

MODEL SCHEMES FOR WELFARE OF ADVOCATES FRAMED BY BAR COUNCIL OF INDIA

1. 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 Advocates practising in the State.

(2) These rules shall come into force from the date¹ notified by the Bar Council of India.

(3) Definitions:—

- (a) "applicant" shall mean an advocate on the roll of the State Bar Council within whose jurisdiction he is practising and applying for the financial assistance to such 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 IVA.
- (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 IVA.
- (e) "indigent advocate" means any practising advocate, who is unable to maintain himself and his family and is also unable to meet the costs of his treatment in case of serious ailment.
- (f) "family" shall mean the advocate's wife or in the case of a female, her husband, his or her minor children and aged parents actually dependent on the applicant advocate for maintenance.
- (g) "Fund" means fund constituted under the Bar Council of India Advocates Welfare Rules as contained under Part VI, Chapter II, section IVA of the Bar Council of India Rules for the Scheme for 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 Bar Council constituted under section 3 of the Advocates Act.

1. Came into force on 19-7-1998, *vide* Resolution No. 64/98.

(4) An indigent advocate practising in any court, tribunal or before any local authority in India shall be entitled to apply for appropriate financial assistance in case of his serious ailment, compelling him to remain confined to bed for more than one month, in the form prescribed for the purpose or in a form similar thereto addressed to the Chairman of the State Bar Council concerned. Such application shall be submitted in duplicate to the State Bar Council within whose jurisdiction the advocate is practising and such application must be recommended by the Executive Committee of the Bar Association of which the advocate concerned is a member and/or State Bar Council is otherwise satisfied and must also be certified by a doctor attending on him:

Provided that the State Bar Council *suo moto* or on the information received from any other source refer the case to the Advocates Welfare Committee of the State. On receipt of such application/applications or such reference by the State Bar Council the Secretary of the State Bar Council shall place the same before the Advocates Welfare Committee and shall make such enquiries in respect thereto as may be necessary as expeditiously as possible.

(5) The Advocates Welfare Committee for the State when decided to grant financial assistance in an appropriate case shall sanction such amount as may be necessary to complete any operation or treatment connected with the ailment of the advocate concerned not exceeding Rs. 1,500 and may also sanction such monthly assistance to the applicant towards treatment and costs of medicines etc., and for maintenance of his family for a period of three months at the rate of not exceeding Rs. 500 per month.

(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 its Advocates Welfare Committee and the recommendation of the State Bar Council may in an appropriate hard cases 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 cases" means the dependent of the deceased advocate have no financial means and in the circumstances immediate help is felt necessary.

(8) Financial grant to the Advocate concerned shall ordinarily be paid without delay. If the Advocate is unable to come for receiving the money so sanctioned, the office of the State Bar Council may send it to the advocate concerned by money order or to the representations of such advocate specially by him in writing to the satisfaction of the Secretary, State Bar Council and on granting an appropriate receipt for such payment money so sanctioned or monthly maintenance of the Advocate shall be sent by the first week of every month for such grant on obtaining an appropriate receipt.

(9) The State Bar Council shall maintain proper records of all the records received and amounts sanctioned and receipt obtained thereof.

(10) If any advocate makes any statement or furnishes any information which is proved to be false to his knowledge, it shall amount to professional misconduct under section 35 of the Advocates Act.

(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 10 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.

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 in India.

2. These rules shall come into force with effect from the date¹ notified by the Bar Council of India.

3. Definitions:—

- (a) "applicant" shall mean an advocate on the roll of the State Bar Council within whose jurisdiction he is practising and applying for the financial assistance to such 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 44(1) of the Bar Council of India Rules under Part VI, Chapter II, Section IVA.
- (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 Bar Council of India Rules under Part VI, Chapter II, Section IVA.
- (e) "disabled advocate" shall mean an advocate, whereby reason of any physical, mental or other infirmity is unable to practise the profession of law.
- (f) "family" shall mean the Advocate's wife or in the case of female, her husband, his or her minor children and aged parents actually dependent on the applicant advocate for maintenance.
- (g) "Fund" means fund constituted under the Bar Council of India Advocates Welfare Rules for the scheme for assistance to Indigent and Disabled Advocates practising in the State.

1. Came into force on 19-7-1998.

- (h) "indigent advocate" shall mean an advocate who has to maintain himself and his family from his profession and other income.
- (i) "State Bar Council" means Bar Council constituted under section 3 of the Advocates Act.

4. Any person desirous of obtaining financial assistance under these rules shall submit an application to the Chairman of the State Bar Council. The State Bar Council may also give financial assistance as it may deem fit *suo motu* or on the information received from any other source. The application shall be submitted in duplicate duly recommended by the Executive Committee of the Bar Association of which the advocate concerned is member and/or the Advocates Welfare Committee of the State is otherwise satisfied.

5. On receipt of such application or applications the Advocates Welfare Committee for the State shall make such enquiries in respect thereto as may be necessary as expeditiously as possible.

6. The Advocates Welfare Committee for the State when decided to grant financial assistance in an appropriate case shall sanction such sum as may be necessary, but in any case it shall not exceed Rs. 3,000:

Provided that if the Advocates Welfare Committee considers that in a given case the applicant should be given lump-sum amount in addition to annual or monthly grant the Advocates Welfare Committee shall record its reasons and refer to the State Bar Council. The State Bar Council may sanction a sum of Rs. 10,000 keeping in view its capacity to pay from the fund.

7. Financial grant to the indigent and/or disabled advocate shall normally be paid on monthly basis and the amount shall ordinarily be paid to the advocate concerned. If the advocate concerned is unable to come for receiving money, the office of the State Bar Council may send it to the advocate concerned by Money Order or a Bank Draft to the advocate concerned by specially authorised by him in writing to the satisfaction of the Secretary of the State Bar Council on obtaining appropriate receipt of such payment.

8. The grant of financial assistance to an indigent and/or disabled advocate shall be sanctioned annually and may be paid on a monthly basis and in case of necessity such sanction may be renewed after expiry of the year for which the sanction was already granted:

Provided that financial grant to such advocate shall cease as soon as the advocate concerned ceases to be indigent or disable for which financial assistance was allowed ceased to exist.

9. If any advocate makes any statement or furnishes any information which is proved to be false to his knowledge, it shall meant to professional misconduct under section 35 of the Advocates Act.

10. If the Advocates Welfare Committee for the State subsequently finds that any statement given or evidence adduced by the applicant was also 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.

11. The advocate aggrieved of any order passed by the State Bar Council under rule 10, 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.

III. SCHEME FOR LIBRARY DEVELOPMENT

1. These rules shall be known as "Bar Council of India Advocates Welfare Library Development Rules".

2. These rules shall come into force from the date¹ as notified by the Bar Council of India.

3. Definitions:—

- (a) "applicant" means a Bar Association registered under the Societies Registration Act or so affiliated with the State Bar Council within whose jurisdiction the Bar Association situated and has submitted an application for Library development under the rules.
- (b) "Bar Association" means the Bar Association registered under the Societies Registration Act or so affiliated with the State Bar Council within whose jurisdiction the Bar Association is situated.
- (c) "Bar Council of India" means the Bar Council constituted under section 4 of the Advocates Act.
- (d) "Bar Council of India Advocates Welfare Committee" means the Committee constituted under rule 44A (1) of the Bar Council of India Rules under Part VI, Chapter II, section IVA.
- (e) "State Bar Council" means the Bar Council constituted under section 3 of the Advocates Act.
- (f) "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, Part VI, Chapter II, Section IVA.
- (g) "Fund" means the fund constituted under the Bar Council of India Advocates Welfare Rules provided under Part VI, Chapter II, Section IVA of the Bar Council of India Rules for the Scheme for Library Development.
- (h) "Financial Year" means the year from 1st April to 31st March of the next year.
- (i) "Application Form" means the form so prescribed by the Committee from time to time for applying for financial assistance to the Library of the Bar Association.

4. Any High Court, District Court, Sub-Divisional Court, Tehsil or Taluka Court, Bar Association will be entitled to apply for annual grant to the Advocates Welfare Committee of the Bar Council of India for that State in the form prescribed under these rules and will make necessary declaration as prescribed therein and supply such information about the functioning of the concerned library as may be required by the said Committee.

¹ Came into force on 19-7-1998.

5. The Advocates Welfare Committee shall consider such applications twice a year and sanction the appropriate grant to such applicant—Bar Association for development of the library.

6. The Bar Association which received the amount once will not ordinarily be eligible again till after the lapse of three years.

7. The Bar Association while making an application for grant to the Advocates Welfare Committee for the State append a resolution of the Association deciding to seek the grant an approved list of books in duplicate and also their resolution to generate a sum of at least 10% of the proposed grant for purchase of books and equipment in their library.

8. The grant will be given not in cash but by way of books desired to be purchased by the Association.

9. As far as may be, the fund to be allocated to each Bar Association under these rules, be in accordance with the total strength of the advocates of such Bar Association.

10. The books that will be supplied under this scheme shall bear stamp containing the following inscription:—

“BAR COUNCIL OF INDIA ADVOCATES WELFARE FUND FOR THE
STATE LIBRARY DEVELOPMENT SCHEME”

11. The Bar Association receiving the grant will maintain a list of books supplied to it.

IV. RULES FOR FINANCIAL ASSISTANCE TO STATE BAR COUNCILS/ ADVOCATES UNDER RULE 44B OF THE BAR COUNCIL OF INDIA RULES

(1) These rules shall be known as the Scheme for Financial Assistance to the State Bar Councils under rule 44B of the Bar Council of India Rules.

(2) The scheme shall come into force immediately¹.

(3) These schemes shall be applicable to only such State Bar Councils which have remitted the sum in accordance with the rule 41 (2) of the Bar Council of India Rules.

(4) That on receiving information from the Chairman of the State Bar Council or Member, Bar Council of India from that State, the Chairman, Bar Council of India on being satisfied by such report may immediately sanction a reasonable amount not exceeding Rs. 5,000 in an individual case and Rs. 25,000 in case of some calamity involving more than one advocate and shall report to the Advocates' Welfare Committee of the Bar Council of India. The financial assistance to the State Bar Councils will be available in any of the following cases:—

- (a) The advocate or advocates have suffered seriously on account of some natural calamity or;
- (b) the advocate or advocates have died an unnatural death, due to an accident or natural calamity or any other cause of like nature, or;

1. Came into force on 19-7-1998.

- (c) the advocate or advocates have suffered or is suffering from such serious disease or illness which is likely cause death if no proper treatment is given and the advocate requires financial assistance without which he would not be able to get proper treatment and has no personal assets except a residential house to meet such expenditures, or;
- (d) the advocate or advocates become physically disabled or incapacitated to continue his profession on account of natural calamity or accident or any other cause of like nature.

(5) That the amount sanctioned under rule 4 shall be placed at the disposal of the Advocates Welfare Committee of the Bar Council of India for the State and the said State Committee shall maintain separate account and send the same to the Bar Council of India within three months from the date of the receipt thereof.

(6) That the Advocates Welfare Committee of the Bar Council of India on receiving such applications duly recommended by the State Bar Councils, may sanction a sum provided in the different schemes prepared by the Bar Council of India.