

**RULES PRESCRIBING THE PROCEDURE TO BE FOLLOWED BY  
TRIBUNALS AND BY DISTRICT COURTS IN THE CONDUCT OF  
INQUIRIES REFERRED UNDER SECTION 10 OF THE INDIAN  
BAR COUNCILS ACT, 1926**

**38 of 1926**

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TRIBUNALS AND BY DISTRICT COURTS IN THE CONDUCT OF  
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BAR COUNCILS ACT, 1926**

In exercise of the powers conferred by sub-section (1) of Section 12 of the Indian Bar Councils Act, 1926, (Central Act XXXVIII of 1926) the following rules prescribing the procedure to be followed by Tribunals and by District Courts in the Conduct of Inquiries referred under Section 10 of the said Act, have been made by the High Court of Karnataka at Bangalore and are published for general information.

**1.** . :-

Upon a complaint that an Advocate has been guilty of misconduct being referred by the High Court to the Bar Council, the complaint and all affidavits and other documents annexed thereto shall be forwarded forthwith by the Bar Council to the President of the Tribunal.

**2.** . :-

(i) When the complaint has been made by a Court, the person if any, aggrieved by the alleged misconduct of the Advocate concerned may appear before the Tribunal to prosecute the complaint and may do so by an Advocate and shall be deemed the Prosecutor.

(ii) In default of such person so appearing to prosecute the complaint.

(a) The Bar Council may appear for such purpose and in that case may do so by an Advocate or Pleader and shall be deemed the Prosecutor;

(b) If the Bar Council shall not so appear all notices and other documents required by these rules to be served 2[by] the Advocate concerned shall be caused to be served upon the Secretary to the Bar Council or in such manner as the Tribunal may direct.

(iii) When any case has been referred to enquiry by the High Court on its own motion.

(a) the Bar Council may appear before the Tribunal to prosecute and in that case may do so either by an Advocate or Pleader and shall be deemed the Prosecutor;

(b) if the Bar Council shall not so appear all notices and other

documents required by the rules to be served [by] the Advocate concerned shall be caused to be served by the Secretary to the Bar Council or in such manner as the Tribunal may direct.

**3.** . :-

When the complaint has been made by a person other than the Court or by the Bar Council such person or the Bar Council respectively shall be entitled to appear before the Tribunal to prosecute the complaint and may do so by an Advocate or Pleader and shall be deemed the Prosecutor. If such person fails to appear before the Tribunal may, if it thinks fit, nominate some person, who may or may not be a member of the Council, to prosecute the complaint and the person so appointed shall be deemed the Prosecutor.

**4.** . :-

The President of the Tribunal shall fix a date, hour and place for the enquiry by the Tribunal which shall not be later than fourteen days from the receipt of the said complaint by him.

**5.** . :-

Not less than seven days before the day so fixed notice of the said date, hour and place shall be given by the Prosecutor to the Advocate concerned personally and there shall at the same time be delivered to him copies of the said complaint or the letter of reference when the High Court acts on its own motion, as the case may be, and of all affidavits or other documents annexed thereto.

**6.** . :-

On the date and at the hour and place so fixed the Tribunal shall assemble and if it shall appear that notice and copies referred to in Rule 5 have not been served as therein provided, the Tribunal shall adjourn the enquiry to a date then to be fixed and may direct that the said notice and copies shall be served by Registered post or otherwise as to the Tribunal may deem fit, provided, always that seven days' notice shall be given to the Advocate concerned.

**7.** . :-

(1) Not less than two days before the date or adjourned date fixed for the enquiry the Advocate concerned shall send to the Secretary to the Bar Council an explanation in writing signed by himself and an affidavit intended to be used on his behalf and copies thereof to the Prosecutor or his Advocate, if any, and the same shall be placed before the Tribunal on the date fixed for the enquiry.

(2) The Tribunal may from time to time adjourn the enquiry to allow compliance. If it should appear to the Tribunal that the Advocate is wilfully refraining from complying with the provisions of paragraph (1) of this rule the Tribunal may, after recording a finding to that effect, and after hearing such evidence for the prosecution as it deems necessary, forthwith return the proceedings to the High Court together with its report.

**8. . :-**

On the date or adjourned date fixed for the enquiry the Prosecutor or his Advocate shall place before the Tribunal any affidavit or affidavits in reply, intended to be used at the enquiry and shall cause copies thereof to be made and delivered to the Advocate concerned or to his Advocate, if any.

(1) The process issued by the President of the Tribunal shall be served on the parties or witnesses concerned through the District Judge within whose jurisdiction such parties or witnesses reside.

**9. . :-**

The Tribunal may adjourn the enquiry from time to time to a date and place to be fixed at the time of the adjournment and may make such orders and give such directions in regard to the enquiry and all matters relating thereto as it may think fit and shall make all such orders as may be necessary in regard to matters specified in the Indian Bar Councils Act, 1926, Section 13.

**10. . :-**

The Advocate concerned shall be entitled to appear at the enquiry by an Advocate or Pleader.

**11. . :-**

On the date or adjourned date fixed for the enquiry the Tribunal may.

(1) hear and determine the matter upon the affidavits and other documents, if any, filed as aforesaid, and for such purpose may in their discretion allow the deponents to be cross-examined on their affidavits; or

(2) hear and determine the matter upon oral evidence.

**12. . :-**

If the Tribunal shall decide to hear and determine the matter upon oral evidence the procedure generally shall be that followed at the

hearing of civil suits and in particular.

(1) Evidence shall be given in English language and be interpreted into that language in the case of vernacular witnesses and shall be taken down in such manner as the Tribunal may direct.

(2) The Advocate concerned shall be a competent witness on his own behalf and if examined he may be cross-examined by the Prosecutor or by the Advocate appearing to prosecute the enquiry on behalf of the Prosecutor.

**13.** . :-

The finding of the majority of the Tribunal shall be the finding of the Tribunal in case of a difference of opinion, provided that a dissentient member of the Tribunal may record his dissent by a note in writing.

**14.** . :-

The finding of the Tribunal shall be in writing and the same shall be forwarded with such note of dissent, if any, attached thereto the High Court in manner provided by the Indian Bar Councils Act, 1926, Section 12(2).

**15.** . :-

Generally and so far as may be, but without prejudice to the foregoing rules, the Tribunal shall observe the procedure prescribed by the Civil Procedure Code, 1908.

**16.** . :-

(i) When the complaint has been made by a Court the person, if any, aggrieved by the alleged misconduct of the Advocate concerned may appear before the District Court to prosecute the complaint and may do so by an Advocate or pleader entitled to appear in such Court and shall be deemed the prosecutor.

(ii) In default of such person so appearing to prosecute the complaint.

(a) The Government pleader may appear for such purpose and in that case may do so by an Advocate or pleader entitled to appear in such Court, and shall be deemed the prosecutor;

(b) If the Government pleader shall not so appear all notices and other documents required by these rules to be served upon the Advocate concerned shall be caused to be served as the District

Judge may direct.

Explanation. In the above section "Government Pleader" means any Government pleaders of the District or Districts within the jurisdiction of the District Judge.

**17.** . :-

When the complaint has been made by a person other than a Court or by the Bar Council such person or the Bar Council respectively shall be entitled to appear before the District Court to prosecute the complaint and may do so by an Advocate or pleader entitled to appear in such Court and shall be deemed the prosecutor.

**18.** . :-

The District Judge shall fix a date, hour and place for the enquiry which shall not be later than three weeks from the receipt of the said complaint by him.

**19.** . :-

Not less than seven days before the day so fixed notice of the said date, hour and place shall be given by the prosecutor to the Advocate concerned' personally and there shall at the same time be delivered to him copies of the said complaint and of all other affidavits and documents annexed thereto.

**20.** . :-

On the date and at the hour and place so fixed the Court shall sit and if it shall appear that the notice and copies referred to in Rule 5 have not been served as therein provided the District Judge shall adjourn the enquiry to a date then to be fixed and may direct that the said notice and copies shall be served by Registered post or otherwise as to him may seem fit provided always that seven days' notice shall be given to the Advocate concerned.

**21.** . :-

Not less than two days before the date or adjourned date fixed for the enquiry the Advocate concerned shall send to the District Judge an explanation in writing signed by himself and any affidavits intended to be used on his behalf and copies thereof to the prosecutor or his legal representative, if any, and the same shall be placed before the Court on the day fixed for the enquiry.

**22.** . :-

On the date or adjourned date fixed for the enquiry, the prosecutor or his Advocate shall place before the Court any affidavit or

affidavits in reply intended to be used at the enquiry and shall cause copies thereof to be made and delivered to the Advocate concerned or his legal representative.

**23. . :-**

The Court may adjourn the enquiry from time to time to a date and place to be fixed at the time of adjournment and may make such orders and give such directions in regard to the enquiry and all matters relating thereto as it may think fit and shall make all such orders as may be necessary in regard to matters specified in the Indian Bar Councils Act, 1926, Section 13.

**24. . :-**

The Advocate concerned shall be entitled to appear at the enquiry by an Advocate or pleader entitled to appear in such Court.

**25. . :-**

On the date or adjourned date fixed for the enquiry the Court may.

(1) hear and determine the matter upon the affidavits and other documents, if any, filed as aforesaid and for such purpose may in its discretion allow the deponents to be cross-examined on their affidavits; or

(2) hear and determine the matter upon oral evidence.

**26. . :-**

If the Court shall decide to hear and determine the matter upon oral evidence the procedure generally shall be that followed at the hearing of civil suits and in particular.

(1) Evidence shall be given in the English language and shall be interpreted into that language in the case of vernacular witnesses and shall be taken down in the manner prescribed for the recording of evidence in civil suits.

(2) The Advocate concerned shall be a competent witness on his own behalf and if examined he may be cross-examined by the prosecutor or by the Advocate or pleader appearing to prosecute the enquiry on behalf of the prosecutor.

**27. . :-**

The finding of the Court shall be in writing and the same shall be forwarded to the High Court in the manner provided by the Bar Council Act, 1926, Section 12(2).

**28.** . :-

Generally and so far as may be, but without prejudice to the foregoing rules, the Court shall observe the procedure prescribed by the Civil Procedure Code, 1908.