct elections to the State Bar Councils unless the process of verification of Certificate of Practice and of identification of Non-Practicing Advocates is completed under these rules by publication of their names under Rule 20.4:

Provided that the election/s of the State Bar Council/s where a special committee/committees under Section 8-A of the Act is/are already functioning on the date of commencement of these rules, shall continue under the existing rules as if these rules have not been enforced. In such State Bar Councils, these rules shall come into force only after the new State Bar Council is constituted on the declaration/publication of the results of the elections.

The State Bar Councils are required to constitute various Committees for implementation of these rules. If any State Bar Council is proved to be deliberately slack unnecessarily in verification of Certificate of Practice and identification of Non-Practicing Advocates, then in that case Bar Council of India would be at Liberty to take appropriate action under the provisions of Advocates Act, 1961.

CHAPTER VIII
APPEAL, REVISION ETC.

24. Appellate Tribunal.—

24.1 There shall be an Appellate Tribunal for disposal of appeals under these rules with respect to each State Bar Council and such Tribunal shall comprise of the following members—

- (i) Two Members of the State Bar Council elected by the State Bar Council under Rule 44-A(2)(i) of Bar Council of India Rules under Part VI, Chapter II, Section (IV-A).
- (ii) One member of the State Bar Council from amongst the members of the Executive Committee to be nominated by the Chairman of the State Bar Council and another member nominated by the Member, Bar Council of India from the concerned State Bar Council.
- (iii) Member of the Bar Council of India from the concerned State Bar Council who shall be its Chairman;

24.2 That the quorum of the Appellate Tribunal shall be three members but no final order shall be passed unless the Chairman of the Appellate Tribunal is party thereto.

25. Appeal against order passed under Rule 13/Rule 20.2.—That in case the application of an Advocate for verification of Certificate of Practice is dismissed under Rule 13 of these rules/in case the name of an Advocate is ordered to be included in the list of "Non-Practicing Advocates" by the State Bar Council under Rule 20.2, the aggrieved party may, within a period of 60 days of the date of passing of the order or publication of the list of Non-Practicing Advocates under Rule 20.4, prefer an appeal against such order to the Appellate Tribunal but delay in filing the appeal can be condoned, if sufficient cause is shown for such delay.

Every such appeal shall be accompanied by an attested copy of the impugned order. The appeal shall not be received and entertained unless it is accompanied by a fee of Rs. 200 in the form of a Bank Draft/Account Payee Bank Cheque favouring Secretary, State Bar Council of the concerned State Bar Council.

Out of this amount of Rs. 200, the Secretary, State Bar Council shall send/ deposit remit a sum of Rs. 50 to the Account of the Bar Council of India and a sum of Rs. 50 shall be transferred to the fund known as "Fund for Promotion Bar Associations" under these rules.

Every such appeal shall be heard by the Appellate Tribunal, which may pass such order there on as it deems fit. Appeal is to be decided expeditiously preferably within 90 days of its filing.

26. Stay of operation of order passed under Rule 13 and Rule 19.2.—Mere filing of an appeal against order passed under Rules, 13 and 20.2 shall not operate to stay the operation of order appealed against unless its operation is stayed by the Appellate Tribunal on such conditions as it may deem fit.

27. Power of Revision.—

27.1 The Bar Council of India may, at any time, call for the record of any proceeding under these rules which has been disposed of by the State Bar Council or by the Appellate Tribunal, and from which no appeal lies, for the purpose of satisfying itself as to the legality and propriety of such order or disposal and may pass such orders in relation thereto as it may deem fit.

This revision shall be under Part II, Chapter IX of BCI Rules viz. Section 48-A of the Advocates Act, 1961.

27.2 No order which prejudicially affects any Advocate shall be passed under this rule unless an opportunity of being heard has been afforded to him.

CHAPTER IX**RESUMPTION OF PRACTICE****28. Resumption of Practice.—**

28.1 If an advocate whose name has been included in the "list of Non-Practicing Advocates" published under Rule 20.4, intends to resume law practice in the changed circumstances, he may apply to the State Bar Council that his/her name may be taken out of such list.

28.2 Application for resumption shall be made in Form C along with resumption fee of Rs. 2000 and declaration.

Such an application shall be supported by a certificate in Column III of Form A issued by the President/Secretary of the Bar Association, of which the applicant intends to become member for doing practice in law.

28.3 The State Bar Council shall refer such an application for resumption to the Administrative Committee which may pass an appropriate order allowing or dismissing such application provided that such an application shall be allowed only if the Administrative Committee is satisfied that the intent of the applicant to resume law practice is bona fide.

28.4 In case application for resumption is allowed, the name of the applicant shall be taken out of the list of the "Non-Practicing Advocates" and such exclusion shall be duly notified and published as provided by Rule 20.3 qua "list of Non-Practicing Advocates".

28.5 That from the date of publication under Rule 28.4, all disabilities suffered by the applicant under Rule 21, shall not survive but he/she shall not be entitled for any benefits/privileges that were denied to him under Rule 21 for the period his/her name remained in the "list of Non-Practicing Advocates".

28.6 Out of Rs. 2000, a sum of Rs. 1000 shall be utilised by State Bar Council for the purpose of welfare of Advocates and Rs. 500 shall be transferred to the concerned Bar Association and Rs. 500 shall be utilized by Bar Council of India for the welfare of Advocates.

18.2 All such advocates whose name/names have been included in the list of "defaulting advocates" shall be given due notice of the fact that their name/names stood included in the above list and further notice of this list shall also be given in the following manner:

- (i) One copy of such List shall be displayed outside the Office of the Bar Council;
- (ii) Copies of such list shall also be sent to such District/Tauka Bar Association/s to which such advocate/advocates belong as per the address last disclosed by him/her and also to the concerned High Court/Supreme Court Bar Association;
- (iii) A letter of intimation that his/her name stands included in such list shall also be sent to the defaulting advocate at the address last disclosed by him/her under Registered Post.
- (iv) This List shall also be published by the State Bar Council as per law.

19. Late Applications after publication under Rule 18.—If an application for issuance/verification of Certificate of Practice is received by the State Bar Council within a period of 6 months of the publication of the aforesaid list of defaulting advocates under clause (iv) of Rule 18, it shall be accompanied by such late fee and penalties as are specified by Rules, 10 to 12 of these rules.

All such applications shall be processed by the office as per the procedure laid down by Rules, 10 to 12 and thereafter order on such applications shall be obtained under Rule 13 and such order shall be given effect to as per these rules.

20. Consequences of failure to respond and publication of "list of Non-Practicing Advocates".—

20.1 That if no application for issuance/verification of Certificate of Practice is made under these rules or if an application is filed but defects are not removed as per Rule 17, it shall be presumed for the purposes of these rules that such an advocate has left law practice and that he/she has no bona fide intent and interest in continuing it in future also.

20.2 That on the expiry of a period of 6 months of the publication of such "List of Defaulting Advocates", the State Bar Council shall pass an order directing that the name/names of such advocate/advocates appearing "List of the Defaulting Advocates" be put in the list of "Non-Practicing Advocates".

20.3 That due notice of the list of "Non-Practicing Advocates" shall be given to the followings—

- (i) One copy of such List shall be sent to the Bar Council of India and to all other State Bar Councils.
- (ii) One copy of this list shall be sent to all the courts situated within the territorial limits of the State Bar Council and also to the concerned High Court. One copy shall be sent to Supreme Court of India also.

- (iii) Copies of such list shall also be sent to such District Bar Association/s to which such advocate/advocates belong as per the address last disclosed by him/her and also to the concerned High Court/Supreme Court Bar Association;

20.4 The List of Non-Practicing Advocates and name/names of advocates whose application for issuance/verification of Certificate of Practice stands dismissed under Rule 13 shall also be published by the State Bar Council as per law after such list/name/names is/are approved by the Bar Council of India.

List of such Non-Practicing Advocates is to be furnished by the concerned State Bar Council to Registrar of Supreme Court of India, Registrar of all the High Courts, Subordinate Courts of the States, Bar Association of Supreme Court of India and Bar Associations of all the High Courts and Subordinate Courts.

21. Non-Practicing Advocates as included in the list of “Non-Practicing Advocates” not entitled to practice law and to other privileges and rights:

21.1 From the date of publication of the aforesaid list of Non-Practicing Advocates, all such advocate/s whose name/names has/have been included in the aforesaid list, shall not be entitled to appear in any Court of Law, before any Tribunal or person legally authorized to take evidence and before any other authority or person before whom such advocate is by or under any law for the time being in force entitled to practice, notwithstanding the fact that name/names of such advocates is/are entered in the State Roll and that he is holding certificate of enrolment under Section 22 of the Advocates Act.

Further, name/s of such advocate/s shall not be included in the electoral roll for the purposes of elections to the State Bar Councils. Such an advocate/s shall cease to be a member of any Bar Association and further he/she shall not be entitled to cast vote/s in any elections of the Bar Associations.

The status and rights of such advocate/s “as advocate/s entitled to participate and receive benefits” under Welfare Schemes of Bar Council of India created under Rules, 40 to 44-B of Section IV-A of Chapter II contained in Part VI of the Bar Council of India Rules and other schemes floated by the State Bar Council shall come to an end w.e.f. the date of publication of the List/name/names of Non-Practicing Advocates under Rule 20.4 with the exception that such an advocate would be entitled to receive such benefits under the relevant scheme/s, if any, which have already accrued in his/her favour.

CHAPTER VII

**UPDATING OF THE RECORD OF PRACTICING
AND NON-PRACTISING ADVOCATES**

22. Record with respect to Practicing and Non-Practicing Advocates.—

22.1 That on culmination of the initial process of identification of Non-Practicing Advocates in the aforesaid manner in the publication of

clauses (i), (ii) and (iv) of Rule 8.4 and the same may be submitted as per Rule 8.5.

10. Delayed application with late fee.—That all the applications for verification of "Certificate of Practice" filed after the time fixed by Rule 8/Rule 9.1 of these rules shall not be received by the Office/Secretary unless it is accompanied by late fee in the sum of Rs. 100 (One Hundred only) and such late applications would be entertained only for a period of six (6) months.

11. Delayed application for verification with penalty clause.—That all applications for verification of Certificate of Practice filed after the period fixed under Rule 10 shall not be received and processed by the Office/Secretary unless it is accompanied by a penalty fee of Rs. 50 (Rupees Fifty only) per month reckoned from the last date on which such an application ought to have been made under Rule 10 of these rules but such late application with penalty clause attached thereto would be entertained only for a period of six (6) months.

12. Incomplete and faulty applications.—That in case, the applications so received, are found to be incomplete/faulty, the Office of State Bar Council shall intimate the concerned advocate of such shortcomings/defects by issuing letter under Registered Post and such applications shall be processed further by the office on removal of such shortcomings/defects.

The time taken to remove such shortcomings/defects by the concerned applicant may be counted towards late fee payable by the concerned advocate at the rate of Rs. 100 per month unless it is waived by the Chairman/Vice-Chairman of the State Bar Council in case sufficient cause is shown for such delay.

13. Order on the application for verification of Certificate of Practice.—That every application for verification of Certificate of Practice and place of Practice received shall be scrutinized by the office within a period of one month from the date of its receipt and if found in order, it shall be placed along with the personal file of the applicant before the Administrative Committee, for passing the requisite order allowing or dismissing the application.

Such application is liable to be dismissed only in case it is found that the advocate has left law practice and that he/she has no bona fide intent and interest in continuing it in future also and such an advocate shall be treated as a Non-Practicing Advocate under these rules.

No adverse order can be passed under this rule unless a reasonable opportunity of being heard is afforded to the applicant.

14. Objection Petition.—

14.1 An advocate or any person may file an objection petition before the State Bar Council seeking to add the name/names of an advocate/advocates in the List of Non-Practicing Advocates on the ground that such an advocate has left law practice and that he/she has no bona fide intent and interest in continuing it in future also.

- 14.2 Rule A. I(1) and Rule A. I(2) of Chapter I of Part VII of the Bar Council of India Rules relating to complaints under Section 35 of the Advocates Act shall, mutatis mutandis, apply to these objection petitions except that such objection petition shall be accompanied by a security amount of Rs. 1000 and not such fee as is prescribed in the aforesaid rules relating to complaints under Section 35 of the Advocate Act.
- 14.3 That in case the State Bar Council finds that there is a prima facie case in favour of the applicant; it shall refer it for decision to its Administrative Committee.
- 14.4 That the "Administrative Committee" of the State Bar Council shall decide and dispose of such an objection petition along with application for issuance/verification of Certificate of Practice of the concerned advocate, if any. But if no such proceedings are pending, such objection petition shall be decided independently.
Such procedure as is applicable to complaints under Section 35 of the Advocates Act shall apply, mutatis mutandis, to proceedings under this rule.
- 14.5. That in case the complaint is found to be vexatious, frivolous and mala fide, the security amount deposited with the objection petition shall be forfeited to the State Bar Council.
- 14.6 The "Administrative Committee" shall be required to decide the objection petitions within a period of 15 days from the date of objection.

Explanation.—⁴[However, the Advocates doing chamber practices, or engaged with some Law firms who are unable to file vakalatnamas in any court or forum shall also be entitled to apply for verification of their certificates and place of practice. They shall be required to file an affidavit stating that they are doing Legal practice and shall have to furnish at least proof to this effect. Those who are engaged in any registered law firm shall be required to obtain a certificate from the Law firm and submit it along with their applications form.]

CHAPTER V

FOLLOW UP ACTION

15. Follow up action of order passed under Rule 13.—

- 15.1 That immediately after the application for verification of Certificate of Practice is allowed under Rule 13 of these rules; the Office of the State Bar Council shall prepare the verified Certificate in FORM 'B' in duplicate duly signed by the Chairman of the State Bar Council and in

4. Subs. by Resolution No. 119/2015, dt. 6-6-2015 published in the Gazette of India, Extra., Part III, Section 4 dt. 13-7-2015. Prior to substitution it read as:

"Explanation.—However, the Advocates doing chamber practices, or engaged with some Law firms who are unable to file vakalatnamas in any court or forum shall also be entitled to apply for verification of their certificates and place of practice. They shall be required to file an affidavit stating that they are doing Legal practice and shall have to furnish at least proof to this effect. Those who are engaged in any registered law firm shall be required to obtain a certificate from the Law firm and submit it alongwith their applications form."

his absence by the Vice-Chairman of the State Bar Council or by such other member of the State Bar Council who is specifically authorized for the said purpose by the State Bar Council.

- 15.2 That one copy of such verified Certificate of Practice shall be dispatched to the advocate concerned under Registered Post AD without any delay and the other copy shall be kept in the personal file of the advocate. The State Bar Council shall also make rules and issue an Identity Card of such Advocates containing their photographs, which I-card shall be valid for a period of 5 years from the date of issuance and it shall be required to be produced at the time of voting election of State Bar Council or Bar Association.
- 15.3 That the State Bar Council shall maintain a separate Dispatch Register containing all the details as to the particulars of issuance/verification of the Certificate of Practice, original certificate of enrolment and full particulars of the advocate as to age, date of birth, address, e-mail id etc. This Register shall be maintained year wise in such manner as may be prescribed by the State Council.
- 15.4 Every State Bar Council shall send to the Bar Council of India an authenticated soft copy of the record maintained by it under Rule 15.3 every year.

CHAPTER VI

CONSEQUENCES OF ORDER U/R. 13 AND OF FAILURE TO MAKE APPLICATIONS

16. Consequence of dismissal of application under Rule 13.—In the event of dismissal of application under Rule 13, such consequences as are laid down by Rule 20.4 would follow.

17. Consequences of failure to make application as stipulated by Rules, 7 to 11.—That in case an advocate fails to make an application for verification of Certificate of Practice within such period/extended periods as provided for under Rules, 8 to 11 and in case he fails to remove the shortcomings/defects in his application despite intimation under Rule 12 for a period of 6 months, it shall, *prima facie*, be presumed that the such an advocate has left law practice and that he/she has no bona fide intent and interest in continuing it in future also.

18. Follow up action against advocates who fail to respond and fall within the ambit of Rule 17 and publication of “list of defaulting advocates”—

- 18.1 That the Office of the State Bar Council shall prepare a list of such defaulting advocate/advocates who has/have failed to apply for issuance/verification of Certificate of Practice within such period/extended period as provided for by these rules or have failed to remove shortcomings/defects in their applications despite intimation within the stipulated period of 6 months.

This list may be titled as the “List of the Defaulting Advocates”.

filing such Appeal/Revision beyond 60 days, if sufficient cause is shown by the appellant/petitioner.

CHAPTER IV

APPLICATIONS/ORDERS/OBJECTION PETITION WITH RESPECT TO GRANT/VERIFICATION OF CERTIFICATE AND PLACE OF PRACTICE

8. Application for verification of "Certificate to Practice and place of Practice" by advocates enrolled on or before June 12, 2010.—

- 8.1 An advocate graduating in law in Academic Year 2009-2010 (1st July, 2009 to 30th June, 2010) and thereafter, enrolled on the "Roll of Advocates" on or after June 12, 2010, is required to apply for issuance of "Certificate of Practice" under All India Bar Examination Rules, 2010 and for verification of such "Certificate of Practice" from the State Bar Council in which he/she is enrolled as an advocate under Rule 9.
- 8.2 An advocate having obtained graduate degree in law before the Academic Year 2010 enrolled on the "Roll of Advocates", is required to apply for verification of "Certificate of Practice and place of Practice" from the State Bar Council in which he/she is enrolled as an advocate under this rule within a period of 6 months of the enforcement of these rules/date of enrolment.
- 8.3 Every application for issuance of verified Certificate of Practice shall be submitted in the prescribed format as given in Form A Column I and Column II annexed with these rules disclosing all the necessary informations as required thereunder to the State Bar Council, with which he/she is enrolled.
- 8.4 Every such application shall be accompanied by the following documents, certificates, declaration, fee etc.—
 - (i) Verification fee/process fee in the sum of Rs. 100 (Rupees One hundred only) by way of Bank Drafts/Account payee bank cheque or cash in the name of—
 - (a) Secretary, State Bar Council, with which the applicant is enrolled (or it may be paid in cash also);Out of this Rs. 100, the Secretary, State Bar Council shall send a sum of Rs. 20 to the concerned Bar Association and Rs. 30 to Bar Council of India, rest Rs. 50 is to be kept in the Account of State Bar Council.
 - (ii) A declaration in the prescribed format as given in Column II of Form 'A' annexed with these rules;
 - (iii) Two passport size photographs duly attested by the President/Secretary of the Bar Association or by any other office bearer of the Association who is duly authorized for this purpose by the Bar Association, of which the applicant is a member, or by a member of the State Bar Council duly authorized by the State Bar Council or Bar Council of India;

R. 9]

- (iv) Certificate in Form A Column III issued by the President/Secretary or by any other office bearer of the Association, who is duly authorized for this purpose by the Bar Association/to the effect that the applicant advocate is a bona fide member of the concerned Bar Association and that he has not left law practice or by any member of State Bar Council duly authorized by State Bar Council or by the Bar Council of India.

In case, the applicant has been a member of different Bar Associations at different times since the issuance of certificate of enrolment under Section 22 of the Advocates Act, 1961, such certificates may be obtained from the Presidents/Secretaries of the different Bar Associations, of which the applicant remained a member, at different times.

In case, the certificate of enrolment under Section 22 of the Advocates Act, 1961 was granted more than five (5) years prior to the date of application, such certificate/certificates needs to be confined only to a period of five (5) years:

Provided that in case it is established at any stage that any such Authority has deliberately issued a certificate in Column III of Form 'A' even after knowing that the Advocate is not in practice, the State Bar Council will be at Liberty to take appropriate action against such Authority issuing such certificate.

- ³[(v) However, the State Bar Councils would be at liberty to make any change in the Verification/process fee as per their own requirements and necessities. But any such change shall be required to be approved by the Bar Council of India.]

- 8.5 That the aforesaid application may be filed by the applicant along with all the aforesaid documents either by hand in the Office of the State Bar Council against proper receipt or send to the Secretary under registered post or through the Bar Association, of which he/she is a member.

9. Application for Verification of Certificate of Practice issued by State Bar Council.—

- 9.1 The Certificate of Practice issued to an advocate under Rule 13 of these rules or under All India Bar Examination Rules and Verification thereof, shall be valid for a period of five years (5) years only and is liable to be verified every five (5) years by filing an application for verification in advance within a period of six (6) months, before the validity period of "Certificate of Practice" or of its verification, expires.

- 9.2 All such applications for verification shall be filed in the format as given in Form A annexed with these rules and it shall be accompanied by such documents, certificates, declaration, fee etc as are mentioned in

3. Ins. by Resolution No. 119/2015, dt. 6-6-2015 published in the Gazette of India, Extra., Part III, Section 4 dt. 13-7-2015.

R. 7]

practices law or intends to practice law. And if any Advocate does not intend to be a member of any Bar Association duly recognized by concerned State Bar Council, then he shall be required to intimate the same to the State Bar Council and he shall have to explain as to how shall he be getting the benefits of any welfare scheme floated by the State Bar Council or the Local Bar Association. The decision of State Bar Council shall be final in this regard.

- 6.2 In case an advocate leaves one Bar Association and joins another by reason of change of place of practice or by reason of change of field of law, he/she shall intimate such change with all the relevant particulars to the State Bar Council, of which he is a member.

Such fact of leaving as well as of joining shall be independently intimated to the aforesaid said Bar Council within a period of one month.

- 6.3 Bar Associations to apply to the respective Bar Council within whose jurisdiction they are located, for being recognized under these rules. Recognition shall be accorded to such a Bar Association only which falls within the definition of Bar Association as defined in these rules.

CHAPTER III

7.1 If it comes to the notice of the Council through any source that any office-bearer of any Bar Association or any Advocate is involved in making unnecessary, baseless and deliberate protests/objections in the process of identification of fake persons (involved in Legal profession) or in the identification of Non-Practicing Advocates (who are doing some other job, business etc.) and/or making any attempt to mislead the Advocates of his Association or State by making irresponsible statements with ill motive to create hurdle in implementation of these reformative rules, a Tribunal constituted by the Bar Council of India and the State Bar Council may pass an order debarring such Advocate or office-bearer from contesting the elections of Bar Association/State Bar Council for a period of three years from the date of passing of such order.

7.2 Any such order be passed only by a Tribunal consisting of one former Judge of any High Court (nominated by Bar Council of India) one senior Advocate and one Senior Member of State Bar Council (nominated by the Chairman and the Vice-Chairman of that Bar Council.) Hon'ble Former Judge of High Court shall be the Presiding Officer of the Tribunal and no adverse order can be passed by such Tribunal unless the concerned office-bearer/Advocate is given an opportunity of hearing. The decision of majority will prevail in such decision. The Tribunal shall have power to pass interim orders also.

The State Bar Council or Bar Council of India may refer the matters to such Tribunals and the Tribunal shall dispose of the matters expeditiously. There shall be a separate Tribunal for each State Bar Council.

7.3 An Appeal/Revision shall lie before the Bar Council of India against any order passed by the said Tribunal, if preferred within a period of 60 days from the date of order. However, the Council shall have the power to condone the delay in

- (i) "Administrative Committee" shall mean a committee comprising of three members of the State Council, constituted by the State Bar Council by way of election, for discharging such functions and duties as are entrusted to it under these rules. There may be more than one such Committee depending upon the work load of a particular State Bar Council.
- (j) A Non-Practicing Advocate means an Advocate enrolled with any State Bar Council, but is not in actual practice of Law and is engaged in some other public or private job, business, contract etc. not related to Legal profession: and who has been so declared under Rule 13 and Rule 20.2 of these rules and whose name stands published under Rule 20.4.
- (k) Fake Person is a person who is involved in practicing in Courts of Law/ Tribunals or other Legal forums without having a valid Degree in Law (without any enrolment in any State Bar Council) and use to appear in such Courts, Tribunals or Forums illegally posing him as an Advocate.
- (l) All terms and phrases used in these rules shall have the same meaning as they have under the Advocates Act, 1961, unless the context in which such words and phrases are used, expressly suggest to the contrary.

5. Necessity of "Certificate of Practice".—An advocate shall not be entitled to practice law unless he holds a valid and verified certificate of practice issued either under All India Bar Examination Rules or under these rules.

This disability to practice law would come into force only when the name/ names of such advocate/s is/are published under Rule 20.4.

5(a). Exemption of certain categories of Advocates.—²[However, the senior Advocates designated under Section 16 of the Advocates Act and Advocates on Record of Supreme Court of India are required to fill Form E for Senior Advocates and Form F(new) for Advocates on Records. They shall also be required to send two passport size photographs alongwith duly filled up forms to their respective Bar Associations or the concerned State Bar Council, so that their names could be included in electoral roll of State Bar Council. The senior Advocates shall be required to deposit a sum of Rs. 500 and the AORs shall deposit the fee to be decided by their respective State Bar Councils. All the State Bar Council shall be required to inform the Supreme Court Bar Association and the AOR Association of Supreme Court about the fee for verification of Certificate of Practice fixed by them forthwith.]

CHAPTER II

LOCAL BAR ASSOCIATIONS

6. Advocate to be a member of the Bar Association where he/she normally practices law.—

- 6.1 An advocate, after having obtained a Certificate of Enrolment under Section 22 of the Advocates Act, 1961, is required to get himself registered as a member of the Bar Association where he ordinarily

2. Subs. by Resolution No. 119/2015, dt. 6-6-2015 published in the Gazette of India, Extra., Part III. Section 4 dt. 13-7-2015.

CHAPTER I PRELIMINARY

1. **Short Title.**—These rules shall be called as the “Certificate and Place of Practice (Verification) Rules, 2015”.

2. **Extent.**—These rules will be applicable to all the advocates whose names appear on the State Rolls being maintained by the State Bar Councils under Section 17 of the Advocates Act, 1961.

3. **Date of commencement.**—These rules, except Rule 7 of Chapter III, shall come into force at once from the date of publication of these Rules in the Gazette of India. Rule 7 of Chapter III shall come into force on such date as the Bar Council of India may, by notification in the Gazette of India, appoint in this behalf.

4. Definitions.—

- (a) Act means the Advocates Act, 1961.
- (b) Advocate means an advocate whose name is entered in the Roll of Advocates being maintained by the State Bar Councils under Section 17 of the Advocates Act, 1961.
- (c) Certificate of Enrolment means the certificate of enrolment held by an advocate issued under Section 22 of the Advocates Act, 1961.
- (d) Certificate of Practice in relation to an advocate having obtained graduate degree in law before the Academic Year 2010 enrolled on the Roll of Advocates shall mean Certificate of Practice issued under Rule 13 and in relation to an advocate graduating in law in Academic Year 2009-2010 (1st July, 2009 to 30th June, 2010) and thereafter, enrolled on or after 12th day of June, 2010, Certificate of Practice means the “Certificate of Practice” issued under All India Bar Examination Rules or under Rule 13 of these rules or the enrolment certificate issued by the State Bar Council.
- (e) State Bar Council means the State Bar Councils as defined under Section 3(1)(a) of the Advocates Act, 1961.
- (f) Verification/process fee means the amount/s payable under these rules as fee and amount for processing of Application and its verification. This amount may be varied by the Bar Council of India from time to time and on such variation, the varied amount shall mean the fee.
- (g) Bar Association of a given area/town/city means an area/territory and court work based association of advocates, whether registered under the Societies Registration Act (Act No. XXI of 1860) or not having its area/territory defined in terms of the whole or part of the territorial jurisdiction of Courts/Tribunals/Persons or any other Authorities legally competent to take evidence before which its members ordinarily practice law and it includes Bar Association exclusively dealing in specific fields of law viz. Income Tax, Corporate Law, Central/State Excise Law etc. in relation to the authorities/tribunals/boards etc. thereunder.
- (h) “Roll of Advocates” means “roll” as defined in the Advocates Act.

and subsequent alterations/additions thereto but practically no State Bar Council has observed this mandatory provision of the Act up till now.

Under these circumstances it appears that a definite trend is visible that the control of Bar Associations and of other elected bodies under the Advocates Act is slipping out of the hands of the advocates who practice law. It is also being experienced that after Certificate of Enrolment is issued to an advocate, practically no communicative and continuing contact survives between him and the Council.

Under the existing state of affairs, All India Bar Examination introduced on the directions/ observations of the Supreme Court of India to improve the standard of legal profession has also failed to fully achieve its objective. Advocates enrolled with the State Bar Councils obtain "Provisional Certificate of Practice" (valid for 2 years) and thereafter most of them are practicing Law without caring to appear for All India Bar Examination and to pass it.

Various welfare schemes for advocates have been floated in India both under State Legislations as well as under various welfare schemes framed by different State Bar Councils and by Bar Council of India but benefits thereunder are being enjoyed by those also who have left the profession.

There is also an urgent need for laying down some conditions for practicing law in different courts so as to give due weightage and credence to experience. Before an advocate could practice law in higher courts, there is need that he is exposed to real court experience in lower courts/trial courts. This will help in integrating the whole judicial system from the perspective of the Bar.

Therefore, in order to achieve better and effective administrative and disciplinary control of the local Bar Associations, State Bar Councils and the Bar Council of India over the advocates entered on the Rolls of Advocates being maintained by different State Bar Councils under Section 22 of the Advocates Act and further in order to weed out advocates who have left practice, the Bar Council of India, in the exercise of powers conferred on it by Sections 49(1)(ag), 49(ah), 49(i) of the Advocates Act, 1961 and by all other enabling and residuary powers vested in it, had brought the rules titled "Bar Council of India Certificate of Practice and Renewal Rules, 2014" for the purposes of carrying into effect the provisions and objectives of the Act—

But in some of the places, the Advocates raised objection with regard to the word Renewal, though in fact it is not the renewal of enrolment, rather it aimed at periodical verification of the details of an Advocate already enrolled with some State Bar Council. The aim was/is only to verify the place where the Advocate normally practices, the Bar Association of which he is a member (if any), the address/e-mail id, enrolment number/year, the Institutions from which the Advocate has passed his Graduation and LL.B. The purpose is the maintenance of record of all the Advocates of the country; two passport size photographs of Advocate was/is also required to be furnished to the State Bar Council. The other object was/is also to introduce certain electoral reforms in the Bar Council/Bar Association elections, because in recent past, the Bar Council of India and the State Bar Councils have come across the cases of rigging in the polls and the allegations of bogus voting has now become frequent, since the State Bar Councils and/or majority of Bar Associations of the country have no record of the Advocates who died after enrolment or who joined other jobs, business or professions; the Bar Council of India being the regular of Legal profession and Legal education of the country has, therefore, decided to undertake the detailed verification and then to prepare a Voters' List along with recent photographs of the Advocate (Voter). The Council has framed these rules in the light of the verdict of Hon'ble Apex Court in the case of *Supreme Court Bar Association*. The Bar Council of India has already decided to develop the web-portal for this purpose to have full details of all the Advocates of the country, all the Institutions imparting Legal Education, details of Law students, the Law Teachers and details of all the Bar Associations. The detailed information and photograph is necessary for that purpose also. Furthermore, since some of the Bar Associations have raised baseless objection with regard to the sum of Rs. 500 as Practice Fee (as per them it is a heavy amount); the major portion (about Rs. 400) of this Rs. 400 was aimed (in 2014 Rules) for providing welfare schemes (like Insurance for Advocates and

their family members and improvement of infrastructure and Library of Bar Associations, Pensions etc.) But due to objection, now the Council has resolved to segregate this amount of Rs. 400 for welfare-schemes from the process fee of verification. Now only Rs. 100 is to be charged from the Advocates as Process fee and rest of Rs. 400 would be optional not mandatory, depending upon the decision of concerned State Bar Council and the concerned Advocate. Even from this process fee of Rs. 100, besides the expenditure incurred for undertaking the work of verification, the State Bar Council, Bar Associations and Bar Council of India are required to spend the rest of the amount for the improvement of infrastructures of Associations only. State Bar Councils shall be required to open and maintain a separate Bank Account for this purpose which would be audited every year. The report of Audit shall be sent to Bar Council of India and the Bar Association soon after the submission of report.

The Bar Council of India has also come to know that a number of fake (farzi) persons (without any Law Degree or enrolment certificate) are indulged in Legal practice and are cheating the Litigants, courts and other stake-holders; and neither the Bar Associations nor the concerned State Bar Councils have any control over such fake persons. Shockingly, it has come to the notice of the Council that at some places, the office bearers of Bar Associations or some vote-seekers knowingly make such people members and voters of their Associations with a motive to get their votes in the elections of Bar Associations or Bar Councils. Similarly, many persons, after getting enrolled as Advocates in any State Bar Council, get involve in property dealings, contract or switch over to some other business, profession or job and have no more concern with the Legal profession. Such "Non-Practicing Advocates" are sometimes being used by some of the office bearers/candidates for elections of Bar Associations or Bar Councils (only for their votes). But in fact, the Council has realized that such practice is degrading the standard of Legal profession, and this malpractice has to be stopped.

Few of the office-bearers/representatives of some of the Bar Associations had raised unnecessary objections and protests to these reformative steps. Such protests were/are only to serve their vested interests. Bar Council of India has to maintain the dignity and standard of Legal profession, we shall have to oust fake people from the court-campus and we shall have to identify the "Non-Practicing Advocates", (who are involved in other job, business or profession). We are to ensure that such Advocates do not involve in deciding the fate of our Associations and the Bar Councils; And such Advocates are not allowed to get any benefit of welfare schemes or to practice Legal profession so long they are in any other business, job or profession.

It is due to these reasons, the Council has decided to make provisions for identification of such fake persons and Non-Practicing Advocates. And the Council has also felt it necessary to discourage those Advocates who raise unnecessary protests with an intent to keep and protect the fake and/or Non-Practicing Advocates with an object to get their votes. Therefore, the Council has resolved to make suitable provisions in these rules so that if any Advocate is found to be indulged in making deliberate effort to—

- (i) Protect fake people practicing legal profession illegally
- (ii) to create any hurdle in identification of "Non-Practicing Advocates" and
- (iii) create any objection in verification of the Certificate of Practice, credentials, Place of Practice and details of Advocates, such Advocates would be debarred from contesting any election of Bar Association or Bar Council for a period of three years from the date of order to this effect.

Under the circumstances and for the abovementioned reasons, the Council has resolved to repeal the "Bar Council of India Certificate of Practice and Renewal Rules, 2014" and has made and passed the new "Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015", and has decided to implement it.

CHAPTER X PROCESS FEE FUND

29. The Verification/Process Fee Fund.—The State Bar Council shall open a separate account for this purpose to be operated jointly by the Chairman and Secretary of the State Bar Council.

29.1 That all the payments towards application verification fee, late fee and penalties payable under these rules shall be paid by way of bank drafts/ account payee bank cheques only in the name of Secretary, State Bar Council or it may also be deposited in cash to the Secretary, State Bar Council or it may also be deposited in cash to the Secretary, State Bar Council.

29.2 That the all the amount collected under these rules shall be utilised for the following purposes only—

(a) To meet the administrative and other expenses arising in connection with these rules;

The rest of amount shall be spent.

(b) To make contributions to different Bar Associations for the following purposes only—

(i) Establishing and improving Law libraries.

(ii) Improvement of infrastructure in the premises of the Bar Associations which is reserved for the common use of the advocates and to make such other contributions for promoting and strengthening the Bar Associations at the Taluka, District, High Court and Supreme Court levels as it may deem fit.

(iii) To promote welfare schemes for advocates. Such welfare schemes may include insurance of all kinds with respect to the advocates and their dependent members of the family; pension schemes, stipends for junior and disabled advocates, continued legal education/training of advocates.

CHAPTER XI MISCELLENIOUS

30. Removal of difficulties.—In case of any doubt or dispute as to the meaning, interpretation, execution of these rules arises, the Appellate Tribunal shall be the final authority to settle all such issues and its decision thereon shall be final.

31. Regulatory Powers.—The Bar Council of India shall have the right of issuing such regulations to the State Bar Council from time to time, as are necessary for the proper implementation and execution of these rules and such regulations shall be complied with by the State Bar Council in letter and spirit so that uniformity is maintained in the application of these rules throughout the country.

32. Power of Bar Council of India to form Ad-hoc Committees.—In case the term of elected members of any State Bar Council is likely to expire/expires due to delay in the process of identification of Non-Practicing Advocates under these rules or in case of delay in the preparation of the electoral roll for the elections to the State Bar Councils, the Bar Council of India shall constitute an ad-hoc Committee consisting of required number of elected members of the State Bar Council for smooth running of the State Bar Council and for expeditious execution of the aforesaid process. This ad hoc Committee of State Bar Council shall function under the Special Committee constituted under Section 8-A of the Act till the process of preparation of electoral roll as per Chapter I, Part III of the Bar Council of India Rules for the purpose of elections to the State Bar Council is completed.

33. Saving clause.—The Bar Council of India Certificate of Practice and Renewal Rules, 2014” are hereby repealed.

However, any certificate of the nature of Certificate of Practice as defined in those rules and verification/renewal thereof (by whatever name/manner or form they may have been issued/granted by the State Bar Councils) or under Bar Council of India Certificate of Practice Renewal Rules, 2014 and any other action taken/ order passed by the State Bar Council in connection with any such rule, before the enforcement of these rules, shall continue to be valid for a period of five years from the date of its issuance/renewal, but on the expiry of period of five years, such certificate issued by the State Bar Council is required to be verified under these rules.

34. Repeal of all Resolutions/Rules passed/framed either by any State Bar Council or by Bar Council of India.—Any Resolutions/Rules passed/framed by any State Bar Council or by Bar Council of India, which are inconsistent with these rules, shall stand repealed from the date on which these rules come into force.

35. The decision with regard to Rs. 500 or Rs. 200 (as the case may be) as paid by any Advocate as Practice fee as provided under Bar Council of India Certificate of Practice and Renewal Rules, 2014, prior to the date of commencement of these Rules of 2015, shall be taken by the concerned State Bar Council. Either after deducting Rs. 100 as Process/Verification fee the rest of Rs. 400 or Rs. 100 (as the case may be) is to be refunded to the Advocate or it may be utilised for the insurance of the Advocate and his family or for the benefit and welfare of concerned advocate. This decision is to be taken by the concerned State Bar Council only after obtaining option of concerned advocate.

NOTIFICATION

Bar Council of India, Extract of the minutes of meeting of the General Council of the Bar Council of India which was held on Sunday, 18th October, 2015, Resolution No. 264 /2015 Noti. No. Item No. 379/2015, dated 22nd January, 2016, published in the Gazette of India, Extra., Part III, Section 4, p. 1 No. 40.

Hon'ble Members Mr. Vijay Bhatt, Mr. Apurba Kumar Sharma, Mr. Dinesh Pathak, Mr. Bhoj Chander Thakur and Mr. Debi Prasad Dhal raised a question that the frequent meetings of the General House incur huge expenses and moreover the requisition meetings by the Members as per the Bar Council of India Rules should be rarest of the rare measure. The Rules Committee has also expressed its view that the rule with regard to a requisition meeting needs thorough change and there should be some criteria and reasons for any emergent meeting to be convened by the Hon'ble Chairman.

Accordingly, the Hon'ble Members have unanimously expressed their willingness to amend the Chapter-I, Part-II, Rule A of the Bar Council of India Rules. The Council accordingly resolved as follows—

The minimum time gap between the two meetings of General House shall be of 60 days. The same shall be the gap between two meetings of Executive Committees. There shall be no such time limit for the meeting of Sub-Committees or other Committees. However, the Chairman of the Council, if he thinks it necessary or emergent, may convene the meeting of General Body or of any other Committee for the reasons to be recorded.

Amendment of the Rule for requisition meetings:- If any member or members want to requisition a meeting of General Body of the House, at least 15 Members (elected) and one ex-officio members will have to give the requisition for such meeting in writing to the Chairman assigning the reasons and urgency for such meeting, and the Chairman shall convene the meeting on such requisition within a period of 30 days of the receipt of such requisition by him. If the Chairman fails to convene the meeting on such requisition, the Vice-Chairman shall convene it within a period of 15 days from the date of such refusal or failure (i.e. total period of 45 days from the date of receipt of requisition by Chairman). And if, even the Vice-Chairman fails or refuses to convene the meeting, then the Senior most member may convene the meeting. The quorum for any requisition meeting shall be atleast 17 in which at least one ex-officio member shall required to be be present, failing which it will not be a valid meeting. While for normal or emergent meetings of the General Body convened by the Chairman, the stands amended accordingly. The quorum will be 10 instead of 7. The quorum for the meetings of Executive Committee shall now be seven (7). The rule aforesaid stands amended accordingly.