
MAHARASHTRA ADVOCATES WELFARE FUND REGULATIONS, 1983

CONTENTS

1. Short title and commencement
2. Definitions
3. Recognition and Registration of Bar Association
4. Application for Membership of the Fund
5. Payment of Admission Fee
6. Certificate for Admission to the Fund
7. Removal of member for non-payment of fees, etc
8. Printing and distribution stamps
9. Bar Council to keep records and accounts of stamps
10. Bar Association to keep records and accounts of Stamps
11. Collection of amounts due to the Fund
12. Investments of the Fund
13. Payments under section 17
14. Notice of meeting of Trustee Committee
15. Appeal to Bar Council
16. Exercise of appellate powers by Bar Council
17. Failure to intimate retirement in time
18. Benefits and amenities to Member Advocates
19. Re-admission of member to the Fund
20. Annual Report
21. Records to be maintained by Secretary

MAHARASHTRA ADVOCATES WELFARE FUND REGULATIONS, 1983

In exercise of the powers conferred by Section 28 of the Maharashtra Advocates Welfare Fund Act, 1981 (Mah. LXI of 1981), and of all other powers enabling it in that behalf, the Bar Council of Maharashtra, with the previous approval of the State Government, hereby makes the following Regulations, namely :

1. Short title and commencement :-

- (1) These regulations may be called the Maharashtra Advocates Welfare Fund Regulations, 1983.
- (2) They shall come into force with effect from 22nd December, 1983.

2. Definitions :-

In these regulations, unless the context otherwise requires :-

- (a) "Act" means the Maharashtra Advocate Welfare Fund Act, 1981;
- (b) "disabled Advocate" means an Advocate who is suffering from partial or permanent disablement;
- (c) "Form" means a form appended to these regulations;
- (d) "indigent Advocate" means an Advocate who is unable to maintain himself and his dependents by reason of his very little income from practice and other circumstances;
- (e) "Partial disablement" means where the disablement is of a part of body or of a temporary nature and such disablement which reduces an Advocate's capacity to practice as an Advocate which he was capable of undertaking before the time of disablement;

Provided that such disablement and the period during which it continued shall be certified by a registered medical practitioner:

(f) "practice" means to appear, plead and act for a party before a Court of law, a tribunal, or other authority or person authorised to take evidence on oath and to adjudicate or to decide disputes between the parties and acting as Commissioner or Arbitrator, giving advice and opinions on legal matters, and drafting, pleadings, deeds, instruments, documents, affidavits and performing Notarial acts:

(g) "section" means a section of the Act;

(h) "Total disablement" means such disablement as completely incapacitates a member from undertaking practice as an advocate which he was capable of performing before the date of disablement;

Provided that such disablement shall be certified by a registered medical practitioner;

(i) Words and expressions used in these regulations but not defined shall have the same meaning respectively assigned to them under the Act.

3. Recognition and Registration of Bar Association :-

(1) An application under section 14 may be made by an association of Advocates functioning in any Court or before any tribunal or

before any other authority or person legally authorised to take evidence or to adjudicate or decide any dispute to the Bar Council for recognition and registration of the Bar Association in Form No. 1 .

(2) Every such application shall be accompanied by a true copy of the Constitution, rules and bye-laws, if any , framed by such association registered or unregistered and an up-to-date current list of the members of the association showing their names, addresses, age, date of enrollment, names, addresses of the current President, Secretary and other office bearers. Such application shall be signed by the President and Secretary of the association on behalf of the association.

(3) The Bar Council shall ,after holding such enquiry as it deems necessary, issue a certificate of registration to the Bar Association applying for recognition and registration in Form No.11. Such certificate shall be signed by the Chairman of the Council and shall bear the Seal of the Bar Council.

(4) The Bar Council may recognise and register more than one Bar Association functioning in any Court or before any Tribunal or before any other authority specified in sub-section (1) of section 14 if different associations of Advocates by whatever name known are functioning in such Court or Tribunal for a long time due to historical reasons or otherwise, and it is deemed necessary and expedient to grant such recognition and registration for better implementation of the Act.

4. Application for Membership of the Fund :-

(1) An application for membership of the Fund shall be made by Advocate to the Trustee Committee in Form No. III. Such application shall be signed by the applicant and attested by either President, Vice-President or Secretary of the recognised Bar Association of which he is a member .

(2) In case an Advocate is a member of more than one Bar Association, he shall be entitled to apply for membership of the Fund only through one such Association as he may choose and the Advocate concerned shall state in his application for membership the Fund that he is restricting his application for membership as member of only one of the recognised Bar Associations.

5. Payment of Admission Fee :-

(1) Payment of application may be made either in cash or by money order or by means of a Demand Draft drawn in favor of Trustee Committee or by an accounts-payee cheque in favor of the Trustee Committee payable in Bombay. In case the cheque is drawn on a Bank outside Bombay, Bank's collection charges shall be added to the amount payable.

(2) An Advocate belonging to Scheduled Castes or Scheduled Tribes shall be entitled to similar facility available to other Advocates to pay the amount of application fee in four equal installments during the course of one year, if he so desires.

6. Certificate for Admission to the Fund :-

The Trustee Committee shall issue a certificate in Form. No. IV to the Advocate concerned on his admission as a member of the Fund. Such certificate shall be signed by the Chairman and bear the seal of the Trustee Committee.

7. Removal of member for non-payment of fees, etc :-

(1) An order removing the name of a member from the membership of the Fund shall be passed by the Trustee Committee on the ground of nonpayment of annual subscription or for any other sufficient cause after giving one month's notice to the members concerned in that behalf.

(2) The Trustee Committee may, if satisfied that any person has got himself admitted to the membership of the Fund by misrepresentation or suppression of any material fact or by fraud, remove the name of such person from the membership of the Fund after affording him an opportunity of being heard. On such removal all benefits accrued to such member by virtue of the provisions of the Act and these regulations shall stand forfeited.

8. Printing and distribution stamps :-

(1) The stamps shall be printed in such manner and at such place as may be decided by the Bar Council from time to time .

(2) Sale of stamps by the Bar Council shall be to the Bar Association on request made by the Bar Association.

(3) Purchase price of stamps by the Bar Association shall be made by means of crossed Demand Draft in favor of the Trustee Committee drawn on the Scheduled Bank in Bombay or by cash.

9. Bar Council to keep records and accounts of stamps :-

The Secretary of the Bar Council shall be the custodian of the stamps and he shall maintain the following records and registers, namely :-

I. Register showing the order placed for the printing of stamps:

II. Register showing the stock of stamps with the following heads:

(a) Serial number,

(b) Date,

(c) Opening stock,

(d) Receipt,

(e) Issue,

(f) Balance;

III. Day Book ;

IV. Ledger;

V. Cash Book :

VI. Receipt Book with inner foil and

VII. Such other registers and records as may be directed by the Bar Council from time to time.

10. Bar Association to keep records and accounts of Stamps :-

The President and the Secretary of every Bar Association shall be responsible to the Bar Council for the purpose of distribution of stamps to its members and shall maintain proper accounts pertaining to the same, and for this purpose maintain the following records and registers, namely :-

I. Register showing the stock of stamps with the following heads :-

(a) Serial number,

(b) Date,

(c) Opening stock,

(d) Receipt,

(e) Issue,

(f) Balance,

II. Day Book;

III. Ledger;

IV. Cash Book.

11. Collection of amounts due to the Fund :-

(1) The Bar Council shall pay to the Fund part of the application fee collected during a financial year before the 30th June of the succeeding financial year.

(2) The Secretary of the Trustee Committee shall collect all sums specified in sub-section (2) of section 3 and deposit the same in the Fund Accounts in the Bank forthwith.

(3) Separate accounts shall be maintained for the receipts under each of the clauses (a) to (k) of sub-section (2) and under sub-section (3) of sec. 3.

12. Investments of the Fund :-

All investments made pursuant to the provisions of sub-section (2) of section 12 shall be made in the name of the Trustee Committee under the joint signatures of the Chairman, the Secretary and the Treasurer.

13. Payments under section 17 :-

(1) An application for payment out of the Fund from any member of his nominees or his legal representatives, as the case may be, shall be made in Form No. VII.

(2) All disbursements of amounts payable under section 17 shall be by account-payee cheques signed by the treasurer and countersigned by the Chairman and the Secretary.

14. Notice of meeting of Trustee Committee :-

(1) Seven clear days notice shall be given for an ordinary meeting of the Trustee Committee .

(2) An urgent meeting may be called by the Chairman in his discretion by giving verbal notice of 24 hours. Such notice may be given by telephone, telegram or letter sent by post.

(3) The meeting of the Trustee Committee shall be held at the office of the Bar Council unless the Chairman otherwise directs.

15. Appeal to Bar Council :-

An appeal under section 22 shall be in Form No. VIII shall be verified in the manner provided therein.

16. Exercise of appellate powers by Bar Council :-

(1) The Bar Council may appoint an Appellate Committee of its members for exercise of appellate powers in respect of the Appeals under section 22. For facilitating early disposal of the Appeals, the Bar Council shall select the members of the Committee as it deems fit and such Committee shall consist of not less than 3 members. The decision of the Committee shall be the decision of the Bar Council. The Appellate Committee may decide matters either unanimously or by majority. No appeal shall be heard by the Appellate Committee unless at least two members of such committee are present for hearing.

(2) The Appellate Committee shall fix a date and place for the hearing of the Appeal and may, from time to time, adjourn the hearing.

(3) The Appellate Committee may

(a) before disposing of an appeal, make such further enquiry from the parties concerned or otherwise as it thinks fit. In case the Appellate Committee decides to hold any further enquiry in the matter, relevant material to be used for the purposes of the appeal shall be brought to the notice of the parties concerned with a view to giving them fair opportunity to make their submissions before the Appellate Committee in this behalf;

(b) pass interim orders including order of stay and issue such other interim directions as may be deemed just and proper;

(c) While disposing of an appeal, pass such orders as it thinks fit including an order of remand to the Trustee Committee with or without specific directions regarding disposal of the proceeding on remand:

(d) A copy of every order passed on appeal, certified as true and correct by the Secretary, shall be communicated to the Appellant and the Trustee Committee. Additional certified copy of order, however, may be supplied on application being filed along with requisite fee.

17. Failure to intimate retirement in time :-

If a member voluntarily suspends or ceases practice or retires he shall forward the necessary intimation to the Trustee Committee in Form No.XI. If he fails to intimate the fact thereof to the Trustee Committee within 15 days of such suspension or cessation or retirement as required by sub-section (12) of section 16. The Trustee Committee may reduce the amount payable to such member under section 17 according to the delay in giving such intimation at the rate of Rs. 50 per month.

18. Benefits and amenities to Member Advocates :-

(1) The Trustee Committee may provide the following other benefits and amenities including financial assistance to the members of the Fund under sub-clause (d) of sub-section (1) of section 23 :-

(a) in case a member is bed-ridden at home due to sickness necessitating cessation of practice for a period exceeding one month;

(b) in case of a member requiring to be hospitalised and is required to stay in hospital for medical treatment or for surgical operations or for investigations;

(c) in case of a member suffering from asthma, cancer, heart disease, leprosy or paralysis(partial or permanent),tuberculosis or suffering from disablement partial or permanent or any other disease, provided the member has not availed himself of the retirement benefit under section 17, the expenses incurred in respect of medical consultation, treatment, investigations, drugs and medicine and hospital expenses including surgical operation;

(d) for the higher education of the member concerned:

(e) for the education of the children of the member concerned:

(f) grant loan repayable with such interest as the Trustee Committee may, in its discretion think fit, to a member requiring medical treatment and illness of dependents.

(2) The Trustee Committee shall consider each application on its own, merits and may grant such application to such extent as is feasible only after it is satisfied that the application is genuine and the particulars disclosed therein are correct and having regard to the funds as its disposal.

(3)

(a) In case the member concerned has already incurred medical expenses for hospitalisation or other medical treatment and for education purposes, the member concerned shall produce original receipts or vouchers for the expenses actually incurred in support of his application in order to enable the Trustee Committee to consider and decide as to what extent the expenses should be reimbursed to the applicant.

(b) The Trustee Committee may enter into arrangements that hospitals, nursing homes, medical practitioners, Colleges, Universities, etc. with whom the applicant is concerned may be directed for the purposes of medical help and for higher education, as the case may be. The Trustee Committee may release the amount sanctioned wholly or in part directly to the hospital authorities or other individual or institute concerned. Similarly the Trustee Committee may forward the amount to the educational institute concerned in case the assistance is for higher education. In a fit and appropriate case, the Trustee Committee may pay any amount to the applicant in advance on his undertaking to utilise the same only for the purpose for which the amount is sanctioned. The Trustee Committee may do so on being assured by the member and after being satisfied about the bona fides of applicant and after examining the estimates from reputed medical practitioners and institutes for the hospitalisation, treatment or educational facility, as the case may be. The Trustee Committee shall use its discretion in these matters depending upon the urgency of the situation. It shall be open to the Trustee Committee to dispense with procedural matters for speeding up the disbursement of the amount in case it so thinks fit and proper.

(4) The Trustee Committee may grant such financial assistance or loan in the aforesaid cases from such funds in such manner as the Trustee Committee may think proper having regard to the funds at their disposal and having regard to the circumstances mentioned by the applicant in his application.

(5) Application for the aforesaid benefits and amenities shall be made in the Form No.IX or X, as the case may be.

(6) On receipt of an application, the Trustee Committee shall, by itself or through a sub-committee or by such other method or by the Bar Council or by the Bar Association concerned, make

necessary enquiries including whether the applicant deserves financial assistance and determine the extent of the assistance and aid required. The Trustee Committee shall be competent to examine the record in possession of the Bar Council or the Bar Association or any other person for the aforesaid purposes. The proceedings of the Trustee Committee or the sub-committee for the aforesaid purposes shall be treated as confidential.

(7) If an applicant makes any statement or furnishes any information which is discovered to be false to his knowledge, it shall amount to a professional misconduct.

(8) The Trustee Committee may in appropriate cases call upon the applicant to refund the financial assistance or aid fully or partly given to the applicant if the applicant had obtained assistance or aid by making material mis-statements or giving false information or by suppression of material fact or information or if after the grant of the assistance, there is a material change, in the opinion of the trustee committee, in the circumstances of the applicant. The decision of the Trustee Committee shall be final and conclusive and it shall be the obligation of the applicant to comply with the said decision. The Trustee Committee may, in its discretion, withdraw or vary the assistance from time to time.

19. Re-admission of member to the Fund :-

A member who has opted for retirement benefit under sub-section (3) and the proviso to section 17 may be re-admitted provided such member refunds the entire money he has received by way of retirement benefit. Application for re-admission under sub-section (8) of section 16 and under sub-section (3) of section 17 shall be in the Form No. VI.

20. Annual Report :-

The annual report for the year beginning from 1st January, to 31st December, of the year shall be prepared before the end of 30th June, of the following year and a copy of that report shall be submitted to the State Government as well as the Bar Council within 15 days after such report has been approved by the Trustee Committee.

21. Records to be maintained by Secretary :-

The Secretary of the Bar Council shall keep and maintain the following records and registers, namely :-

(i) The register of the registered Bar Associations requiring the

particulars under section 15, the number of members, increase or decreases in respect thereof and also the number of members of each Bar Associations who have become the members of the Fund.

(ii) A minute book of every meeting of the Trustee Committee as well as a separate minute book of every sub-committee appointed by the Trustee Committee.

(iii) A register of members wherein the date of application of the applicant, the date of his admission, the date of cessation of practice, date of retirement, date of death and other necessary columns in respect of annual fees shall be entered. The Register shall also contain a column as to when and how the admission fee has been paid and another column as to how when the annual subscription has been paid and other columns for various benefits given to such member. Such register shall also provide a blank column for remarks. The Register shall be maintained in Form No. V.

(iv) A day book which will show the day to day business which is transacted on behalf of the Trustee Committee. This book may be maintained for every quarter or for a year and it would form the basis for preparing annual statement of business under clause (i) of section 13.

(v) A register of the staff appointed by the Trustee Committee.

(vi) Maintenance of files, separately as far as possible in respect of each subject matter.

(vii) A record of the members who have retired and who have been paid compensation under section 17.

(viii) A register of members and other Advocates who have received financial assistance for medical treatment and for hospitalisation.

(ix) Register of members and other Advocates who have received financial assistance for educational facilities for the member as well as for his dependents.

(x) Register of Association who are receiving financial aid for maintaining better libraries.

(xi) Register of members who have received financial assistance on the ground that they are indigent or disabled or on other grounds. Such register shall contain the required information such as the

date of application, the date of grant, the date of refusal, the amount of facilities, amenities and assistance granted and repayment of loan, withdrawal of aid of assistance.

(xii) Record of the application of members for financial aid containing all particulars mentioned in Regulation 19.

(xiii) Register showing the instances and cases reported to the Bar Council for appropriate action under sub-section (3) of section 19.

(xiv) Register of Advocates appointed for the purposes of assisting the indigent persons before the Courts.

(xv) Register of Advocates appearing in legal aid matters rendered by the Bar Council or by the Central or State Government.

(xvi) Register of members appearing on behalf of the Bar Council or the Bar Associations which shall specify the matters in which the Advocate has appeared.

(xvii) Register of Advocates appointed for accused by the Court to help the Court as amicus curiae.

(xviii) A record of each case decided by the Trustee Committee against which an appeal lies to the Bar Council under section 22 together with the result of the appeal and other particulars.

(xix) A register for the group insurance of the members of Fund giving various particulars of each member of the group together with the premium payable, amount paid by a member, etc., and benefits and compensation given to such member.

(xx) A register of enquiries instituted and conducted by the Trustee Committee for the purposes of the Act.