



महाराष्ट्र शासन राजपत्र

असाधारण भाग चार-क

वर्ष ४, अंक ६२]

गुरुवार, ऑक्टोबर २५, २०१८/कार्तिक ३, शके १९४०

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असाधारण क्रमांक ९०

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाव्यतिरिक्त इतर वैधानिक प्राधिकाऱ्यांनी तयार केलेले
(भाग एक, एक-अ व एक-ल यांमध्ये प्रसिद्ध केलेले वैधानिक नियम व आदेश यांव्यतिरिक्त इतर)
वैधानिक नियम व आदेश ; यात भारत सरकार, उच्च न्यायालय, पोलीस आयुक्त, आयुक्त (राज्य उत्पादन शुल्क),
जिल्हादंडाधिकारी व निवडणूक आयोग, निवडणूक न्यायाधिकरण, निवडणूक निर्णय अधिकारी व निवडणूक आयोगाखालील
इतर प्राधिकारी यांनी तयार केलेले वैधानिक नियम व आदेश यांचा समावेश होतो.

THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE AND ORIGINAL SIDE

NOTIFICATION

No. P. 3603/2018.—In exercise of powers conferred under Section 16(2) and 34(1) of the Advocates Act, 1961 (Central Act 25 of 1961) and pursuant to the directions of the Hon'ble Supreme Court of India in its decision in "Indira Jaisingh V Supreme Court of India" (2018 (3) BCR 517), the High Court of Bombay makes the following rules regarding designation of an Advocate as a Senior Advocate, superseding the existing Rules framed under section 16(2) of the Advocates Act, 1961, contained in Schedule VI of the Bombay High Court Appellate Side Rules, 1960 and in Rule 24 of the Bombay High Court Original Side Rules, 1980.

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GENERAL INSTRUCTIONS FOR COMPLETING
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RULES FRAMED UNDER SECTION 16(2) OF THE ADVOCATES ACT, 1961

1. *Short title and Commencement.*—(a) These Rules shall be called the Bombay High Court (Designation of Senior Advocates) Rules, 2018.

(b) These Rules shall come into force on the date of publication in the *Official Gazette*.

2. *Definitions.*—In these Rules, unless the context otherwise requires,—

(a) “Chief Justice” means the Chief Justice of High Court of Bombay.

(b) “High Court” means the High Court of Bombay.

(c) “Permanent Committee for Designation of Senior Advocates” means the committee headed by the Hon’ble the Chief Justice and consists of the two most senior Judges of the High Court, the learned Advocate-General and one nominated member of the Bar.

(d) “Permanent Secretariat” means the Secretariat headed by the Registrar-General of the High Court, and of which the Registrar (Judicial-I) of the High Court shall be the Secretary.

(e) “Senior Advocate” means Advocate designated as Senior Advocate under Section 16(2) of the Advocates Act, 1961.

(f) “Stakeholder” means and includes every person directly concerned with or affected by the designation of any Advocate as a Senior Advocate of the High Court.

3. *Permanent Committee.*— (a) All matters relating to designation of Senior Advocates in the Bombay High Court shall be dealt with by a Permanent Committee to be known as the Permanent Committee for Designation of Senior Advocates.

(b) The composition of the Permanent Committee shall be as defined in Rule 2(c) above.

(c) The Permanent Committee will be assisted by a Permanent Secretariat as defined in Rule 2(d) above.

(d) The Permanent Committee will meet at least twice in each calendar year.

4. *Designation as a Senior Advocate.*— An Advocate who has actively and actually practiced for not less than 10 years in the Bombay High Court may be considered for being designated as Senior Advocate either—

(a) On a written recommendation from the Chief Justice or any permanent Judge of the High Court of Bombay to the Permanent Secretariat, that, in the opinion of the Chief Justice, or of such other permanent Judge, by virtue of the advocate’s ability, experience, standing at the Bar, or special knowledge of, or experience in law, the advocate is deserving of such designation ; or

(b) On a proposal for designation as a Senior Advocate by two previously designated Senior Advocates of the Bombay High Court; or

(c) On application by an advocate, endorsed by two designated Senior Advocates of the Bombay High Court.

5. *Procedure for designation of Senior Advocates.*— (a) Every proposal/application for designation as a Senior Advocate shall be submitted in the month of June and December of each year.

(b) Every proposal / recommendation for designation as a Senior Advocate shall be in the **Form I** appended to these rules.

(c) Every such proposal shall be accompanied by an application in **Form II** appended to these rules.

(d) No Senior Advocate shall propose the names of more than two advocates for designation in one calendar year.

(e) Every advocate preferring an application for designation as a Senior Advocate, shall submit his application as per **Form II**, endorsed by two designated Senior Advocates as per **Form I** appended to these rules.

(f) Along with the proposal and application the Advocate shall append his certificate that he has not applied to any other High Court for being designated as a Senior Advocate and that his application has not been rejected by the High Court within a period of two years prior to the date of the proposal or application.

(g) All proposals and applications for designation of an advocate as a Senior Advocate shall be submitted to the Permanent Secretariat, which shall scrutinize the proposals and applications received as per directions and guidelines of the Permanent Committee.

(h) The Permanent Secretariat on scrutiny of the proposals so received will intimate the concerned Advocate of any irregularity, who shall remove the same within 15 days from the receipt of such intimation.

(i) On receipt of all applications/ proposals/ recommendations the Permanent Secretariat shall compile the relevant data and information with regard to the reputation, conduct, integrity of the Advocate(s) concerned including his/her participation in pro-bono work if any; reported judgments of cases in which he/she has appeared; the number of such judgments for the last five years; and such other information as the Permanent Committee may think necessary. This data will be gathered by the Permanent Secretariat from such source or sources as the Permanent Committee may direct, and is not restricted to data submitted by the advocate-candidate.

(j) The Permanent Secretariat shall publish the proposal of designation of the Advocate on the official website of the Bombay High Court, inviting suggestions and views of the members of the Bar and other stakeholders within 30 days from the date of such publication.

(k) The suggestions/views shall be in writing and shall bear the name and full address of the sender and shall be addressed to the Permanent Secretariat of the High Court. Anonymous petitions/ representations/views shall not be entertained. The suggestions/ views shall be submitted only in physical form in writing and submission of such views/suggestions by any other mode shall not be entertained.

(l) On completion of above procedure, the Permanent Secretariat shall prepare and submit a report to the Permanent Committee regarding every proposal/application for designation. The Permanent Secretariat shall endeavour to prepare such report within 90 days of the last date for receipt of views/ suggestions.

(m) The Permanent Committee will examine each proposal /application for designation of Senior Advocate in the light of data provided by the Secretariat of the Permanent Committee and the suggestions/views of the members of the Bar and other stakeholders.

(n) The Permanent Committee shall interact with the Advocate concerned to make an overall assessment. The Permanent Committee will make its overall assessment on the basis of a point-based format indicated below :—

Sr. No. (1)	Matter (2)	Points (3)
1.	Number of years of practice of the Applicant Advocate from the date of enrollment.[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 Advocate concerned in the course of the proceedings of the case; pro bono work done by the Advocate concerned; domain expertise of the applicant advocate in various branches of law, such as Constitutional Law, Inter-State Water Disputes, Criminal Law, Arbitration law, Corporate law, Family law, Human Rights, Public Interest Litigation, International law, law relating to women, etc.	. . 40 Points
3.	Publications by the Advocate.	. . 15 Points
4.	Test of personality & suitability on the basis of interaction.	. . 25 Points

(o) If the Permanent Committee defers any proposal/application for designation as a Senior Advocate, such proposal/application shall not be considered until the expiry of one year from the date of deferment.

(p) After completing the assessment the Permanent Committee shall place the proposals/ recommendations/ applications for designation, before the Full Court for consideration, along with its recommendations.

(i) The Full Court will have due regard to the recommendations of the Permanent Committee.

(ii) At any Full Court meeting, a Judge may abstain from participating in the proceedings with respect to any proposal.

(iii) In the Full Court meeting convened for this purpose, voting by secret ballot will not normally be resorted to by the Full Court except when so unavoidable. In the event of a secret ballot, the decisions will be by majority of the Judges present and actually voting.

(q) A proposal/application not approved by the Full Court may be reviewed/reconsidered only after the expiry of two years from the date on which proposal/ application was not accepted by the Full Court and then only on receipt of a fresh proposal/application for designation of Senior Advocate.

(r) The name of candidates who have been accepted for designation by the Full Court shall be designated as Senior Advocates.

(s) The final decision of the Full Court will be communicated to each candidate individually.

6. *Norms and Guidelines.*— The following norms and guidelines will govern all recommendations and proposals/applications for designation as a Senior Advocate :

(a) Every Advocate-candidate shall be enrolled with the Bar Council of Maharashtra and Goa.

(b) The Advocate should have not less than ten years' standing as an advocate of the Bombay High Court.

(c) An Advocate convicted by any competent Court or against whom a charge has been framed for an offence involving moral turpitude or for contempt of court shall not be eligible for consideration.

(d) The Advocate must be found deserving of designation as Senior Advocate by virtue of his/her ability, integrity, standing at the Bar or special knowledge or experience in law.

(e) Upon designation of an Advocate as Senior Advocate, he or she shall also appear gratis and pro bono in legal aid cases as and when called upon by the Court.

(f) An Advocate who has done legal aid work shall be given due weightage.

(g) On designation as a Senior Advocate, the advocate concerned will not—

(i) Draft or sign pleadings in any Court.

(ii) Appear unless assisted by another Advocate.

(iii) Directly give consultation to any litigant.

(iv) Appear for mentioning any matter to the Court nor seek an adjournment in any Court.

(h) Canvassing in any form by the Advocate concerned or by the proposer or seconder shall result in the immediate disqualification of the proposal/application of the advocate concerned.

7. *Review and Recall.*— (a) If it is found that any Senior Advocate has—

(i) committed professional misconduct; or

(ii) shown intemperate behaviour either inside or outside the Court; or

(iii) been found invariably negligent in discharge of professional duties; or

(iv) been found by the Bar Council of India or Bar Council of Maharashtra and Goa or the Bar Council of any other State to have committed professional or other misconduct; or

(v) been convicted of an offence involving moral turpitude or for Contempt of the Court; or

(vi) for any other reason lost the privilege to be a Senior Advocate,

then, for any one or more of the foregoing reasons, the name of the Senior Advocate will be placed before the Chief Justice for considering the withdrawal of designation of Senior Advocate.

(b) On being satisfied that the matter should be further considered, the Chief Justice shall refer the issue to the Permanent Committee. The Permanent Committee shall give an opportunity to the Senior Advocate to plead his/her case including a personal hearing and thereafter submit its recommendation to the Chief Justice no later than six months from the date of reference to the Committee. The Committee will be free to evolve its own procedure.

(c) If the Committee in its report recommends withdrawal of designation as Senior Advocate, the Chief Justice shall place the report with the recommendation of the Committee at the next Full Court meeting for its consideration.

(d) If a majority of Judges present at the meeting is of the view that the Senior Advocate has forfeited his/her privilege, the Full Court shall recall his/her designation as a Senior Advocate.

(e) The Registrar General shall notify the decision to the Advocate and to the Bar Council of Maharashtra and Goa who shall delete the name from the list of Senior Advocates maintained by the Bar Council.

(f) Nothing contained in these rules shall stand in the way of an Advocate who has been designated by the High Court of Bombay 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 Permanent Secretariat being submitted, the Permanent Secretariat shall place it before the Chief Justice for appropriate orders thereon.

8. *Interpretation.*—(a) All questions relating to the interpretation of these rules shall be referred to the Chief Justice whose decision thereon shall be final.

9. *Repeal and Savings.*—(a) All previous Rules in respect to the subject matter covered by these Rules, including the Guidelines for Designating an Advocate as Senior Advocate, as made by the High Court of Bombay with all amendments/modifications, are hereby repealed. However, this repeal shall not, by itself, invalidate the actions taken under the repealed Rules/Guidelines.

FORM — I

FORM OF PROPOSAL/ENDORSEMENT

(required from two previously designated Senior Advocates)

Date :

To,

The Honourable the Chief Justice
and the Judges of the High Court
of Judicature at Bombay.

I, (*name of Senior Advocate*) propose Shri/Smt/Kumari
... .. (*name of Advocate proposed*), who was enrolled as an advocate by the Bar Council
of Maharashtra & Goa on and continues to be on the Roll of Advocates maintained by the
said Bar Council, and who has been practicing in this Court for the last years, for being
designated as a Senior Advocate of this High Court, as in my opinion, by virtue of his/her ability,
experience and standing at the Bar, he/she is deserving of such distinction.

The reasons why, according to me, the advocate is worthy of being designated as a Senior
Advocate are as follows :—

... ..
... ..

Dated this day of 20.

(Signature of the Senior Advocate)

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महाराष्ट्र शासन राजपत्र असाधारण भाग चार-क, ऑक्टोबर २५, २०१८/कार्तिक ३, शके १९४०

CONSENT

I hereby give my consent to be designated as Senior Advocate.

Dated this day of 20.

(Signature of the Advocate concerned)

FORM — II
PROFORMA OF BIODATA

Passport size
photograph

- 1 Name of Applicant
- 2 Date of birth
- 3 Permanent Residential Address
- 4 Office Address
- 5 Educational Qualifications
- 6 Date of Enrolment
- 7 Bar Council with which enrolled
- 8 Bar Council Enrolment number
- 9 Names of Lawyers' Associations of which the applicant is a member
- 10 Number of years of practice in the Bombay High Court
- 11 Areas of specialization, if any
- 12 Name of lawyer, if any, in whose chambers the applicant was a junior; duration or period for which the applicant was a junior.
- 13 Names of any juniors, if any, attached to the applicant's own chambers, and the duration or period for each.
- 14 Whether empanelled or holding any office under the State or Central Government
- 15 Nature of practice (Civil, Criminal, Constitutional, Taxation, Labour, Company, Service etc.).
- 16 Any particular field of law in which Applicant has specialization / domain expertise, special knowledge or special experience (such as Constitutional law, Inter-State Water Disputes, Criminal law, Arbitration law, Corporate law, Family law, Human Rights, Public Interest Litigation, International law, law relating to women, etc.).
- 17 Number of Reported Judgments in matters in which the applicant appeared (provide list of citations).
- 18 Reference to at least ten reported judgments in cases in which the applicant has appeared as arguing Counsel and contributed to the development of law, and which indicate the legal formulations advanced by the applicant.
- 19 Details of pro bono work / legal-aid work during last five years
- 20 Details of the position, if any, held in Bar Council/Bar Association
- 21 Details of any lectures delivered.
- 22 Details of any publications authored or co-authored by the Applicant
- 23 Whether the Applicant had applied earlier.

- 24 Whether the Permanent Committee has deferred applicant's proposal/application for designation as Senior Advocate earlier ? If so to provide details thereof.
- 25 Whether the applicant's name was earlier proposed for being designated as Senior Advocate of the Bombay High Court or any other High Court or of the Supreme Court of India. If so, the decision thereon, with its date.

Signature of the Advocate concerned.

Date :

**GENERAL INSTRUCTIONS FOR COMPLETING THE APPLICATION FORM FOR
DESIGNATION AS A SENIOR ADVOCATE**

- (1) Every Application, in the prescribed format, shall be made in English, typed/printed with font size (Arial, 12pt) in double spacing on a single side of white A4-size paper with top and left margins of 1.5 inches.
- (2) All documents annexed to the application should be accompanied by a detailed index containing the details thereof.
- (3) Documents accompanying the application should be listed and numbered consecutively in the index.
- (4) The entire compilation will have running page numbering IN THE TOP RIGHT CORNER in Arial 14 pt boldface.
- (5) Name of the Applicant must tally with his/her name as mentioned in his/her enrolment certificate. Abbreviated names are not to be used.
- (6) The completed Application with its index should be presented in the form of a paper book with binding or stitching on the left side. Spiral or comb binding is not to be used.
- (7) All photocopies should be legible and true copies of their respective originals.
- (8) Two copies of the Application paper book, identical in every respect and particular, are to be submitted.
- (9) An original colour passport-sized photograph against a plain background is to be pasted on each copy of the Application.

HIGH COURT OF JUDICATURE AT BOMBAY,

Dated the 24th October, 2018

S. P. TAVADE,

I/c. Registrar General.