



Duties And Responsibilities Of Advocates In India: An Analysis

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Abstract:

Legal profession is a pious profession. It is regulated by the Bar Council of India which has been established under Section 4 of the Advocates Act, 1961. Advocates are the officers of the court who facilitate the administration of justice by assisting the courts during litigations in the courts. The goal of the administration of justice is to provide justice to the people of India and Advocates play a vital role in providing justice to the people. The conduct of the Advocates is regulated by the Bar Council of India which prescribes duties and responsibilities of the Advocates to be followed by them. The Bar Council of India has the disciplinary jurisdiction over Advocates. This research article is prepared with aim to study the professional conduct and etiquettes required to be followed by the advocates. Doctrinal method of research is applied in completing this research article.

Keywords: Legal Profession, Justice, Litigants, Court, Privileged etc.

1. Introduction:

Advocates are the pillar of administration of justice. They are the officers of the court. They facilitate the court in delivering justice to the litigants. The Bar Council of India regulates the legal profession. It is a statutory body which is established under the Advocates Act, 1961. A citizen of India of 21 years of age or more is admitted as an Advocate on a state roll if he has attained the degree in law which is recognized by the Bar Council of India.¹ A national of any other country may also be admitted as an advocate on a state roll if duly qualified citizens of India are permitted to practice law in that other country.² It is provided in the Advocates Act 1961 that the Bar Council of India shall lay down Standards of Professional Conduct and Etiquette for Advocates. Members belonging to this profession have not to

¹ Section 24, The Advocates Act, 1961.

² Section 24, The Advocates Act, 1961.

encourage dishonesty and corruption but have to strive to secure justice to their clients if it is legally possible. The credibility and reputation of the profession depends upon the manner in which the members of the profession conduct themselves.³ Dhanraj Singh Choudhary vs. Nathulal Vishwakarma⁴, the Supreme Court observed, “The legal profession is a noble profession. It is not a business or a trade. A person practising law has to practise in the spirit of honesty and not in the spirit of mischief-making or money-getting. An advocate’s attitude towards and dealings with his client have to be scrupulously honest and fair.”

The Supreme Court of India in *re* Rameshwar Prasad Goyal case on 22.08.2013 viewed that lawyers play an important part in the administration of justice. The profession itself requires the safeguarding of high moral standards. As an officer of the court the overriding duty of a lawyer is to the court, the standards of his profession and to the public. Since the main job of a lawyer is to assist the court in dispensing justice, the members of the Bar cannot behave with doubtful scruples or strive to thrive on litigation. Lawyers must remember that they are equal partners with judges in the administration of justice. If lawyers do not perform their function properly, it would be destructive of democracy and the rule of law. “Law is no trade, briefs no merchandise”. An advocate being an officer of the court has a duty to ensure smooth functioning of the Court. He has to revive the person in distress and cannot exploit the helplessness of innocent litigants. A willful and callous disregard for the interests of the client may in a proper case be characterized as conduct unbefitting an advocate. Transparency in functioning of the court and accountability with respect to the Bench and the Bar are fundamentals in a democracy. Therefore, the Bench as well as the Bar have to carry out their duties with full sense of responsibility.⁵

The preamble to the Standards of Professional Conduct and Etiquette, Part VI, Chapter-II of the Rules on Professional Standards itself mentions about the conduct expected from the Advocates. It makes obligatory that an advocate shall, at all times, comport himself in a manner befitting his status as an officer of the Court, a privileged member of the community, and a gentleman, bearing in mind that what may be lawful and moral for a person who is not a member of the Bar, or for a member of the Bar in his non-professional capacity may still be improper for an advocate. Without prejudice to the generality of the foregoing obligation, an advocate shall fearlessly uphold the interests of his client and in his conduct conform to the rules hereinafter mentioned both in letter and in spirit. The rules hereafter mentioned contain canons of conduct and etiquette adopted as general guides; yet the specific mention thereof shall not be construed as a denial of the existence of other equally imperative though not specifically mentioned.⁶ The supreme Court in *Bar Council, Maharashtra V. M.V. Dabholkar*⁷ observed, “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

³ AIR 2001 Supreme Court 2509

⁴ AIR 2012 Supreme Court 628

⁵ [chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://api.sci.gov.in/jonew/judis/40678.pdf](https://api.sci.gov.in/jonew/judis/40678.pdf) visited on 18.11.2024.

⁶ Part-VI of the Bar Council of India Rules under the Advocates Act, 1961

⁷ AIR 1976 SCC 242

constitutional order has earned for it a monopoly to practice law and an autonomy to regulate its own internal discipline.” A member of legal profession which is a noble one is expected to maintain a standard in dignified and determined manner. The standard required to be maintained by the member of the legal profession must be commensurate with the nobility thereof. A Lawyer is obligated to observe those norms which make him worthy of the confidence of the community in him as an officer of the court.⁸ As and when a complaint is made against any Advocate, by a litigant alleging professional misconduct, the Bar Council is obliged to consider at least, prima facie, whether the allegations constitute a professional or other misconduct. The Supreme Court of India in *Noratanmal Chourasia vs. M.R. Murli & Anr*⁹ has observed that misconduct has not been defined in the Advocates Act, 1961. Misconduct, inter alia, envisages breach of discipline, although it would not be possible to lay down exhaustively as to what would constitute conduct and indiscipline, which, however, is wide enough to include wrongful omission or commission whether done or omitted to be done intentionally or unintentionally. It means, “improper behaviour intentional wrong doing or deliberate violation of a rule of standard or behaviour”. Misconduct is said to be a transgression of some established and definite rule of action, where no discretion is left except what necessity may demand; it is a violation of definite law. Professional misconduct primarily refers to an advocate’s dishonourable or disgraceful behaviour.¹⁰ Sections 35 of the Advocates Act, 1961, enables the Bar Council to inquire into (i) complaints of professional misconduct and (ii) complaints of other misconduct.¹¹ There is heavy responsibility on those on whom duty has been vested under the Advocates Act, 1961 to take disciplinary action when the credibility and reputation of the profession comes under a clout on account of acts of omission and commission by any member of the profession.¹²

In *Hikmat Ali Khan vs. Ishwar Prasad Arya*¹³ the concerned advocate assaulted his opponents with a knife. He was prosecuted and found guilty of commission of an offence under Section 307 of the IPC. In the aforementioned situation, it was held that the advocate deserves the extraordinary punishment of removal of his name from the state rolls of advocates.

In *N.G. Dastane vs. Shrikant S. Shivde & Anr.*¹⁴ an advocate in order to defend one of the accused persons before a magistrate sought for adjournments repeatedly and on 4.12.1993 an adjournment was sought on the premise that he was unable to speak on account of a throat infection and continuous cough but the complainant came across the said advocate “forcefully and fluently” arguing a matter before another court situated in the same building. Thereafter a complaint was lodged wherein a prime facie case was found to have been made out. This court directed the Bar Council of India to deal with the complaint.

Amar Vivek Aggarwal vs. High Court of Punjab & Haryana (2022)

Held that misrepresentation in court filings amounts to professional misconduct.

⁸ <https://indiankanoon.org/doc/782903/> visited on 14.11.2024.

⁹ AIR 2004 SC2440

¹⁰ <https://www.legalserviceindia.com/legal/article-15401-professional-misconduct-by-advocates.html> visited on 14.11.2024.

¹¹ <https://indiankanoon.org/docfragment/100590463/?formInput=advocates%20professional%20misconduct> visited on 15.11.2024.

¹² *Shambhu Ram Yadav vs. Hanum Das Khatri*, AIR 2001 SUPREME COURT 2509

¹³ 1997 (3) SC 131

¹⁴ 2001 (6) SC 135

3. Previous Supreme Court Ruling on the Same Petitioner

An advocate has many duties and responsibilities towards the court, clients, opponents and the society, non-compliance of which leads him towards professional misconduct and punishment.

2. Duties and Responsibilities of Advocates:

Advocates have to observe multifaceted duties and responsibilities in their professional life. They have to follow the rules which are provided under the Advocates Act, 1961. The standards of professional conduct and etiquettes are provided under the Bar Council of India Rules and non-compliance of which, would invite the application of Section 35 of the Advocates Act dealing with punishment for misconduct. The duties and responsibilities of the advocates are discussed as under:

Advocate's Duties towards the Court: An Advocate has the following duties towards the court as per Advocates Act, 1961:

- i) **Act in a Dignified Manner:** While presenting the case and acting otherwise before a court, Advocate should act in a dignified manner. He should at all times conduct himself with self-respect. However, whenever there is a proper ground for serious complaint against a judicial officer, the advocate has the right and duty to submit his grievance to proper authorities.
- ii) **Respect the court:** An advocate should always show respect towards the court. An advocate has to bear in mind that the dignity and respect maintained towards judicial office is essential for the survival of a free community.
- iii) **Not communicate in private:** An advocate should not communicate in private to a judge with regard to any matter pending before the judge or any other judge. An advocate should not influence the decision of a court in any matter using illegal or improper means such as coercion, breach, bribe etc.
- iv) **Refuse to act in an illegal manner towards the opposition:** An advocate should refuse to act in an illegal or improper manner towards the opposing counsel or the opposing parties. He shall also use his best efforts to restrain and prevent his client from acting in any illegal, improper manner or use unfair practices in any matter towards the judiciary, opposing counsel or the opposing parties.
- v) **Refuse to represent clients who insist on unfair means:** An advocate shall refuse to represent any client who insists on using unfair or improper means. An advocate shall exercise his own judgment in such matters. He shall not blindly follow the instructions of the client. He shall be dignified in use of his language in correspondence and during arguments in court. He shall not scandalously damage the reputation of the parties on false grounds during pleadings. He shall not use unparliamentary language during arguments in the court.
- vi) **Appear in proper dress code:** An advocate should appear in court at all times only in the dress prescribed under the Bar Council of India Rules and his appearance should always be presentable.
- vii) **Refuse to appear in front of relations:** An advocate should not enter appearance, act, plead or practice in any way before a judicial authority if the sole or any member of the bench is related to the advocate as father, grandfather, son, grandson, uncle, brother, nephew, first cousin, husband,

wife, mother, daughter, sister, aunt, niece, father-in-law, mother-in-law, son-in-law, brother-in-law, daughter-in-law or sister-in-law.

- viii) Not to wear bands or gowns in public places: An advocate should not wear bands or gowns in public places other than in courts, except on such ceremonial occasions and at such places as the Bar Council of India or as the court may prescribe.
- ix) Not represent establishments of which he is a member: An advocate should not appear in or before any judicial authority, for or against any establishment if he is a member of the management of the establishment. This rule does not apply to a member appearing as “amicus curiae” or without a fee on behalf of the Bar Council, Incorporated Law Society or a Bar Association.
- x) Not appear in matters of pecuniary interest: An advocate should not act or plead in any matter in which he has financial interests. For instance, he should not act in a bankruptcy petition when he is also a creditor of the bankrupt. He should also not accept a brief from a company of which he is a director.
- xi) Not stand as surety for client: An advocate should not stand as a surety or certify the soundness of a surety that his client requires for the purpose of any legal proceedings.

Advocate's Duty to Opponents:

- i) Not to negotiate directly with opposing party: An advocate shall not in any way communicate or negotiate or call for settlement upon the subject matter of controversy with any party represented by an advocate except through the advocate representing the parties.
- ii) Carry out legitimate promises made: An advocate shall do his best to carry out all legitimate promises made to the opposite party even though not reduced to writing or enforceable under the rules of the Court.

Advocate's Duty towards fellow Advocates:

- i) Not advertise or solicit work: An advocate shall not solicit work or advertise in any manner. He shall not promote himself by circulars, advertisements, touts, personal communications, interviews other than through personal relations, furnishing or inspiring newspaper comments or producing his photographs to be published in connection with cases in which he has been engaged or concerned. The Madras High Court issued directions to the Bar Council of India to issue Circulars / Instructions / Guidelines to the State Bar Councils to initiate disciplinary proceedings for misconduct against the Advocates advertising, soliciting works directly or indirectly, whether by circulars, advertisements, touts, personal communication, interviews not warranted by personal relations, furnishing or inspiring newspaper comments or producing his photographs to be published in connection with case where he is engaged or concerned.¹⁵
- ii) Sign-board and Name-plate: An advocate's sign-board or name-plate should be of a reasonable size. The sign-board or name-plate or stationery should not indicate that he is or has been President

¹⁵ W.P. No. 31281/2019 case of Mr. P.N. Vignesh decided on 03.07.2024,
<https://mhc.tn.gov.in/judis/index.php/casestatus/viewpdf/1140183> visited on 21.09.2024.

or Member of a Bar Council or of any Association or that he has been associated with any person or organization or with any particular cause or matter or that he specializes in any particular type of work or that he has been a Judge or an Advocate General.

- iii) Not promote unauthorized practice of law: An advocate shall not permit his professional services or his name to be used for promoting or starting any unauthorized practice of law.
- iv) An advocate shall not accept a fee less than the fee which can be taxed under rules when the client is able to pay more.
- v) Consent of fellow advocate to appear: An advocate should not appear in any matter where another advocate has filed a vakalatnama or memo of appearance for the same party. However, the advocate can take the consent of the other advocate for appearing. In case an advocate is not able to present the consent of the advocate who has filed the matter for the same party, then he should apply to the court for appearance. He shall in such application mention the reason as to why he could not obtain such consent. He shall appear only after obtaining the permission of the Court.¹⁶

Advocate's Duty towards Clients:

- i) Bound to accept briefs: An advocate is bound to accept any brief in the courts or tribunals or before any other authority in or before which he proposes to practice. He should levy fees which is at par with the fees collected by fellow advocates of his standing at the Bar and the nature of the case. Special circumstances may justify his refusal to accept a particular brief.
- ii) Not withdraw from service: An advocate should not ordinarily withdraw from serving a client once he has agreed to serve them. He can withdraw only if he has a sufficient cause and by giving reasonable and sufficient notice to the client. Upon withdrawal, he shall refund such part of the fee that has not accrued to the client.
- iii) Not appear in matters where he himself is a witness: An advocate should not accept a brief or appear in a case in which he himself is a witness. If he has a reason to believe that in due course of events, he will be a witness, then he should not continue to appear for the client. He should retire from the case without jeopardizing his client's interests.
- vi) Full and frank disclosure to client: An advocate should, at the commencement of his engagement and during the continuance thereof, make all such full and frank disclosure to his client relating to his connection with the parties and any interest in or about the controversy as are likely to affect his client's judgement in either engaging him or continuing the engagement.
- v) Uphold interest of the client: It shall be the duty of an advocate fearlessly to uphold the interests of his client by all fair and honorable means. An advocate shall do so without regard to any unpleasant consequences to himself or any other. He shall defend a person accused of a crime regardless of his personal opinion as to the guilt of the accused. An advocate should always remember that his loyalty is to the law, which requires that no man should be punished without adequate evidence.

¹⁶ <https://www.barcouncilofindia.org/info/rules-on-an-advocates-duty-towards-the-court>
visited on 15.12.2024

- vi) Not suppress material or evidence: An advocate appearing for the prosecution of a criminal trial should conduct the proceedings in a manner that it does not lead to conviction of the innocent. An advocate shall by no means suppress any material or evidence, which shall prove the innocence of the accused.
- vi) Not disclose the communications between client and himself: An advocate should not by any means, directly or indirectly, disclose the communications made by his client to him. He also shall not disclose the advice given by him in the proceedings. However, he is liable to disclose if it violates Section 126 of the Indian Evidence Act, 1872.
- vii) An advocate should not be a party to stir up or instigate litigation.
- ix) An advocate should not act on the instructions of any person other than his client or the client's authorized agent.
- x) Not charge depending on success of matters: An advocate should not charge for his services depending on the success of the matter undertaken. He also shall not charge for his services as a percentage of the amount or property received after the success of the matter.
- xi) Not receive interest in actionable claim: An advocate should not trade or agree to receive any share or interest in any actionable claim. Nothing in this rule shall apply to stock, shares and debentures of government securities, or to any instruments, which are, for the time being, by law or custom, negotiable or to any mercantile document of title to goods.
- xii) Not bid or purchase property arising of legal proceeding: An advocate should not by any means bid for, or purchase, either in his own name or in any other name, for his own benefit or for the benefit of any other person, any property sold in any legal proceeding in which he was in any way professionally engaged. However, it does not prevent an advocate from bidding for or purchasing for his client any property on behalf of the client provided the Advocate is expressly authorized in writing in this behalf.
- xiii) Not adjust fees against personal liability: An advocate should not adjust fee payable to him by his client against his own personal liability to the client, which does not arise in the course of his employment as an advocate.
- xiv) An advocate should not misuse or takeS advantage of the confidence reposed in him by his client.
- xv) Keep proper accounts: An advocate should always keep accounts of the client's money entrusted to him. The accounts should show the amounts received from the client or on his behalf. The account should show along with the expenses incurred for him and the deductions made on account of fees with respective dates and all other necessary particulars.
- xvi) Divert money from accounts: An advocate should mention in his accounts whether any monies received by him from the client are on account of fees or expenses during the course of any proceeding or opinion. He shall not divert any part of the amounts received for expenses as fees without written instruction from the client.
- xvii) Intimate the client on amounts: Where any amount is received or given to him on behalf of his client, the advocate must without any delay intimate the client of the fact of such receipt.

- xiii) Adjust fees after termination of proceedings: An advocate shall after the termination of proceedings, be at liberty to adjust the fees due to him from the account of the client. The balance in the account can be the amount paid by the client or an amount that has come in that proceeding. Any amount left after the deduction of the fees and expenses must be returned to the client.
- xix) Provide copy of accounts: An advocate must provide the client with the copy of the client's account maintained by him on demand, provided that the necessary copying charge is paid.
- xx) An advocate shall not enter into arrangements whereby funds in his hands are converted into loans.
- xxi) Not lend money to his client: An advocate shall not lend money to his client for the purpose of any action or legal proceedings in which he is engaged by such client. An advocate cannot be held guilty for a breach of this rule, if in the course of a pending suit or proceeding, and without any arrangement with the client in respect of the same, the advocate feels compelled by reason of the rule of the Court to make a payment to the Court on account of the client for the progress of the suit or proceeding.
- xxii) Not appear for opposite parties: An advocate who has advised a party in connection with the institution of a suit, appeal or other matter or has drawn pleadings, or acted for a party, shall not act, appear or plead for the opposite party in the same matter.¹⁷

Advocate's Duty towards the society:

In *Shambhu Ram Yadav vs Hanum Das Khatry*, the Hon'ble Supreme Court of India has opined, "Besides courts, Advocates also owe a duty to the society which has a vital public interest in the due administration of justice."¹⁸ Lawyers are in a unique position to support people, groups, and organizations with their legal issues and to further the public good. Public interest attorneys advocate civil campaigns for society's greater good to support those in need of legal assistance who might otherwise not be able to afford lawyers. Personal attorneys also do Bono work to help people with low incomes.¹⁹

3. Law Teaching by Advocate:

An advocate during practice in a court, can take up classes for teaching law in institutes/colleges/departments of the universities. But he cannot take up law classes for more than three hours in a day. At the time of taking law classes, it is considered as a part-time employment irrespective of the manner in which such employment is described or the remuneration receivable by the advocate.²⁰

4. State Bar Council in case of Professional or other Misconduct by Advocate:

The Bar Council of a State on receipt of a complaint against any Advocate or if a State Bar Council has reason to believe that any advocate on its roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee.²¹ The disciplinary committee of State Bar Council shall fix a date for the hearing of the case and notice thereof will be given to the advocate

¹⁷ <https://www.barcouncilofindia.org/info/rules-on-an-advocates-duty-towards-the-client>

visited on 19.12.2024

¹⁸ AIR 2001 SUPREME COURT 2509

¹⁹ <https://www.legalserviceindia.com/legal/article-4237-what-is-the-role-of-a-lawyer-in-society-.html>

visited on 21.12.2024

²⁰ Section 3 of the Advocates (Right to Take up Law Teaching) Rules, 1979.

²¹ Section 35 (1), Chapter-V, Advocates Act, 1961.

concerned and to the Advocate-General of the State²² and in relation to the Union territory of Delhi to the Additional Solicitor General of India²³. The State Bar Council may, either of its own motion or on application made to it by any person interested, withdraw a proceeding pending before its disciplinary committee and direct the inquiry to be made by any other disciplinary committee of that State Bar Council.²⁴ The disciplinary committee of a State Bar Council shall fix a date for the hearing of the case and shall cause a notice thereof to be given to the advocate concerned and to the Advocate-General of the State.²⁵

The term “reasons to believe” under section 35(1) of the Advocates Act in the given context is stronger than the term “mere satisfaction”. In order to find out whether there are reasons to have such belief, the Bar Council is required to apply its mind. The requirement of “reasons to believe” cannot be converted into a formalized procedural road block, it being essentially a barrier against frivolous inquiries.²⁶ The Supreme Court in *Shambhu Ram Yadav vs. Hanum Das Khatri* has noted the observation of Disciplinary Committee of Bar Council of India that a high standard of morality is required from lawyers more so from a person who has put in 50 years in profession. One expects from such a person a very high standard of morality and unimpeachable sense of legal and ethical propriety. Since the Bar Councils under the Advocates Act have been entrusted with the duty of guarding the professional ethics, they have to be more sensitive to the potential disrepute on account of action of a few black sheeps which may shake the credibility of the profession and thereby put at stake other members of the bar.²⁷

The disciplinary committee of the Bar Council of Maharashtra and Goa (BCMG) suspended the practice license of advocate Gunratan Sadavarte for a period of two years after holding the lawyer guilty of misconduct under section 35 of the Advocates Act.²⁸ The complaint against the lawyer stated that the advocate wore official attire of an advocate i.e. a black coat with band at public events. After advocate Sushil Manchekar, former president of the Pimpri Court Bar Association, lodged a complaint against Sadavarte with the BCMG, a three-member committee initiated disciplinary proceedings against him. Thereafter the BCMG on February 7, 2023 issued a notice to Sadavarte informing him about the disciplinary proceedings to enquire into complaints against him and asked him to respond to the complaint. The lawyer, however, filed a petition in the Bombay high court challenging the proceedings. The HC had, however, refused to interfere in the disciplinary proceedings. The court also held that there was no infirmity in the notice issued by the BCMG wherein he was asked to remain present before the panel. According to the rules an advocate should not wear bands or gowns in public places other than in Courts, except on such ceremonial occasions and such public places as the Bar Council of India or as a Court may prescribe.

²² Section 35 (2), Chapter-V, Advocates Act, 1961.

²³ Explanation to section 35 of the Advocates Act, 1961 w.e.f. 16.05.1964.

²⁴ Section 35 (1A), Chapter-V, Advocates Act, 1961 w.e.f. 31.01.1974.

²⁵ Section 35 (2), Chapter-V, Advocates Act, 1961.

²⁶ <https://indiankanoon.org/docfragment/100590463/?formInput=advocates%20professional%20misconduct> visited on 22.02.2025

²⁷ AIR 2001 SUPREME COURT 2509

²⁸ <https://indialegallive.com/top-story/maharashtra-bar-council-suspends-license-gunratan-sadavarte-misconduct/> visited on 17.04.2025

5. Disciplinary Committees:

A Bar Council shall constitute one or more disciplinary committees, each of which shall consist of three persons of whom two shall be persons elected by the Council from amongst its members and the other shall be a person co-opted by the Council from amongst advocates who possess the qualifications specified in the proviso to sub-section (2) of section 3 and who are not members of the Council and the senior-most advocate amongst the members of a disciplinary committee shall be the Chairman of the Disciplinary Committee.²⁹ The term of the member of the disciplinary committee of the Bar Council is 3 years.³⁰ The disciplinary bodies are guardians of the due administration of justice. They have requisite power and rather a duty while supervising the conduct of the members of the legal profession, to inflict appropriate penalty when members are found to be guilty of misconduct.³¹ Disciplinary actions against advocates can result in several consequences depending on the severity of the misconduct.³²

6. Punishment for Advocates in case of its Misconduct:

The disciplinary committee of a State Bar Council after giving the advocate concerned and the Advocate-General an opportunity of being heard, may make any of the following orders, namely:

- (i) dismiss the complaint or, where the proceedings were initiated at the instance of the State Bar Council, direct that the proceedings be filed;
- (ii) reprimand the advocate;
- (iii) suspend the advocate from practice for such period as it may deem fit;
- (iii) remove the name of the advocate from the State roll of advocates.³³

During the period of suspension from practice, the Advocate is debarred from practicing in any court or before any authority or person in India.³⁴ The Supreme Court of India viewed that fraudulent conduct of a lawyer cannot be viewed leniently lest the interest of the administration of justice and the highest traditions of the Bar may become casualty. By showing undue sympathy and leniency in a matter such as this where the advocate has been found guilty of grave and serious professional misconduct, the purity and dignity of the legal profession will be compromised. Any compromise with the purity, dignity and nobility of the legal profession is surely bound to affect the faith and respect of the people in the rule of law.³⁵

As per its recent press release dated 08.07.2024, the BCI outlined its directives to enforce disciplinary actions against advocates violating the prohibition which include instructing all State Bar Councils to cease and desist notice(s) to online platforms. The BCI has informed that advertising or soliciting work directly or indirectly, by the advocates are prohibited under Rule 36 of BCI Rules, 1975. This prohibition remains intact, with the BCI's recent directives issued vide press release dated 08.07.2024

²⁹ Section 9 of the Advocates Act, 1961.

³⁰ Part-II, Chapter-III of the Bar Council of India Rules under the Advocates Act, 1961 p. 10.

³¹ <https://indiankanoon.org/doc/1788027/> visited on 12.03.2025.

³² <https://www.freelaw.in/legalarticles/Disciplinary-Actions-against-Advocates-Procedures-and-Consequences> visited on 22.03.2025.

³³ Section 35 (3), Chapter-V, Advocates Act, 1961.

³⁴ Section 35 (4), Chapter-V, Advocates Act, 1961.

³⁵ AIR 2014 Supreme Court 944

in the light of judgment pronounced by Hon'ble Madras High Court in WP Nos. 31281 and 31428 of 2019, reaffirming its commitment to uphold them. The Bar Council of India's authority to impose the ban on lawyer advertising and solicitation through online platforms flows from Rule 36 of the Bar Council of India Rules, 1975 which reads as under:

“An advocate shall not solicit work or advertise, either directly or indirectly, whether by circulars, advertisements, touts, personal communications, interviews not warranted by personal relations, furnishing or inspiring newspaper comments or producing his photographs to be published in connection with cases which he has been engaged or concerned.”

This rule is designed to maintain the professional decorum and ethical standards of the legal profession. It prohibits any form of advertisement or solicitation of work, ensuring that the legal profession remains a service-oriented practice rather than a commercial enterprise.³⁶ A professional or other misconduct committed by a member of the profession should ordinarily be judged qua profession. To determine the quantum of punishment which may be imposed on an advocate, the test of proportionality shall be applied which would also depend upon the nature of the acts complained of. No universal rule thus can be laid down as regard initiation of a proceeding for misconduct of a member of the profession.³⁷

7. Conclusion and Suggestions:

No doubt, the legal profession is a noble and pious one, in which advocates play a vital role. Advocates are bound to maintain the dignity and integrity of this profession to generate the faith amongst people towards administration of justice. In legal profession, the highest standards of dignity, integrity, accountability and ethics are required to be maintained, in which disciplinary committees of State Bar Councils and Bar Council of India play a significant role. The duties and responsibilities have been provided under Bar Council of India Rules which are to be followed by the Advocates in letter and spirit so that the faith of the litigants may be sustained in the administration of justice. Legal profession cannot be considered as a business rather, advocates are termed as justice facilitators. Advocates are the bridges between the court and the litigants to provide justice to the aggrieved litigants.

³⁶ <https://pib.gov.in/PressReleaselframePage.aspx?PRID=2043470> visited on 28.04.2025.

³⁷ AIR 2004 SUPREME COURT 2440