



RAMA UNIVERSITY

w w w . r a m a u n i v e r s i t y . a c . i n

FACULTY OF JURIDICAL SCIENCES

SUBJECT: Professional Ethics and
Professional Accounting System

SUBJECT CODE: BAL 704/BBL704/ LL.B. 503

LECTURE: 25

NAME OF FACULTY: Ms. Anjali Dixit

Assistant Professor

Lecture-25



Other Duties

LECTURE 25: Other Duties

Other Duties:

- (a) Rule 40 requires every advocate on the rolls of the State Bar Council to pay a certain sum to the state bar council.
- (b) Rule 41 provides that all the sums so collected by the state bar council shall be credited in a separate fund to be known as “Bar Council of India Advocates welfare fund for the State” and shall be deposited in the bank as provided there under.
- (b) (i) According to rule 41(2) the Bar Council of India Advocates Welfare fund Committee for the State shall remit 20% of the total amount collected and credited to its account, to the bar council of India by the end of every month which shall be credited by the Bar council of India and the Bar council of India shall deposit the said amount in a separate fund to be known as “Bar Council of India Advocates Welfare fund.”
- (b) (ii) According to rule 41(3) the rest 80% of the total sum so collected by the Bar Council of India Advocate Welfare Fund Committee for the state shall be utilized for the welfare of the advocates in respect of welfare schemes sponsored by the respective State Bar Council.
- (c) Rule 42 deals with the consequences of non payment of the said amount by the advocate. It provides that if an advocate fails to pay the aforesaid sum within the prescribed time, the secretary of the State Bar Council shall issue to him a notice to show cause within a month why his right to practice be not suspended. In case the advocate pays the amount together with late fee within the period specified in notice, the proceeding shall be dropped. If the advocate does not pay the amount or fails to show sufficient cause, a committee of three members constituted by the state bar council in this behalf may pass an order suspending the right of the advocate to practice.
- (d) Rule 43 provides that an advocate who has been convicted of an offence mentioned under section 24-A of the Advocates Act or has been declared insolvent or has taken full time service or part time service or engages in business or any avocation inconsistent with his practicing as an advocate or has incurred any disqualification mentioned in the Advocates Act or the rules made there under, shall send a declaration to the effect to the respective state bar council in which the advocate is enrolled, within 90 days from the date of such disqualification.
- (e) Rule 44 provides, an appeal shall lie to the bar council of India at the instance of an aggrieved advocate within a period of 30 days from the date of the order passed under rule 42 and 43.
- (e)(i) Rule 44-A provides that there shall be a Bar council of India Advocates Welfare Committee consisting of five members elected from amongst the members of the council. The term of the members of the committee shall be co-extensive with their term in the Bar Council of India. Rule 44-b makes it clear that the Bar Council of India shall utilise the funds received under rule 41(2), stated above, in accordance with the scheme which may be framed from time to time.

5. Rules on Advocate’s Duty in Imparting Training: Rule 45 framed by the Bar Council of India makes it clear that it is improper for an advocate to demand or accept fees or any premium from any

person as a consideration for imparting training in law under the rules prescribed by the State Bar Council to enable such person to qualify for enrolment under the Advocates Act, 1961.

6. Rules on Advocates Duty to render legal aid: The preamble of the Constitution of India assures justice, social, economic and political to all citizens of the country. Articles 14 & 16 of the Constitution of India impose an implicit responsibility on the State to ensure that none is deprived of legal assistance for reasons of economic or other disabilities so that equal justice is provided to all citizens of the country. Further, the principle contained in Article 39-A are fundamental and cast duty on the State to secure that the operation of the legal system promotes justice to all citizens and particularly the poor and the marginalized. However, despite this Constitutional mandate, poor remain deprived of appropriate legal assistance for a long time even after independence. In this situation advocates have a role to play. Legal profession is monopolistic in character and this monopoly itself inheres certain high traditions, which its members are expected to upkeep and uphold. Law is an Hon'ble profession and an Advocate is an Officer of justice and friend of the Court. He is an integral part for the administration of justice. From the ancient times, the legal obligations of the Advocates to conduct the case of a poor litigant without reward when so required by the Court has been recognized not only in our country, but also in England, US and other Countries.

However, in practice, Counsels have been assigned only in criminal cases of serious nature and a few civil cases. The critical position enjoyed by an Advocate in administration of justice in fact imposes a responsibility upon him to ensure that justice is made available to all. Rule 46 of Bar Council of India Rules in part-VI relating to a standard professional conduct and etiquette reminds Advocates of the obligation they owe to the society. The Rule reads as under: "Every Advocate shall in the practice of the profession of law bear in mind that any one genuinely in need of a lawyer is entitled to legal assistance even though he cannot pay for it fully or adequately and that within the limits of an Advocate's economic condition, free legal assistance to the indigent and oppressed is one of the highest obligations an Advocate owes to society."

Thus, to ensure justice to poor and marginalized sections of the society, an Advocate is required to provide them legal assistance even when they are not in position either to pay him at all or adequately pay him for his services. In fact the least duty expected of an Advocate is to play his role sincerely in implementing the various legal aid schemes available under the Legal Services Authorities Act, 1987 - be it legal aid to poor and other marginalized sections of the society or promotion of legal literacy or facilitating resolution of disputes through Lok Adalat's. The role of the Advocates in implementation of these schemes becomes pivotal due to the fact that legal profession being monopolistic, the various schemes of legal aid under the Act can only be put into operation through Advocates.

7. Rules on Advocate's Restriction on other employment:

- i. Rule 47 provides that an advocate shall not personally engage in any business but he may be a sleeping partner in a firm doing business provided that in the opinion of the appropriate state bar council the nature of the business is not inconsistent with the dignity of the profession.
- ii. Rule 48 makes it clear that an advocate may be director or chairman of the board of directors of a company with or without any ordinary sitting fees, provided none of his duties are of executive character. An advocate shall not be a managing director or a secretary of any company.

iii. Rule 49 provides that an advocate shall not be a full time salaried employee of any person, government, firm, corporation or concern, so long as he continues to practice and shall taking up any such employment intimate the fact to the bar council on whose roll his name appears and shall thereupon cease to practice as an advocate so long as he continues in such employment.

iv. Rule 50 provides that an advocate who has inherited or succeeded by survivorship, to a family business may continue it, but may not personally participate in the management thereof.

v. Rule 51 an advocate may review parliamentary bills for a remuneration, edit legal text books at a salary, coach pupils for legal examination, set and examine question papers and subject to the rules against advertising and full time employment, engage in broadcasting, journalism, lecturing and teaching subject both legal and non legal.

vi. Rule 52 makes it clear that nothing in these rules shall prevent an advocate from accepting after obtaining the consent of the state bar council, part-time employment provided that in the opinion of the state bar council, the nature of the employment does not conflict with his professional work and is not inconsistent with the dignity of the profession.

SELF-TEST QUESTIONS

S.NO	Question	Option (a)	Option (b)
1.	Rule 40 requires every advocate on the rolls of the State Bar Council to pay a certain sum to the state bar council.	True	False
2.	Rule 41 provides that all the sums so collected by the state bar council shall be credited in a separate fund to be known as “Bar Council of India Advocates welfare fund for the State” and shall be deposited in the bank as provided there under.	True	False
3.	An advocate transacts business under authority that is governed and restricted by power of attorney granted by the principal.	True	False
4.	According to rule 41(3) the rest 80% of the total sum so collected by the Bar Council of India Advocate Welfare Fund Committee for the state shall be utilized for the welfare of the advocates in respect of welfare schemes sponsored by the respective State Bar Council.	True	False
5.	The preamble of the Constitution of India assures justice, social, economic and political to all citizens of the country	True	False

Answers: 1-(a),2-(a), 3-(a),4-(a),5-(a)