

Company: Sol Infotech Pvt. Ltd.

Website: www.courtkutchehry.com

**Printed For:** 

Date: 19/10/2025

## The Bar Council of Maharashtra Vs M.V. Dabholkar and Others

# Civil Appeal No"s. 1461 to 1468 of 1974

Court: Supreme Court of India

Date of Decision: Oct. 3, 1975

**Acts Referred:** 

Bar Council of India Rules, 1975 â€" Rule 36#Advocates Act, 1961 â€" Section 35, 35(1), 35(3),

37(2), 38, 49(c)#Indian Bar Councils Act, 1926 â€" Section 10

Citation: AIR 1976 SC 242 : (1976) 2 SCC 291 : (1976) 2 SCR 48

Hon'ble Judges: V. R. Krishna Iyer, J; S. Murtaza Fazal Ali, J; R. S. Sarkaria, J; A. C. Gupta, J

Bench: Full Bench

**Advocate:** V.S. Desai, Vimal Dave and Kailash Mehata, for the Appellant; Zakuriddin F. Bootwala and Urmila Sirur, Advs.S.K. Sinha D.V. Patel and K.Hingorani, for the Respondent

Final Decision: Disposed Of

## **Judgement**

V.R. Krishna Iyer, J.

These appeals have filled us as much with deep sorrow as with pained surprise. The story of the alleged

"professional misconduct" and the insensitivity of the disciplinary authority to aberrant professional conduct have been the source of our distress, as

we will presently explain, after unfurling the factual canvas first.

2. The first chapter of the litigation in this Court related to the standing of the State Bar Council to appeal to this Court, u/s 38 of the Advocates

Act, 1961 (the Act, for short) against an appellate decision of the Disciplinary Tribunal appointed by the Bar Council of India. this Court upheld

the competence to appeal, thus leading us to the present stage of disposing of the eight cases on merits.

3. The epileptic episodes - what other epithet can adequately express the solicitation circus dramatised by the witnesses as practised by the panel

of advocate-respondents before us?-make us blush in the narration. For, after all, do we not all together belong to the "inner republic of bench and

bar"? The putative delinquents are lawyers practising in the criminal courts in Bombay City. Their profession ordains a high level of ethics as much

in the means as in the ends. Justice cannot be attained without the stream being pellucid throughout its course and that is of great public concern,

not merely professional care. Briefly expressed, these practitioners, according to testimony recorded by the State Disciplinary Tribunal, positioned

themselves at the entrance to the Magistrates" Courts, watchful of the arrival of potential litigants. At sight, they rushed towards the clients in an

ugly scrimmage to snatch the briefs, to lay claim to the engagements even by physical fight, to undercut fees, and by this unedifying exhibition,

sometimes carried even into the Bar Library, solicited and secured work for themselves. If these charges were true, any member of the Bar with

elementary ethics in his bosom would be outraged at his brethren"s conduct and yet, in reversal of the State Disciplinary Committee"s finding, the

appellate Tribunal at the national level appears to have entered a verdict, based on three-point formula, that this conduct, even if true, was, after all,

an attempt to solicit practice and did not cross the borderline of misconduct. The Bar Council of"" the State of Maharashtra (the appellant before

us) and the Bar Council of India which is a party-respondent, have expressed consternation at this view of the law of professional misconduct and

we share this alarm. Were this view right, it is difficult to call the legal profession noble. Were this understanding of deviant behavior sound, there is

little to distinguish between railway porters and legal practitioners although we do not mean to hurt the former and have mentioned a past practice,

to drive home our present point. We do not wish to dilate further on the evidence in so far as it concerns each of the respondent-advocates in view

of certain developments which we will presently notice. There are eight cases but we are relieved from dissecting the evidence against most of them

for reasons which we will hopefully and shortly state.

4. The Bar Council of Maharashtra, by its resolution No. 29, dated August 8, 1964 considered the complaint received from the High Court against

one Kelawala and 15 other Advocates among whom are those charged with professional misconduct and covered by the present appeals, u/s

35(1) of the Act, and presumably having reason to believe that the professional misconduct alleged required a further probe referred the case to its

disciplinary committee. This procedure is in due compliance with Section 35(1) of the Act and, although the respondent in C.A. 1467/74 (A.K.

Doshi) has contended that the resolution of the Bar Council does not ex facie disclose that it had reason to believe that the advocates involved

were guilty of professional misconduct, we see no merit in it. The requirement of "reason to believe" cannot be converted into a formalised

procedural road block, it being essentially a barrier against frivolous enquiries. It is implicit in the resolution of the Bar Council, when it says that it

has considered the complaint and decided to refer the matter to the disciplinary committee, that it had reason to believe, as prescribed by the

statute.

5. Such blanket reference to the disciplinary body, so far as we are concerned, related to the respondent in C.A. 1461/74 (Dhabolkar), C.A.

1462/74 (Bhagtani), C.A. 1463/74 (Talati), C.A. 1464/74 (Kelawala), C.A. 1465/74 (Dixit), C.A. 1466/74 (Mandalia), C.A. 1467/74 (Doshi)

and C.A. 1468/74 (Raisinghani). All the cases were tried together as a unified proceeding and disposed of by a common judgment by the

Disciplinary Committee, a methodology conducive to confusion and prejudice as we will explain later in this judgment. The respondents in the

various appeals before us were found guilty "of conduct which seriously lowers the reputation of the Bar in the eyes of the public" and they were

suspended from practising as Advocates for a period of three years. Appeals were carried to the Bar Council of India and, in accordance with the

statutory provision, they were referred to the Disciplinary Committee appointed by it u/s 37(2) of the Act. The Appellate Disciplinary Committee

heard the appeals and absolved them of professional misconduct. Aggrieved by this verdict of reversal, the Bar Council of Maharashtra has

appealed to this Court. The initial hurdle of locus standi has been surmounted, as stated earlier, we have been addressed arguments on the merits

by Shri V.S. Desai on behalf of the appellant. He has canvassed the correctness of the finding of fact in each case, although with varying degrees of

diffidence, but turned his forensic fusillade on the somewhat startling concept of professional misconduct adopted by that disciplinary Tribunal.

6. We will proceed to deal with each appeal separately so far as the factual foundation for the charges is concerned but discuss the legal question

later as it affects not merely the advocates ranged as respondents but the Bar in India and the public in the country. The profound regret of these

cases lies not only in the appellate disciplinary tribunals subversive view of the law of Professional conduct that attempted solicitation by snatching

briefs and caching clients is of no ethical moment, or contravention of the relevant provisions but also in the naive innocence of fair and speedy

procedure displayed by the State Disciplinary Tribunal in clubbing together various charges leveled against 16 advocates in one common trial,

mixing up the evidence against many, recording omnibus testimony slipshodly not maintaining a record of each day"s proceedings, examining

witnesses in he absence of some respondents, taking eight years to finish a trial involving depositions of four witnesses and the crowning piece,

omission to consider the evidence against each alleged delinquent individually in the semi Penal proceedings. True, a. statutory tribunal may

ordinarily regulate its procedure without too much rigidity, Sect to the rules of natural justice but large-scale disregard of well-known norms of fair

process makes us wonder whether some at least of the respondents have not been handicapped and whether justice may not be a casualty if the

tribunal is not alerted about its processual responsibilities. We have some observations to make about the Tribunals at the State and at the

appellate levels in the further stages of this judgment. However, we find it convenient to dispose of the appeals on the evidence on the assumption

that if, in fact, there have been snatching and fighting and like solicitation exercises indulged in by any of the respondents, such conduct is in gross

breach of professional behavior and invites punishment.

7. A case-by-case disposal is desirable and so we begin with Dabholkar (respondent in C.A. 1461/74) who appeared in person to plead in

defence. The evidence against him is far from satisfactory and suffers from generalised imputation of misconduct against a group of guilty lawyers.

To dissect and pick out is an erroneous process, except where individualised activities are clearly deposed to. Moreover, the only witness who

implicates him swears: "I have not seen him actually snatching away the papers. I did not hear the talk Mr. Dabholkar had with the persons".

Moreover, he was a senior public prosecutor. We also record the fact that he expressed distress as the arguments moved on. Apart from the

weak and mixed evidence against him, there is the circumstance that he is around 68 years old. With a ring of truth he submitted that he was too

old to continue his practice in the profession and had resolved to retire into the sequestered vale of life. He frankly admitted that, even apart from

the evidence, if there were any sins of the past, he would not pursue the path of professional impropriety hereafter having decided virtually to step

out of the Bar except for a limited purpose. He had just four cases left with him which he desired to complete, having received fees. He further

represented that he did not intend to accept any new briefs or appear in any Court except to the little extent that the Bombay Paints and Allied

Products Limited (Chembur, Bombay), a large company which occasionally engaged him in small cases chose to brief him. We are inclined to take

him at his word, particularly because he has put himself out of harm"s way by a clear assurance about his future plans. On the evidence, we

exonerate him from professional misconduct and otherwise we record his solemn statement to the Court.

8. Shri Bhagthani, respondent in Civil Appeal 1462/74, has not engaged counsel, nor appeared in person, but as we examined the evidence,

assisted by Shri Desai, we found precious little against him. That extinguishes the charge. No need therefore, arises for punishing him or reversing

the appellate Tribunal"s ac quittal.

9. The respondent in C.A. 1463/74 is Talati. He has been found "not guilty" in appeal but, as we perused the evidence, it became fairly clear that

some acts of misconduct had been made out, although the evidence suffered from omnibus implication. His counsel, Mr. Zakuriddin F. Bootwala.

however, made a submission which has moved us into showing some consideration for this respondent. Shri Zaki represented that his client had

stood the vexatious misfortune of a long, protracted, litigation before the two tribunals, and a later round in this Court when the question of locus

standi of the State Bar Council was gone into. He was in poor circumstances and had suffered considerably on this score. Further, he has given an

undertaking expressing unqualified regret for his deviant behavior and has prayed for the clemency of the Court, promising to turn a new leaf of

proper professional conduct, if he were permitted to practice. Taking note of the com passionate conspectus of circumstances attendant on his

case and in view of the tender of unconditional regret which expiates. In part, his guilt, we allow the appeal, but reduce the period of suspension

inflicted by way of punishment by the Maharashtra Tribunal from three years to a period up to December 31, this year (1975). In short, we find

him guilty and reluctantly restore the verdict of the original tribunal, but reduce the punishment to suspension from practice, as aforesaid.

10. The respondent in C.A. 1464/74 is Kelawala. His counsel Mr. Zaki, submitted that this practitioner had become purblind and was ready to

give an undertaking to the Court that he would no longer practice in the profession. While there is some evidence against him, an overall view of

the testimony does not persuade us to take a serious view of the case against him. Moreover, being old and near blind and having undertaken to

withdraw from the profession forever, it is but fair that he spends the evening years left to him without the stigma of gross misconduct. In this view,

we do not disturb the finding of the Disciplinary Committee of the Bar Council of India, but record the undertaking filed by Shri Zaki that his client

Kelawala will not practice the profession of law any longer.

11. The respondent in C.A. 1466/74 is Dixit for whom Shri Ganpule appeared Shri Desai for the appellant took us through the evidence against

this lawyer but fairly agreed that the evidence was, by any standard, inadequate to bring home the guilt of misconduct. We readily hold him rightly

absolved from professional misconduct.

12. The respondent in C.A. 1466/74 is Mandalia. He did not appear in person or through counsel. The reason is fairly obvious. The evidence is so

little that it is not possible nor proper to pick out with precision and assurance any particular "solicting" act to infer guilt. Shri Desai, for the

appellant, was fair enough to accede to this position. His exculpation cannot, therefore, be interfered with.

13. The only contesting respondent in Doshi-C.A. 1467/74. He contest his guilt and pursues his plea with righteous persistence and challenges the

evidence and its credibility projecting his grievance about processual improprieties. We will consider both these facts of his legitimate criticism

despite his cantankerous arguments which we have heard with forbearance, remembering that a party arguing his own case may, perhaps, not be

able to discipline himself to observe the minimal decorum that advocacy in Court obligates. The respondent displayed, as the proceedings in this

Court ran on, his art of irritating interruptions, his exercises in popping up and down headless of the Court"s admonition, and his skill in rambling

references to what was not on record. The fine art of advocacy suffers mayhem when irreverent men indelicately brush with it. The State Tribunal's

records reveal that Shri Doshi had not spared their patience or sense of pertinence. Having said all this, we are bound to examine the evidence

against him fairly. Such a scrutiny shows that the best witness Shri Shertukde, the President of the Bar Association and otherwise a respected

Member of the Bar, has not involved him in any malpractice. Even Shri Pathare, the only one to rope him in, merely gives omnibus testimony

ambivalent in places and unspecific about some, including Doshi. There is little else brought home with clarity against loquacious Doshi. To convict

him out of the vague lips of Pathare may perhaps be a credulous folly. The grouping of a number of advocates in a sort of mass trial has prejudiced

Shri Doshi, a consequence which could and should have been avoided. He has other grievances of denial of fair opportunity which we could not

verify for want of a daily diary or order sheet We are satisfied by a perusal of the record that this respondent has had an impressive background of

social service, commendable testimonials of his legal skills from competent persons and some law practice in various Courts and consultancy work

for social welfare institutions which are apt to dissuade him from the disreputable bouts in the "pathological" area of the Esplanade Police Courts in

Bombay. Even assuming that this over-zealous gentleman had exceeded the strict bounds of propriety, we are not satisfied that the charge of

professional misconduct, as laid, has been brought home to him. What we have observed about his conduct in this Court must serve as a sufficient

admonition to wean him away from improper conduct. We do not interfere with the exculpation secured by him before the appellate Tribunal

hopeful that he will canalize his professional energies in a more disciplined way to be useful to himself and, more importantly, to his "unsolicited"

clientele. After all, even a sinner has a future and given better court manners and less turbulent bellicosity, Shri Doshi appears to have a fair

professional weather ahead in the City. We hold him unblemished so far as the vice of solicitation is concerned, but caution him to refine himself in

advocacy.

14. Shri Raisinghani is the respondent in C.A. 1468/74. Shri V.S. Desai took us through the evidence against him and although he is 65 years old,

the evidence shows that he has "physically fought two rival advocates in the course of snatching the briefs from clients entering the Esplanade

criminal courts. One of these fights resulted in his trousers being torn and the other assault by him was on Mr. Mandalia, one of the respondents in

these appeals. Shri Mandalia had filed a complaint against Raisinghani but in the criminal court they lived down their earlier skirmish and

compounded the case. Be that as it may, we find that Shri Raisinghani is not merely an old man but a refugee from Pakistan who, leaving his

properties there, has migrated to Ahmedabad with his family. Apparently he is in penurious environs and stays in the refugee colony in Bombay,

incidentally attending to his claims to the properties left behind in Pakistan and acquiring some evacuee property in lieu of what he has lost. Staying

in Kalyan refugee Camp this lawyer, afflicted with distress and dotage, is also attending the Magistrate's Court to make a living. This

commiserative social milieu may not absolve him of the misconduct which, we are satisfied, the testimony in the case, has established. Even so, Shri

Raisinghani has appeared in person and has given an undertaking expressing remorse, praying to be shown clemency and assuring that, economic

pressure notwithstanding, he will not go anywhere near professional pollution in the last years of his practice at the Bar. We are inclined to take a

sympathetic view of his septuagenarian situation, record his apology and assurance, restore the verdict of guilt by the State Disciplinary Committee

but reduce the punitive part of it to a period of suspension until December 31, this year (1975).

15. Now to the legal issue bearing on canons of professional conduct. The rule of law cannot be built on the ruins of democracy, for where law

ends tyranny begins. If such be the keynote thought for the very survival of our Republic, the integral bond between the lawyer and the public is

unbreakable. And the vital role of the lawyer depends upon (his probity and professional life style. Be it remembered that the central function of the

legal profession is to promote the administration of justice. If the practice of law is thus a public utility of great implications and a monopoly is

statutorily granted by the nation, it obligates the lawyer to observe scrupulously those norms which make him worthy of the confidence of the

community in him as a vehicle of justice-social justice. The Bar cannot behave with doubtful scruples or strive to thrive on litigation. Canons of

conduct cannot be crystallised into rigid rules but felt by the collective conscience of the practitioners as right:

It must be a conscience alive to the proprieties and the improprieties incident to the discharge of a sacred public trust. It must be a conscience

governed by the rejection of self-interest and selfish ambition. It must be a conscience propelled by a consuming desire to play a leading role in the

fair and impartial administration of justice. to the end that public confidence may be kept undiminished at all times in the belief that we shall always

seek truth and justice in the preservation of the rule of law. It must be a conscience, not shaped by rigid rules of doubtful validity, but answerable

only to a moral code which would drive irresponsible judges from the profession. Without such a conscience, there should be no judge. and, we

may add, no lawyer.

Such is the high standard set for professional conduct as expounded by courts in this country and elsewhere.

16. These background observations will serve to size-up the grave misapprehension of the law of professional ethics by the tribunal appointed by

the Bar Council of India. The disciplinary body, acquitting everyone on non-violation of bounds of propriety argued:

Rule 36 (of the Bar Council of India on Standards of Professional Conduct and Etiquette) is as follows:

An Advocate shall not solicit work or advertise either directly, or indirectly whether by circular, advertisements, touts, personal communications.

interviews not warranted by personal relations, furnishing newspaper comments or procuring his photograph to be published in connection with

cases in which he has been engaged or concerned....

Hence, in order to be amenable to disciplinary jurisdiction, the Advocates must have (1) solicited work (2.) from a particular person (3) with

respect to a case. Unless all the three elements are satisfied, it cannot be said that an Advocate has acted beyond the standard of professional

conduct and etiquette. It has been stated that the conduct of the Advocate concerned did not conform to the highest standards of the legal

profession. It is not that everybody must conform to the highest standards of the legal profession. It is enough if an Advocate conforms to the

standards of professional conduct and etiquette as referred to in the rules.

#### $x \times x \times x$

He (witness Mantri) says further that 7 Advocates who are personally present today I have seen each of them standing either on the ground floor,

near the lift or on the first floor either near the lift or in the lobbies of the Esplanade Court and trying to solicit work from the persons coming to the

Esplanade Court. This mere attempt to solicit is nothing.

### XXXXX

In order to be within the mischief of Rule 36, not merely canvassing is enough, but canvassing mustbe for a case with the person who had not till

then engaged a lawyer. There is nothing to show either of these things; none of the persons who might have been subjected to these solicitations as

they are stated, have been examined to prove the case. Hence this evidence does not establish anything within Rule 36.... All that is necessary for

us to see is whether the three items referred to have been complied with and we find that they have not been complied with because we do not

know what was the nature of the communication, we do not know in connection with which case the solicitation took place and with whom the

conversation took place. Hence Mr. Shertukade's evidence is not sufficient for the purpose of taking any disciplinary action under Rule 36.

### XXXXX

Mr. Krishnarao V. Pathumdi is the first witness in this case (case of Raisinghani). He says: ""I had seen Kelawala, Mr. Baria, Mr. Raisinghani, Mr.

Bhagtani approaching the people visiting the Court and soliciting work from them"". This we have already stated is far below the requirement

required to be proved under Rule 36. He says that he had seen Mr. Rai singhani approaching people and soliciting work. He did not ascertain the

names of the persons who approached because it was not his business. But as stated above, this evidence does not establish the three elements

required to be proved under Rule 36 because we do not know what was the personal communication between him and the persons solicit ed. We

do not know whether it related to a case or not."" Then the next witness is Mr. Sitaram Gajanan Shertukade. In cross-examination by Mr.

Raisinghani he says: ""I have seen Mr. Raisinghani accosting people. I have seen Mr. Raisinghani snatching the papers from the hands of the

litigating public. I have seen this more than 10 times. The litigating public from whom the papers were snatched did not say anything that there was

a fight between Mr. Raisinghani and other lawyer over the papers which were snatched. I did not contact those persons from whom the papers

were snatched nor talked to them so so (sic) he was not concerned with this. Therefore his evidence cannot be sufficient.

(Emphasis, ours)

17. We may, illustratively, quote an excerpt from the evidence of the Bar Association President and onetime Bar Council Member Shri Shertukde

to show the injury to the profile of the profession the curious view of the disciplinary tribunal has inflicted:

I have seen Mr. Raisinghani accosting people. I.have seen Mr. Raisinghani snatching the papers from the hands of litigating public. I have seen this

more than 10 times.... There was a fight between Mr. Raisinghani and Mr. Baria. I made oral complaint to the C.P.M.I do not remember who was

present at that time. In that fight Mr. Raisinghani''s pant was torn.... There was assault by Mr. Raisinghani on Mr. Mandalia and I had advised Mr.

Mandalia to file a complaint against Mr. Raisinghani. Mr. Mandalia did file a case against Mr. Raisinghani but it was compounded.

18 How can a disciplinary authority, aware of its accountability to the Indian Bar, functioning as the stern monitor holding the punitive mace to

preserve professional purity and promote public commitment and appreciative of what is disgraceful, dishonourable and unbecoming, judged by

the standards of conduct set for this noble calling and deviations damaging to its public image, find its way to hold such horrendous misbehavior as

snatching, catching, fighting and under-cutting as not outraging the canons of conduct without exposing itself to the charge of dereliction of public

duty on the trisection of Rule 36 and blind to the law for lawyers"?

19. It has been universally understood, wherever there is an organised bar assisting in administering justice, that an attorney, solicitor, barrister or

advocate will be suspended or disbarred for soliciting legal business. And the "snatching" species of solicitation are more revolting than "ambulance

chasing", advertising and the like. If the learned profession is not a money-making trade or a scramble for porterage but a branch of the

administration of justice, the view of the appellate disciplinary tribunal is indefensible and deleterious. We, as a legal fraternity, must and shall live

up to the second and live down the first, by observance of high standards and dedication to the dynamic rule of law in a developing country.

20. It is unfortunate that the Maharashtra tribunal has slurred over vital procedural guidelines. Professional misconduct proscribed by Section 35 of

the Act has to be understood in the setting of a calling to which Lincoln, Gandhi, Lenin and a galaxy of great men belonged. The high moral tone

and the considerable public service the bar is associated with and its key role in the developmental and dispute-processing activities and, above all,

in the building up of a just society and constitutional order has earned for it a monopoly to practise law and an autonomy to regulate [its own

internal discipline. This heavy public trust should not be forfeited by legalising or licensing fights [for briefs, affrays in the rush towards clients,

under-cutting and wrangling among members. Indeed, we were scandalized when one of the respondents cited a decision under the Suppression of

Immoral Traffic Act to prove what is "soliciting". The odious attempt to equate by implication the standards for the two professions was given up

after we severely frowned on it. But the disciplinary tribunal"s view that an attempt to solicit did not matter, that professional misconduct rested

solely on Rule 36 of the Rules framed u/s 49(c) and that Rule 36 was made up of three components, shows how an orientation course in canons of

conduct and etiquette in the socio-ethical setting of the lawyer, the public and professional responsibility may be an educative asset to disciplinary

tribunals and Bar Councils which appoint tribunals and regulate professional conduct by rules. Cicero called the law "a noble profession", but

Frederick the Great described lawyers as "leeches. We agree that Rule 36, fairly construed, sets out wholesome rules of professional conduct

although the canons of ethics existed even prior to Rule 36 and the dissection of the said rule, the way it has been done by the disciplinary tribunal,

disfigures it. It is also clear that Rule 36 is not the only nidus of professional ethics.

21. Indeed, the State tribunal has, from a processual angle, fallen far short of norms like proper numbering of witnesses and exhibits, indexing and

avoidance of mixing up of all cases together, default in examination of the respondents, consideration, separately, of the circumstances of each

delinquent for convicting and sentencing purposes. More attention to the specificity in recording evidence against each deviant instead of testimonial

clubbing together of all the respondents, would have made the proceedings clearer, fairer and in keeping with court methodology, without over-

judicialised formalities. Indeed, the consolidation of 16 cases and trying them all jointly although the charges were different episodes, were

obviously violative of fair trial. And 8 years for an enquiry so simple and brief! We express the hope that improvement of this branch of law relating

to disciplinary proceedings will receive better attention from the Bar Council and the tribunal members. What prophylactic prescription can ensure

fundamentally fair hearing or due process better than by choosing persons of sense and sensibility familiar with the basics of trial procedure and

conscientious about avoidance of prejudice and delay? Rules may regulate, but men apply them Both are important

22. The appellate disciplinary tribunal was wholly wrong in applying Rule 36 which was promulgated only in 1965 while the alleged misconduct

took place earlier. What this tribunal forgot was that the legal profession in India has been with us even before the British and coming to decades of

this century, the provisions of Section 35 of the Advocates Act, Section 10 of the Bar Councils Act and other enactments regulating the conduct of

legal practitioners have not turned on the splitting up of the text of any rule but on the broad canons of ethics and high tone of behavior well

established by case-law and long accepted by the soul of the bar. Professional ethics were born with the organised bar, even as moral norms arose

with civilised society. The exercise in discovering the "three elements of Rule 36 was as unserviceable as it was supererogatory.

23. The rulings in 282428; 282157; In the matter of an Advocate 39304; 464662 were cited before us and no judge, nor lawyer will be in

doubt, even without study of case-law, that snatching briefs by standing at the door of the court house and in-fighting for this purpose is too

dishonourable, disgraceful and unbecoming to be approved even for other professions. Imagine two or three medical men manhandling a patient to

claim him as a client! The law has suffered at the hands of the appellate tribunal. Lest there should be lingering doubts, we hold that the canons of

ethics and propriety for the legal profession totally taboo conduct by way of soliciting, advertising, scrambling and other obnoxious practices,

subtle or clumsy, for betterment of legal business. Law is no trade briefs no merchandise and so the leaven of commercial competition or

procurement should not vulgarise the legal profession. Canon 27 of Professional Ethics of the American Bar Association states:

It is unprofessional to solicit professional employment by circulars, advertisements, through touters or by personal communications or interviews

not warranted by personal relations.

24. We wish to put beyond cavil the new call to the lawyer in the economic order. In the days ahead, legal aid to the poor and the weak, public

interest litigation and other rule-of-law responsibilities will demand a whole new range of responses from the bar or organised social groups with

lawyer members. Indeed, the hope of democracy is the dynamism of the new frontiersmen or the law in this developing area and what we have

observed against solicitation and alleged profit-making vices are distant from such free service to the community in the jural sector as part of the

profession"s tryst with the People of India.

25. It is a misfortune that a disciplinary body of a dimensionally great and growing public utility profession has lost its vision. blinkered by Rule 36

(as misconstrued and trisected by it). For the practice of law with expanding activist horizons, professional ethics cannot be contained in a Bar

Council rule nor in traditional cant in the books but in new canons of conscience which will command the members of the calling of justice to obey

rules of morality and utility, clear in the crystallized case-law and concrete when tested on the qualms of high norms-simple enough in given

situations, though involved when expressed in a single sentence. We but touch upon this call to the calling of law as more is not necessary in the

facts of these cases.

26. The law has thus been set right, the delinquents identified and dealt with, based on individualised deserts and the appeals are disposed of in the

trust that standards and sanctions befitting the national Bar will be maintained in such dignified and deterrent a manner that public confidence in this

arm of the justice-system is neither shaken nor shocked.

27. Parties will bear their costs throughout.