

THE BAR COUNCIL OF MAHARASHTRA & GOA

I. SCHEME FOR GRANTING FINANCIAL ASSISTANCE TO INDIGENT PRACTISING ADVOCATES WHEN SUFFERING FROM SERIOUS AILMENT

- (1) These rules shall be known as “Rules for grant of financial assistance to indigent practising Advocates suffering from serious ailment” and shall apply to all such practising Advocates on the roll of State Bar Council.
- (2) These rules shall come into force from the date of approval by the Bar Council of India.
- (3) Definitions :
 - (a) “Applicant” shall mean a practising Advocate on the roll of State Bar Council within whose jurisdiction, he is practising and who has paid all the subscription or the qualified installments of subscription on the date of application and who has made an application for financial assistance to the State Bar Council.
 - (b) “Bar Council of India” means the Bar Council constituted under Section 3 of the Advocates Act.
 - (c) “Bar Council of India Advocates Welfare Committee” means a committee constituted under Rule 44A(1) of the Bar Council of India Rules under Part VI, Chapter II, Section IV-A.
 - (d) “Bar Council of India Advocates Welfare Committee for the State” shall mean the Advocates Welfare Committee constituted for the

State under Rule 44A(2)(i) of the Bar Council of India Rules under Part VI, Chapter II, Section IV-A.

- (e) “Indigent Advocate” means any practising Advocate who is unable to practice for a period of one month or more and unable to maintain himself and his family during that period because of a serious accident or a serious ailment and also unable to meet the costs of treatment in case of such accident or serious ailment.
- (f) “Family” shall mean and include the wife of such Advocate who is eligible to apply and in case of a female, her husband who is unemployed. However, if the husband / wife of an Advocate is also qualified for benefits under the scheme, then he / she would not be entitled to get benefit. The family shall also include his or her minor children and unemployed / unmarried daughter, daughter who is divorcee or widow and who has not contracted second marriage.
- (g) “Fund” means fund constituted under the Bar Council of India Advocates Welfare Rules as contained under Part VI, Chapter II, Section IV-A of the Bar Council of India Rules for the scheme – Financial assistance to indigent practising Advocates when suffering from serious ailment in that State.
- (h) “Serious ailment” will include ailment of serious nature affecting brain, heart, lungs, abdomen or compound fracture or any part of the body requiring treatment for more than one month.
- (i) “State Bar Council” means the Bar Council constituted under Section 3 of the Advocates Act.

PROCEDURE

- (4)(I) Any indigent Advocate suffering from a serious ailment and who is otherwise eligible to apply shall make an application for appropriate financial assistance in the prescribed form or in a form similar to the prescribed form addressed to the Chairman of the State Bar Council in duplicate through the Managing Committee of the concerned Bar Association where he is practising and of which he is a member.
- (II) Such application shall be accompanied by a certificate certified by a doctor attending the applicant with necessary bills of the hospital / treatment.
- (III) On receipt of such application, the Managing Committee of the concerned Bar Association shall verify and scrutinize the application, certificate and bills and after its due satisfaction shall forward the same to the Chairman, State Bar Council along with its resolution.

Explanation : The State Bar Council on application or suo motu and on the information received from any member of the Bar Council shall also be entitled to receive application from applicant and in such case all the provisions for making application as envisaged in Rule 4(I) and (II) of Rule 4 hereinabove shall apply mutatis mutandis when the application is directly entertained by the State Bar Council and the State Bar Council may in its discretion call for the comments from the concerned Bar Association / Managing Committee of the Bar Association of which such applicant is a member.

- 4(A) On receipt of such application either through the Managing Committee of concerned Bar Association or directly by State Bar Council, the Secretary of Bar Council shall place the same before the Advocates Welfare Committee after satisfying due compliance for the purposes of sanction of the committee.
- (B) If the application is not in the proper form and with necessary accompaniments the Secretary shall call upon the concerned applicant to make necessary compliances within a period of 15 days and then forward the same to the welfare committee.
- (5) The Welfare Committee on such reference shall scrutinize the case of a concerned applicant and after satisfying itself as to the genuineness and need of applicant may sanction such amount as may be reasonable and necessary to meet the expenses of any such operation or a treatment connected with the serious ailment not exceeding Rs.15,000/- and may also sanction such monthly assistance to applicant towards the cost of treatment, medicine, and maintenance of applicant and his family for a period of three months at the rate not exceeding Rs.1,000/- per month or may even reject the same.
- Provided, however, that no applicant shall be entitled to claim benefit under the scheme from the State Bar Council for an amount exceeding Rs.15,000/- during his life time.
- (6) In case the Advocates Welfare Committee for the State considers in a given case that financial assistance is utmost necessary

beyond the limit, provided under Rule (5), it shall refer to the Bar Council of India with its comments.

The Advocates Welfare Committee of the Bar Council of India may sanction a sum upto Rs.10,000/- for treatment of the ailment.

- (7) The Bar Council of India may on the recommendation of the Advocates Welfare Committee and the recommendations of the State Bar Council may in an appropriate hard case sanction ex-gratia upto a sum of Rs.10,000/- from the fund of the Bar Council of India constituted under Rule 41(2) of the Bar Council of India Advocates Welfare Rules.

Explanation : "Hard Case" means the dependent of the deceased Advocate have no financial means and in the circumstances immediate help is felt necessary.

- (8) The State Welfare Committee shall decide the case of an applicant within a period of one month from its reference by the Secretary and the Secretary shall implement the said decision of committee and pay the amount to the concerned applicant by cheque within a period of 7 days from the approval of the State Advocates Welfare Committee. In case the concerned Advocate or his family member is unable to receive / collect the cheque due to the ailment, then the Secretary of State Bar Council may send such amount sanctioned by Welfare Committee by money order or make a payment to any of the representative of such an Advocate specifically authorized for that purpose in writing to the satisfaction of Secretary of the State Bar Council. On making such payment, the Secretary of the State Bar Council shall ensure that due receipts are received from the

concerned indigent advocate for the payment made under Rule 5 or Rule 6.

In case of monthly assistance to indigent Advocate as per Rule 5, the amount shall be sent or paid by the Secretary of Bar Council to indigent Advocate on or before 10th of that month for which a monthly assistance is sanctioned or approved and the Secretary shall ensure that the necessary receipts of such payment are received.

- (9) The Secretary of State Bar Council with the help of the staff appointed for this purpose, shall maintain or cause it to be maintained the record of applications received by the State Bar Council from the concerned Bar Association or the applications directly received by State Bar Council in a separate register kept for that purpose and shall make necessary entries of the amount sanctioned against that applicant and amount paid to the applicant from time to time. Such a register shall be maintained yearwise with proper indexing.
- (10) If any applicant Advocate who makes a knowingly false statement and furnishes wrong information who has reason to believe that such statement is wrong or which is proved to be false to his knowledge, then it shall amount to a professional misconduct under Section 35 of the Advocates Act and will be liable to refund such amount received by him with penal interest of 24% per annum.
- (10A) If it is found that the recommendation made by the Managing Committee of the concerned Bar Association were knowingly false

or not genuine or were in connivance with the applicant, it will be open to the Bar Council to take action against the members of the Managing Committee, as it deems fit.

- (10B) If it is transpired or proved that the doctor's certificate was fake or produced in connivance with such applicant, then the State Bar Council shall refer the matter to the Medical Council for appropriate action against the doctor and the Bar Council shall be entitled to file a criminal prosecution against the concerned persons for fabricating such documents.
- (11) If the Advocates Welfare Committee for the State subsequently finds that any statement given or evidence adduced by the applicant was false in material particulars the committee shall refer the matter to the State Bar Council with its report and the State Bar Council may call upon the applicant to refund the entire amount given as assistance with such interest as it may deem fit and the applicant shall comply with such directions.
- (12) The Advocate aggrieved of any order passed by the State Bar Council under Rule (1) may file an appeal to the Bar Council of India within 90 days. The Bar Council of India may either dismiss the appeal summarily or in case it finds a case for setting aside or modifying the order of the State Bar Council the order shall be passed only after notice to the concerned State Bar Council.

THE BAR COUNCIL OF MAHARASHTRA & GOA**II. FINANCIAL ASSISTANCE TO INDIGENT AND DISABLED ADVOCATES**

- (1) These rules shall be known as “Rules for Financial Assistance for Indigent and Disabled Advocates” practising and on the roll of State Bar Council.
- (2) These rules shall come into force from the date notified by the Bar Council of India.
- (3) Definitions :
 - (a) “Applicant” shall mean an Advocate on the roll of State Bar Council and who has paid all the subscription or the qualified installments of subscription on the date of application and who has made an application for financial assistance to the State Bar Council.
 - (b) “Bar Council of India” means the Bar Council constituted under Section 4 of the Advocates Act.
 - (c) “Bar Council of India Advocates Welfare Committee” means a committee constituted under Rule 44A(1) of the Bar Council of India Rules under Part VI, Chapter II, Section IV-A.
 - (d) “Bar Council of India Advocates Welfare Committee for the State” shall mean the Advocates Welfare Committee constituted for the State under Rule 44A(2)(i) of the Bar Council of India Rules under Part VI, Chapter II, Section IV-A.

- (e) “Disabled Advocate” shall mean and include an Advocate who by reason of a serious attack of paralysis or otherwise suffers a physical infirmity whereby he becomes bed-ridden or loses any of his foot completely during the practice or loses his voice and is unable to practice the profession of law.
- (f) “Family” shall mean and include the wife of such Advocate who is eligible to apply and in case of a female, her husband who is unemployed. However, if the husband / wife of an Advocate is also qualified for benefits under the scheme, then he / she would not be entitled to get benefit. The family shall also include his or her minor children and unemployed / unmarried daughter, daughter who is divorcee or widow and who has not contracted second marriage.
- (g) “Fund” means fund constituted under the Bar Council of India Advocates Welfare Rules for the scheme for assistance to Indigent and Disabled lawyers practising in the State.
- (h) “Indigent Advocate” means any practising Advocate who is unable to practice for a period of one month or more and unable to maintain himself and his family during that period because of serious accident or a serious ailment and also unable to meet the costs of treatment in case of such accidents or serious ailment.
- (i) “State Bar Council” means the Bar Council constituted under Section 3 of the Advocates Act.

PROCEDURE

- (4)(I) Any indigent / disabled Advocate suffering from a serious ailment and who is otherwise eligible to apply shall make an application for appropriate financial assistance in the prescribed form or in a form similar to the prescribed form addressed to the Chairman of the State Bar Council in duplicate through the Managing Committee of the concerned Bar Association where he is practising and of which he is a member.
- (II) Such application shall be accompanied by a certificate certified by a doctor attending the applicant with necessary bills of the hospital / treatment.
- (III) On receipt of such application, the Managing Committee of the concerned Bar Association shall verify and scrutinize the application, certificate and bills and after its due satisfaction shall forward the same to the Chairman, State Bar Council along with its resolution.

Explanation : The State Bar Council on application or suo motu and on the information received from any member of the Bar Council shall also be entitled to receive application from applicant as envisaged in Rule 4(I) and (II) of Rule 4 hereinabove shall apply mutatis mutandis when the application is directly entertained by the State Bar Council and the State Bar Council may in its discretion call for the comments from the concerned Bar Association / Managing Committee of the Bar Association of which such applicant is a member.

- 4(A) On receipt of such application either through the Managing Committee of concerned Bar Association or directly by State Bar Council, the Secretary of Bar Council shall place the same before the Advocates Welfare Committee after satisfying due compliance for the purposes of sanction of the committee.
- (B) If the application is not in the proper form and with necessary accompaniments the Secretary shall call upon the concerned applicant to make necessary compliances within a period of 15 days and then forward the same to the welfare committee.
- (5) The Welfare Committee on such reference shall scrutinize the case of a concerned applicant and after satisfying itself as to the genuineness and need of applicant may sanction such amount as may be reasonable and necessary to meet the expenses of any such operation or a treatment connected with the serious ailment not exceeding Rs.3,000/- at a time and also sanction such monthly financial assistance to applicant towards the cost of treatment, medicine, and maintenance of applicant and his family for a period of three months at the rate not exceeding Rs.1,000/- per month or may even reject the same.

Provided, however, that no applicant shall be entitled to claim benefit under the scheme from the State Bar Council for an amount exceeding Rs.10,000/- during his life time.

- (6) In case the Advocates Welfare Committee for the State considers such financial assistance in a given case as a very meager amount and finds it necessary to provide such financial assistance beyond the limit as provided under Rule (5), it shall refer the case to the Bar

Council of India with its comments and Advocates Welfare Committee of the Bar Council of India may sanction such sum subject to the amount of Rs.10,000/- for treatment of serious ailment of applicant.

- (7) Such financial grant to indigent / disabled Advocate shall normally be spread over in due installments and such installments may be paid on monthly basis till the entire amount sanctioned by the Welfare Committee is paid to the applicant.
- (8) The Secretary of State Bar Council with the help of the staff appointed for this purpose, shall maintain or cause it to be maintained the record of applications received by the State Bar Council from the concerned Bar Association or the applications directly received by State Bar Council in a separate register kept for that purpose and shall make necessary entries of the amount sanctioned against that applicant and amount paid to the applicant from time to time. Such a register shall be maintained year wise with proper indexing.
- (9) If any applicant Advocate who makes a knowingly false statement and furnishes wrong information who has reason to believe that such statement is wrong or which is proved to be false to his knowledge, then it shall amount to a professional misconduct under Section 35 of the Advocates Act and will be liable to refund such amount received by him with penal interest of 24% per annum.
- (9A) If it is found that the recommendation made by the Managing Committee of the concerned Bar Association were knowingly false

or not genuine or were in connivance with the applicant, it will be open to the Bar Council to take action against the members of the Managing Committee, as it deems fit.

- (9B) If it is transpired or proved that the doctor's certificate was fake or produced in connivance with such applicant, then the State Bar Council shall refer the matter to the Medical Council for appropriate action against the doctor and the Bar Council shall be entitled to file a criminal prosecution against the concerned persons for fabricating such documents.
- (10) The Advocate aggrieved of any order passed by the State Bar Council under Rule 9 may file an appeal to the Bar Council of India within 90 days. The Bar Council of India may either dismiss the appeal summarily or in case it finds a case for setting aside or modifying the order of the State Bar Council, the order shall be passed only after notice to the concerned State Bar Council.
