

Lecture-38



The Chamier and Indian Bar Committee of 1951

ALL INDIA BAR COMMITTEE, 1951

The Indian Bar Councils Act had left the pleaders, Mukhters etc. practicing in the mofussil courts entirely out of its scope and did not bring about a unified Indian Bar. Further, the Councils constituted under the Act were merely advisory bodies and were neither Autonomous nor had any substantial authority. The Indian Legal profession was not satisfied with what had been achieved by the Act of 1926. The Indian Practitioners had three main aims in view, namely:

1. The abolitions of all distinctions between various classes and grades of legal practitioner,
2. The democratization of Bar Councils by bringing in representatives Mofussil Lawyers on them,
3. The taking away of the control exercised by the High Courts over the members of the legal profession, and vesting the same in the Bar Council.

To end this, they continued the effort for a long period of time. With the establishment of the Supreme Court of India in 1950, under the new consideration, a new stimulus was given to the demand for a unified All India Bar.

Accordingly, in 1951 the Govt. of India constituted a Committee under the chairmanship of Justice S. R. Das of the Supreme Court to examine a report on

- (a) The desirability and feasibility of a completely unified Bar for the whole of India
- (b) The continuance or abolition of the dual system of council and solicitor which obtains in the Supreme Courts and in the High Courts of Bombay and Calcutta.
- (c) The continuance or abolition of different classes of legal practitioners, like advocates of the Supreme Courts, advocates of the various High Courts, district court pleaders, Mukhters, revenue agents, income tax practitioners etc.
- (d) The desirability or feasibility of establishing a single Bar Council

- For the whole of India; or
 - For each state
- (e) The establishment of a separate Bar Council for the Supreme Court
- (f) The consolidation and revision of the various enactments relating to legal practitioners;
- (g) All other connected matters.

3.9.1. Report of the All India Bar Committee

The Committee reported in 1953 and recommended the creation of a unified national bar. The Committee recommended that all grades of legal practitioners be abolished and that one integrated an autonomous All India Bar be formed. There should be a common roll of advocates who would be entitled to practice in all courts in the country. The Committee accordingly suggested compilation and maintenance of one comprehensive common roll of advocates.

The committee recognized that the task of preparation of a common roll of advocates would be difficult but was not an impossible one. The committee made recommendation as to how a State Bar Council was to compile a register of all existing advocates, Vakils and pleaders and sent copy of the same to the All India Bar Council which was then to compile a common roll of advocates.

The establishment of a unified All India Bar necessarily would require the prescription of minimum qualification to be possessed by a advocate. At the time the committee went to a question qualifications required by different High Court were not uniform. The committee suggested that the uniform minimum qualification for admission to roll of advocates should be a law degree from university obtained at least a two year study of law after graduation as regards new entrance, a candidate having the minimum qualification may apply for enrollment as an advocate to any State Bar Council. On his name being entered in the register of advocates of the state, his name would also be entered in the common roll of advocates maintained by the All India Bar Council.

The committee was not in favour of abolition of the dual system (advocates & attorneys) whenever it prevails in the High Court as it involved a division of labour and had a number of advantages and did not militate against the ideal of the All India Bar. The dual system ensured for the better preparation of the case.

The committee was of the view that the different classes of legal practitioners be abolished. In earlier times, when there was a dearth of law graduates, it was necessary to create inferior grade of lawyers with varying qualifications to practice in subordinate courts. So, there came into existence vakils and advocates of the High Court as well as pleaders and Mukhtars. In the larger interest of the unification of the Bar the committee recommended that in future there should be no further recruitment of non graduate leaders and Mukhtars, and that there should be only one class of legal practitioners, viz., advocates.

The committee also recommended the creation of All India Bar Councils and State Bar Councils. Under the Indian Bar Council Act, 1926, the Bar councils were merely advisory bodies in the power of admission, suspension and removal from the role of advocates were entirely vested in the respective High Courts. Subject to some safeguards, the committee suggested that in the interest of an Autonomous National Bar, the power of enrollment, suspension and removal of advocates be vested in the Bar Councils. The committee did not feel the need for a separate Bar Council for the Supreme Court. Every advocate on the common roll to be maintained by the All India Bar Council would be entitled as of right to practice in the Supreme Court and be amenable to the jurisdiction of the appropriate State Bar Council and of the All India Bar Council.