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मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 276]

भोपाल, शनिवार, दिनांक 3 जुलाई 2021—आषाढ 12, शक 1943

विधि और विधायी कार्य विभाग

उच्च न्यायालय, मध्यप्रदेश, जबलपुर

Jabalpur, the 29th June 2021

No. B-3288.—In exercise of the powers conferred by sub-section (1) of Section 34 read with sub section (2) of Section 16 of the Advocates Act, 1961 (Act No. 25 of 1961), the High Court of Madhya Pradesh, hereby makes the following amendments in “The High Court of Madhya Pradesh (Designation of Senior Advocates) Rules, 2018”, namely:—

AMENDMENTS

In the said Rules,—

1. In Rule 1 of the existing Rules, the words “**Short Title.—**” shall be deleted.
2. In Rule 2 of the existing Rules, the words “**Commencement.—**” shall be deleted.
3. After Rule 2 of the existing Rules, the following Rule as “3” shall be added, namely:—
 - “3. **Definitions**—In these Rules, unless the context otherwise requires:—
 - (a) “Advocate” means an advocate defined in the Advocates Act, 1961.
 - (b) “High Court” means the High Court of Madhya Pradesh.
 - (c) “Instructing Advocate” means an advocate other than a senior advocate, who has been instructed by party in the matter.
 - (d) “Roll” means the roll of Advocates prepared and maintained under the Advocates Act, 1961.
 - (e) “Tribunal” includes any authority or person legally authorized to take evidence and before whom advocates are by or under any law for the time being in force, entitled to practise.”

4. Rules "3", "4" and "5" of the existing Rules shall be renumbered as Rules "4", "5" and "6" respectively.
5. Rules "6" of the existing Rules shall be renumbered as Rules "7" and after the word "Applications", the word "including" shall be replaced by the word "and". At the end, after the word "Secretariat", the following shall be added, namely:—

"On receipt of such applications or proposals from Hon'ble Judges, the Secretariat will compile the relevant data and information with regard to the reputation, conduct, integrity of the Advocate (s) concerned including his participation in pro-bono work; reported judgments in which the concerned Advocate (s) had appeared; the number of such judgments for the last five years. The source (s) from which information/data will be sought and collected by the Secretariat will be as decided by the Permanent Committee."
6. After renumbering of existing Rule "6" as Rule "7", the following Rules as "8" and "9" shall be added, namely :—
 - "8. The Advocate concerned along with the application referred to in Rule 7 supra, shall append his certificate that he has not applied to any other High Court for being designated as Senior Advocate and that his application has not been rejected by the High Court concerned within a period of two years prior to the date of the application.
 9. Canvassing in any manner by the Advocate concerned for designation as a Senior Advocate shall disqualify him from being so considered or designated".
7. Rules "7" and "8" of the existing Rules shall be renumbered as Rules "10" and "11" respectively.
8. Rule 9 of the existing Rules shall be deleted and new Rule 12 shall be substituted in place of Rule 9, namely :—
 - "12. An advocate shall be considered for being designated as a Senior Advocate only if he has actually practiced as an advocate for not less than 10 years in the High Court of Madhya Pradesh Principal Seat at Jabalpur or its Benches at Indore and Gwalior or Courts subordinate to High Court of Madhya Pradesh."
9. Rule "10" of the existing Rules shall be renumbered as Rule "13". In this Rule, in the second and third line, the numbers "4" and "5" shall be replaced by the numbers "5" and "6" respectively.
10. Rule "11", "12" and "13" of the existing Rules shall be renumbered as Rules "14", "15" and "16" respectively.
11. Rules "14" of the existing Rules shall be renumbered as Rule "17" and between the words "Committee" and "shall", the words "along with all documents and necessary details" shall be inserted.
12. Rules "15" and "16" of the existing Rules shall be renumbered as Rules "18" and "19" respectively.
13. Rule "17" of the existing Rules shall be renumbered as Rule "20" and the heading "**The name not to be reconsidered for next 2 years.-**" shall be deleted.
14. Rule "18" of the existing Rules shall be renumbered as Rule "21".

15. Rule "19" of the existing Rules shall be renumbered as Rule "22" and in the proviso, the number "18" shall be replaced by "21".
16. Rule "20" of the existing Rules shall be renumbered as Rule "23".
17. Rule "21" of the existing Rules shall be renumbered as Rule "24" and the heading "**Restrictions on Senior Advocates.-**" shall be deleted. After Sub-Rule (6) of this Rule, in the part of "Explanation", the words "In this rule" shall be made unbold and the sign. "—" along with the capital roman number "(I)" shall be deleted. In the part of "Explanation", the paragraph starts from the words "Act in" shall be joined with the words "In this Rule" and both the clauses (II) and (III) shall be deleted.
18. Rule "22" of the existing Rules shall be renumbered as Rule "25" and the heading "**Intimation of cancellation of Designation.**" shall be deleted.
19. Rule "23" of the existing Rules shall be renumbered as Rule "26" and the heading "A Record of Designations to be Maintained." shall be deleted and at the last, the number "5" shall be replaced by "6".
20. After renumbering of existing Rule "23" as Rule "26", the following Rule shall be added as Rule "27", namely :—
 - "27. Nothing contained in these rules shall stand in the way of an Advocate who has been designated by the High Court of Madhya Pradesh as a Senior Advocate, from submitting an application to withdraw or recall his/her designation as a Senior Advocate. In the event of such an application addressed to the Secretary to the Secretariat being submitted, the same shall be placed before the Permanent Committee for appropriate action."
21. Rule "24" of the existing Rules shall be renumbered as Rule "28" and in the heading' after the word "**Repeal**", the words "**and Savings**" shall be added.
22. Rules 25 and 26 of the existing Rules shall be deleted.
23. In the "PROFORMA OF PARTICULARS" of existing Rules, in fourth line of the Title, the number "10" shall be replaced by "13".

RAJENDRA KUMAR VANI, Registrar General.

गोपाल श्रीवास्तव, सचिव.

(After Amendment)

In exercise of the powers conferred by sub-section (1) of section 34 read with sub-section (2) of section 16 of the Advocates Act, 1961 (Act No. 25 of 1961), the High Court of Madhya Pradesh, hereby, makes the following rules, namely:-

1. These Rules shall be called the High Court of Madhya Pradesh (Designation of Senior Advocates) Rules, 2018.
2. These Rules shall come into force on the date of their publication in the Official Gazette.
3. **Definitions.-** In these Rules, unless the context otherwise requires :-
 - (a) "Advocate" means an advocate defined in the Advocates Act, 1961.
 - (b) "High Court" means the High Court of Madhya Pradesh.
 - (c) "Instructing Advocate" means an advocate other than a senior advocate, who has been instructed by party in the matter.
 - (d) "Roll" means the roll of Advocates prepared and maintained under the Advocates Act, 1961.
 - (e) "Tribunal" includes any authority or person legally authorized to take evidence and before whom advocates are by or under any law for the time being in force, entitled to practise.
4. All matters related to designation of Senior Advocate(s) in the High Court of Madhya Pradesh shall be dealt with by a Permanent Committee known as "Committee for Designation of Senior Advocates".
5. The Permanent Committee shall comprise, the Chief Justice of the High Court and two Senior-most Judges of the High Court nominated by the Chief Justice, Advocate General of the State and such four Members shall nominate the fifth Member from the Bar.
6. There shall be a Permanent Secretariat of the Permanent Committee which shall be constituted by the Chief Justice in consultation with the other Members of the Permanent Committee.
7. All applications and written proposal by the Hon'ble Judge(s) shall be submitted to the Secretariat. On receipt of such applications or proposals from Hon'ble Judges, the Secretariat will compile the relevant data and information with regard to the reputation, conduct, integrity of the Advocate(s) concerned including his participation in pro-bono work; reported judgments in which the concerned Advocate(s) had appeared; the number of such judgments for the last five years. The source(s) from which information/data will be sought and collected by the Secretariat will be as decided by the Permanent Committee.
8. The Advocate concerned along with the application referred to in Rule 7 supra, shall append his certificate that he has not applied to any other High Court for being designated as Senior Advocate and that his application has not been rejected by the High Court concerned within a period of two years prior to the date of the application.
9. Canvassing in any manner by the Advocate concerned for designation as a Senior Advocate shall disqualify him from being so considered or designated.

10. An application or a recommendation shall be placed by the Secretary for consideration before Permanent Committee.
11. The Full Court may designate an advocate as Senior Advocate, if in its opinion, by virtue of his ability, standing at the bar, special knowledge, legal acumen, experience in law and high ethical standards; the said advocate deserves conferral of such distinction.
12. An advocate shall be considered for being designated as a Senior Advocate only if he has actually practiced as an advocate for not less than 10 years in the High Court of Madhya Pradesh Principal Seat at Jabalpur or its Benches at Indore and Gwalior or Courts subordinate to High Court of Madhya Pradesh.
13. Where the name of an advocate for designation as Senior Advocate is to be considered by the Permanent Committee constituted under Rule 5; the Secretary of the Secretariat constituted under Rule 6 shall obtain the following particulars in respect of such advocate:
 - (1) Name.
 - (2) Qualification.
 - (3) Date of Birth.
 - (4) Permanent address.
 - (5) Address to which communications are to be sent.
 - (6) Name of Bar Council and Date of enrollment as an advocate.
 - (7) Number in the roll of advocates maintained by the State Bar Council.
 - (8) Whether he is/was a member of any association of lawyers? If so the details.
 - (9) Number of years, name of place and Court(s) where practiced.
 - (10) Specialization in any field of law such as Constitutional Law, Criminal Law, Arbitration Law, Corporate Law, Family Law, Human Rights, Public Interest Litigation, International Law, Law relating to Women, Inter-state Water Disputes etc. If so, details.
 - (11) Whether a junior to any lawyer(s) at present? If so, the details.
 - (12) Whether any junior lawyer is practising with him? If so, names of such lawyers and the period.
 - (13) Whether he is assessed under the Income Tax Act in respect of professional income? If so, details of income assessed for the last three years accompanied by a copy of the Permanent Account Number Card.
 - (14) Whether he is/was in the panel of the State or Central Government or whether holds any office under the State or Central Government?
 - (15) (a) Reference to any important matter in which appeared.
(b) Reported judgments in which the concerned Advocate(s) had appeared in last five years.
 - (16) Whether he has written any book on law or made any contribution to a law publication or journal? If so, the details.
 - (17) Whether he attended or participated in any seminar/conference relating to law?
 - (18) Whether he is/was connected with any faculty of law?
 - (19) Whether any application for designation as senior advocate had been made in the past to the High Court of Madhya Pradesh or any other Court? If so, when and with what result?
 - (20) Whether ordinarily practising within the jurisdiction of the High Court of Madhya Pradesh.

- (21) Whether he has ever been personally involved in any civil or criminal litigation or contempt proceedings or any disciplinary proceedings against him by the Bar Council. If so the details thereof.
- (22) Details of participation in pro-bono work.
- (23) Other information/particulars, if any, including legal services and as Legal aid counsel.
14. The Secretary of the Secretariat shall publish the proposal of designation of particular Advocate in the official website of the High Court inviting the suggestions/views of other stakeholders in the proposed designation.
15. After collecting the information, the Secretary of the Secretariat shall compile the relevant data and information with regard to the reputation, conduct, integrity of the Advocate(s) concerned and all such other information as may be specifically directed by the Permanent Committee. The Secretariat shall put-up the case before the Permanent Committee for scrutiny.
16. The Permanent Committee shall examine each case in the light of the data provided by the Secretariat of the Permanent Committee; interview the concerned Advocate; and make its overall assessment on the basis of a point-based format indicated below:

S. No.	Matter	Points
1.	Number of Years of practice of the Applicant Advocate from the date of enrolment. (10 points for 10-20 Years of practice; 20 points for practice beyond 20 Years)	20 Points
2.	Judgments (Reported and Unreported) which indicate the legal formulations advanced by the concerned Advocate in the course of the proceedings of the case; pro-bono work done by the concerned Advocate; domain expertise of the Applicant Advocate in various branches of law such as Constitutional Law, Criminal Law, Arbitration Law, Corporate Law, Family Law, Human Rights, Public Interest Litigation, International Law, Law relating to Women, Inter-state Water Disputes etc.	40 Points
3.	Publications by the Applicant Advocate	15 Points
4.	Test of Personality & Suitability on the basis of Interview/Interaction	25 Points

17. The list prepared by the Permanent Committee along with all documents and necessary details shall be placed before the Full Court for consideration.
18. Ordinarily, in the case of difference of opinions in respect of a Candidate, except when unavoidable, voting by secret ballot shall not be resorted to by the Full Court. In case of voting by secret ballot, decisions will be carried by a majority of the Judges who have chosen to exercise their preference/choice.
19. On approval by the Full Court, the concerned advocate shall be designated as Senior Advocate by the High Court. On such Conferral the Secretary

shall notify the fact to the Secretary General, Supreme Court, the Bar Council of Madhya Pradesh, the Bar Council of India as also to all the District and Sessions Judges subordinate to the High Court.

20. If the name of an advocate has been considered and not approved by the Full Court, it shall not be reconsidered for next 2 years. After two years, it can be reviewed /reconsidered, following the manner indicated above as if the proposal is being considered afresh.
21. The final decision of the Full Court will be communicated to the applicants individually.
22. In the event a Senior Advocate is found guilty of misconduct which according to the Full Court disentitles the Senior Advocate concerned to continue to be worthy of the designation, the Full Court may review its decision to designate the concerned person and recall the same.

Provided that before reviewing the decision mentioned in Rule 21, the Permanent Committee shall issue a notice to the concerning advocate of not less than 30 days to show cause and after receiving the reply, if any, place it before Permanent Committee who shall examine it and after examination, with his opinion, place it before Full Court.

23. All questions relating to interpretation/application of these Guidelines, shall be referred to the Chief Justice, whose decision thereon shall be final.

24. A senior advocate shall not—

- (1) file a vakalatnama or memo of appearance or act in any Court or Tribunal;
- (2) appear before a Court or Tribunal without an instructing advocate;
- (3) accept instructions to draw pleadings or affidavits, advise on evidence or do any drafting work of an analogous kind in any Court or Tribunal or undertake conveyancing work of any kind whatsoever;

—but these prohibitions shall not extend to settling any such matter as aforesaid in consultation with an instructing advocate;

- (4) accept directly from a party any brief or instructions to appear in any Court or Tribunal;
- (5) be a standing counsel of any government, public sector undertaking, institution or local or corporate body and if he holds such a position, he shall resign or relinquish the same upon being designated a senior advocate:

Provided that, for the purpose of this sub-rule, holding of the office of the Advocate General, Additional Advocate General, Attorney General, Solicitor General or Additional Solicitor General shall not amount to be a standing counsel;

- (6) shall not enter into direct professional correspondence with a litigant except for the purpose of giving opinion.

Explanation.— In this rule “Act in” means filing an appearance or any pleadings or applications in any Court, Tribunal or Authority in India, or any act (other than pleading) required or authorized by law to be done by a party in such court or tribunal either in person or by his recognized agent or by an advocate or attorney on his behalf;

25. On withdrawal of status of senior Advocate, the Secretary of the Secretariat shall notify the fact to the Secretary General, Supreme Court, the Secretary, Bar Council of Madhya Pradesh, the Secretary, Bar Council of India, the Secretaries of Bar Councils of other States in India and also all the District and Sessions Judges subject to jurisdiction of the High Court. The notification shall also be published in the official website of the High Court and a copy thereof shall be communicated to the Judges of the High Court of Madhya Pradesh.
26. A record of all such designations and withdrawals shall be maintained in the Secretariat constituted under Rule 6.
27. Nothing contained in these rules shall stand in the way of an Advocate who has been designated by the High Court of Madhya Pradesh as a Senior Advocate, from submitting an application to withdraw or recall his/her designation as a Senior Advocate. In the event of such an application addressed to the Secretary to the Secretariat being submitted, the same shall be placed before the Permanent Committee for appropriate action.
28. **Repeal and Savings.—**
- (1) On coming into force of these rules, the rule framed by the High Court of Madhya Pradesh under Section 16(2) of the Advocates Act, 1961, Published in Madhya Pradesh Gazette, (Extraordinary) dated 11th April, 2012, p. 379-380 (1) shall stand repealed.
- (2) Notwithstanding the fact that these Rules have come into force and repeal under sub-rule (1) has taken effect.—
- (a) anything duly done or suffered; or
- (b) any right, obligation or liability, accrued, imposed or incurred; or any proceedings taken or to be taken, in respect of such right, obligation or liability;
- under the repealed Rules, before such enforcement, shall not be affected.

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**HIGH COURT OF MADHYA PRADESH (DESIGNATION OF SENIOR
ADVOCATES) RULES, 2018**

PROFORMA OF PARTICULARS

(UNDER RULE 13)

Passport Size Photograph

- (1) Name.....
.....
- (2) Qualification.....
.....
- (3) Date of Birth.....
- (3) Permanent address.....
.....
- (4) Address to which communications are to be sent.....
.....
- (5) Name of Bar Council and Date of enrollment as an advocate.....
.....
.....
- (7) Number in the roll of advocates maintained by the State Bar Council.
.....
- (8) Whether he/she is/was a member of any association of lawyers? If so
the details.....
- (9) Number of years, name of place and Court(s) where practiced.....
.....
- (10) Specialization in any field of law such as Constitutional Law, Civil
Law, Criminal Law, Service/Labour Law, Arbitration Law, Corporate
Law, Family Law, Human Rights, Public Interest Litigation,
International Law, Law relating to Women, Inter-state Water Disputes
etc. If so, details
- (11) Whether a junior to any lawyer(s) at present? If so, the
details.....
.....
- (12) Whether any junior lawyer is practising with him? If so, names of
such lawyers and the period.....
.....
- (13) Whether he/she is an assessee under the Income Tax Act in respect of
professional income? If so, details of income assessed for the last

three years accompanied by a copy of the Permanent Account Number Card.....

- (14) Whether he/she is/was in the panel of the State or Central Government or whether holds any office under the State or Central Government?
- (15) (a) Reference to any important matter in which appeared.....
(b) Reported judgments in which the concerned Advocate(s) had appeared in last five years.
- (16) Whether he/she has written any book on law or made any contribution to a law publication or journal? If so, the details.....
- (17) Whether he/she attended or participated in any seminar/conference relating to law?.....
- (18) Whether he/she is/was connected with any faculty of law?.....
- (19) Whether any application for designation as senior advocate had been made in the past to the High Court of Madhya Pradesh or any other Court? If so, when and with what result?.....
- (20) Whether ordinarily practising within the jurisdiction of the High Court of Madhya Pradesh.....
- (21) Whether he/she has ever been personally involved in any civil or criminal litigation or contempt proceedings or any disciplinary proceedings against him by the Bar Council. If so the details thereof.....
- (22) Details of participation in pro-bono work.....
- (23) Other information/particulars, if any, including legal services and as Legal aid counsel.....

Date :

Signature of the Advocate
Mobile No.
E-mail ID-