



RAMA UNIVERSITY

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FACULTY OF JURIDICAL SCIENCES

SUBJECT: Professional Ethics and
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LECTURE: 5

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Lecture-5



History of Supreme Court

LECTURE 5: History of Supreme Court

SUPREME COURTS

Regulation Act, 1773.

The first concrete step in the direction of organizing a legal profession in India was taken in 1774 when the Supreme Court was established at Calcutta. The **Regulating Act, 1773**, empowered the Supreme Court to frame rules of procedure as it thought necessary for the administration of justice and due execution of its powers. Under CI.11 of its Charter, the Supreme Court was empowered to approve, admit and enroll such and so many Advocates and Attorneys-at-law, as to the Court shall deem fit. Attorneys of record were to be authorized to appear and plead and act for the suitors in the Supreme Court. The court was to have the power to remove any Advocate or Attorney on a reasonable cause. No other person whatever, but Advocates or Attorneys so admitted and enrolled, were to be allowed to appear and plead, or act in the Court for or on behalf of such suitors.

Thus the persons entitled to practice before the Supreme Court could be Advocates and Attorneys. The term Advocate at the time extended only to the English and the Irish barristers and the members of the faculty of Advocates in Scotland. The expression “Attorneys” then meant only British Attorneys or Solicitors. As CI.11 of the Charter prohibited any other person whatsoever to appear and plead or act, it would appear that the Calcutta Supreme Court was, from its very inception, a completely exclusive preserve for members of the British legal profession, namely, the British Barristers, Advocates, and Attorneys. The indigenous Indian legal practitioner had no entry in this Court. The **Charter of 1774** introduced the British system of legal practice in Calcutta.

The similar position obtained in the two other Supreme Courts at Bombay and Madras. Thus, in the three Supreme Courts, the only persons who were entitled to practice were the British Barristers, Advocates, and Attorneys. The Indians had no right to appear before these Courts. This continued to be the position all through the existence of these Courts.

Under CI.11 of the Charter, the Supreme Court at Calcutta could admit Advocates and Attorneys who could “appear, plead and act for the suitors of the Court.” But, the Supreme Court provided for the Advocates and Attorneys to exercise the ordinary powers of their respective professions- Advocates having power to appear and plead and Attorneys to appear and act, for the suitors. Similar was the position in other Supreme Courts as well. Thus, the two grades of the legal practice became distinct and separate as they were in England. Commenting on the position prevailing at this time, the Supreme Court of India observed in *Aswini Kumar Ghosh v Arbind Bose*:

“Though the Supreme Court was given by the Charter Acts and the Letters Patent establishing them, power to enroll advocates who could be authorized by the rules to act as well as to plead in the Supreme Courts, Rules were made empowering advocates only to appear and plead and not to act, while attorneys were enrolled and authorised to act and not to plead. In the Sudder courts and the courts subordinate thereto, pleaders who obtained a certificate from those courts were allowed both to act and plead.”

SELF-TEST QUESTIONS

S.N	Question	Option (a)	Option (b)	Option (c)	Option (d)
1	First Supreme Court was established at....	Calcutta	Delhi	Madras	Bombay
2 empowered the Supreme Court to frame rules of procedure as it thought necessary for the administration of justice and due execution of its powers.	The Regulating Act, 1773	The Regulating Act, 1774	The Regulating Act, 1775	The Regulating Act, 1779
3 were to be authorized to appear and plead and act for the suitors in the Supreme Court.	Attorneys of record	Advocate	Lawyers	None of the above
4	The term Advocate at the time extended only to thebarristers and the members of the faculty of Advocates in Scotland	English and the Irish	British	American	Indian
5	The indigenouslegal practitioner had no entry in this Court.	Indian	British	American	None of the above

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