

Duties of Advocates Towards Client

S. Dharani Bala

BA. LLB(Hons)

Hindustan School of Law, Hindustan Institute of Technology and Science, Hindustan University, Padur
ptvelusamy@gmail.com

Abstract: *This paper discusses about Legal Profession, how it plays the important role in administration of justice. It talks about the legal practitioners, their position in Ancient India and how they contributed for the country in the best possible way with high morals. Morals play the most important role for becoming a lawyer successful. It also discusses the ethics of lawyers, what are their duties towards court, client, opponents and colleagues. Advocates Act, 1961 provides for Bar Council Rules for the proper conduct of the Advocates and they are bind by these duties. In case they do not follow, then there is remedy in the form of punishment which has been discussed with the help of case laws. This paper discusses concerning community, however it plays the important role in administration of justice. It talks concerning the legal practitioners, their position in Ancient India and the approach they contributed for the country within the very best way with high morals. Morals play the foremost necessary role for changing into a professional person. It conjointly discusses the ethics of lawyers, what are their duties towards court, client, opponents and colleagues. Advocates Act, 1961 provides for Bar Council Rules for the right conduct of the Advocates and that they are bound by these duties. Just in case they are not following, then there's remedy within the kind of social control that has been mentioned with the assistance of case laws. Lawyers are concerned to be guardians of the vindicator of liberty and justice; they do so only when they maintain certain ethical and intellectual standards. The term refers to a group of men pursuing a leant art as common for the spirit of public service. it may incidentally be the means of lively wood. advocate is a person learnt in law who has taken a bachelor degree in law in any university in India. And who is duly admitted to practice who assists his client and pleads for him in open court he is also a minister in law.*

Keywords: Professional misconduct_ advocate act 1961_ dignified manner_ respect to court_ misleading Ethical code_ duties towards court_ duties towards client_ duties towards opponent

I. INTRODUCTION

Advocacy is a noble and honorable profession. It plays an important role and attains high social status. as an officer of the court it is expected that an advocate should not give impartial justice. Morals are connected with behavior and conduct. Ethics may be defined as a branch of physiology dealing with human conduct with respect to rightness and wrongness of certain action and goodness and badness of that action. Professional ethics is defined as a branch of moral science dealing with the duties of the members of the legal profession owed to the public, and court. It will impose the duties of the profession. it is not standard. It is the code of conduct written or unwritten for regulating behavior of a practicing lawyer towards himself, towards client, And towards the court. Professional ethics has three main objectives and they are;

To maintain the spirit of friendly relationship between bench and the bar.

To maintain the dignity of the legal profession.

To restrict impartial justice.

Law donates rules and principles .Law is an instrument which regulates human behavior. It is expected that the advocate cannot indulge in any activity which tends to lower the image of decency and dignity. For the purpose of high principles of profession .the government India passed some legislations. Legal profession act 1879 is the basis for all other acts.

AIM OF THE STUDY:

1. To learn the legal professional standards
2. To study about a lawyer's duty towards his client and court.

DUTIES OF ADVOCATES TOWARDS CLIENT

- Not to accept compensation and advantages.
- Make them available for the case.
- Not for appearing both opponent and respondent.
- Not to revenge on confidential things .
- Not to make use of ignorance and illiteracy.

MISCONDUCT TOWARDS CLIENT

- Suppression of evidence.
- Manipulation of judgments.
- Handing over forged documents.
- Not appearing in court.
- Defrauding by using clients illiteracy.
- Attending the court with firearms.
- Purchase of property in dispute of client.
- Not filing of case or filing of case with nominal pay of court.
- Deliberate delay of filing of suit

PUNISHMENTS FOR MISCONDUCT

- The conduct of an advocate is such that he must be regarded as unfit, irresponsible in duty or unworthy to remain in an honorable profession.
- Section 35 deals with the complaint by the state bar council if they find these are guilty of misconduct. They will refer it to the disciplinary committee .It will initiate the notice.
- Section 35(3) states that after hearing the disciplinary committee. SBI states that
- An advocate can be suspended.
- Dismiss the complaint.
- Remove the name of advocate from the state role.
- Reprimand the advocate.
- Section 41 talks about the details of reprimanding suspension to be entered in the state role.

CERTAIN RULES STATING DUTIES TOWARDS CLIENT

SECTION III CHAPTER 2 PART VI OF BAR COUNCIL HAS RULES WHICH DEFINES DUTIES OF ADVOCATES TOWARDS CLIENT

- Rule11 advocate must accept the brief of the case.
- Rule12 advocate should not withdraw case without proper cause.
- Rule13 if advocate is engaged in case he should continue to appear.
- Rule14 full and frank disclosure brief case to the client.
- Rule15 no conviction without evidence.
- Rule16 presumption of innocence should strongly say that the client is innocent.
- Rule17 advocate should not directly or indirectly indulge in the bench of obligation.
- Rule18 an advocate shall not anytime be a party for fermenting litigation.
- Rule19 advocate should not get instructed from the client.
- Rule20 advocate shall not stipulate fee on occurring codigency.

- Rule21 advocate shall not agree for getting shares, profits from the clients.
- Rule22 advocate shall not directly or indirectly involve in the bid or action.
- Rule23 advocate should not get personal liability for fees.
- Rule24 advocate should not abuse or misuse the confidence of the client.
- Rule25 advocate should maintain dept account and depts. Accounts.
- Rule26 the entries of account should the amount collected from the client, expense's, etc from the account
- Rule27 advocate gives amount as penalty that must be intimated to the client. This penalty is due to non-appearance this should be intimated to the client.
- Rule28 advocate should collect appropriate fee for case
- Rule29 if the client fails to pay the fees in case of unexpected judgment an advocate can make use of lumps amount after termination.
- Rule30 charge to get copy of application.
- Rule31 advocate shall not accept loans .Installment, splitting is accepted.
- Rule 32 advocate shall not lend money to client in any circumstances.
- Rule 33 advocates are not expected to appear both for opponent on appeal cases.

DUTIES OF ADVOCATES TOWARDS COURT

- An advocate is expected to be respectful. Advocate should not misguide the court.
- To accept the judgment. To maintain bar and bench relationship.
- Justice delayed is justice denied. Not asking for more adjournment
- Adjournment must not waste the time of court. By obtaining adjournment of the case of his own convenience. This should not be used as weapon for dealing on the case.
- Do not appear for relatives
- Must have respectful attitude
- No improper means for getting favorable judgment
- Private communication of case id forbidden
- Use an imperative language. Not to use intemperate language
- Present ourselves in prescribed dress code
- Advocate should not plea for relatives in section 30 of advocate act 1961
- Not to wear lobes, gowns in public places and can wear in functions like college ceremonies and judicial ceremonies
- An advocate can be sleeping partner
- An advocate not to perform in both like pleading and witness not being respondent and opponent

MISCONDUCT TOWARDS THE COURT

To understand the scope and implication of the term 'misconduct', the context of the role Associate in nursing responsibility of an advocate ought to be unbroken in mind. Misconduct could be a sufficiently wide expression, and want not essentially imply the involvement of ethical transgression. 'Misconduct' as such has been outlined within the Black's Law lexicon to be "any transgression of some established and definite rule of action, a prohibited act, unlawful or improper behavior, willful in character, a dereliction of duty." during a totally different context, the Supreme Court has opined that the word "misconduct" has no precise which means, and its scope and scope must be construed with relevance the topic matter and context whereby the term happens. within the context of misconduct of Associate in Nursing advocate, Associate in Nursing conduct that in any method renders an advocate unfit for the exercise of his profession, or is probably going to hamper or embarrass the administration of justice could also be thought-about to quantity to misconduct, that disciplinary action could also be initiated.

The Supreme Court has, in a number of its selections, elucidated on the idea of 'misconduct' and its application. In Sambhu Ram Yadav v.Hanuman Das Khatri.a grievance was filed by the appellant against AN advocate to the Bar

Council of Rajasthan, that whereas showing in an exceedingly suit as a counsel, he wrote a letter stating that the involved choose, before whom he suit is unfinished accepts bribes, and asked for Rs. 10,000 to bribe and influence the choose to get a favorable order. The Disciplinary Committee, holding that the advocate was guilty if “misconduct”, expressed that such AN act created the advocate “totally unfit to be a attorney.” The Supreme Court, upholding the finding of the Rajasthan Bar Council control that the community isn't a trade or business. Members happiness to the profession have a selected duty to uphold the integrity of the profession and to discourage corruption so as to make sure that justice is secured in an exceedingly legal manner. The act of the advocate was misconduct of the best degree because it not solely deadlocked the administration of justice, however worn the name of the profession within the opinion of the general public.

In another case, Noratanman Courasia v. M. R. Murali,[2] the Supreme Court explored the amplitude and extent of the words “professional misconduct” in Section thirty five of the Advocates Act. The facts of the case concerned associate degree advocate (appearing as a party within the capability of the respondent, associate degreed not an advocate in a very rent management continuing) maltreated and kicked the litigant and asked him to refrain from proceeding with the case. the most issue during this case was whether or not the act of the advocate amounted to misconduct, the action against that can be initiated within the Bar Council, even supposing he wasn't acting within the capability of associate degree advocate. it had been upheld by the Supreme Court that a professional is duty-bound to watch the norms of behavior expected of him, that build him ought to have the boldness of the community in him as an official of the Court. Therefore, inspite of the actual fact that he wasn't acting in his capability as associate degree advocate, his behavior was unfit for associate degree advocate, and also the Bar Council was even in continuing with the disciplinary proceedings against him.

II. CONCLUSION

To conclude the on top of, the skilled ethics are termed because the duties to be followed by the Advocate, these ar the morals and therefore the basic courtesy that every person during this profession ought to recognize. These aren't solely the duties to be performed because the Bar Council has created the rule; however these are the fundamental manners that one should incorporate among them. These are the duties towards the Court, Client, Colleague or Opponent. The performance of the duty by the Advocate defines the determination, dedication and loyalty towards the profession. The profession of law is honorable and it's expected from everybody WHO are during this profession to be honest and add upright manner. And any deviation in their performance of duty ought to be taken seriously. An Advocate during this profession has several obligations towards court, client, judge, opponent, colleagues, etc. The Advocate WHO doesn't work with sincerity, WHO doesn't follow the

Rules of conduct is claimed to own misconducted in his profession. He's guilty of the misconduct of duty that he's tortured. so as to avoid misconduct one should work in correct and applicable manner not for the sake of obtaining tortured except for being loyal towards them, their profession. The basic aim of legal ethics is to maintain the honour and dignity of the law profession, to secure a spirit of friendly co-operation, to establish honorable and truthful dealings of the counsel together with his shopper, opponent and Witnesses, to ascertain the spirit of brotherhood within the Bar itself; and to secure that lawyers discharge their responsibilities to the community usually. Community is necessarily the keystone of the arch of state. Community isn't a business but profession. It's been created by the state for the general public smart. Consequently, the essence of profession lies in two things:

- Organization of its members for the performance of their perform.
- Maintenance of bound standards, intellectual and moral, for the dignity of the profession.

SOURCES

- [1]. <http://www.barcouncilofindia.org/about/professional-standards/rules-on-professional-standards/>
- [2]. <https://www.lawfarm.in/blogs/duties-of-advocates-bar-council-rules>
- [3]. <http://www.legalserviceindia.com/article/1241-Conflict-between-Interest-and-Duties-of-a-Lawyer-.html>
- [4]. <http://www.barcouncilofindia.org/about/professional-standards/rules-on-professional-standards/>
- [5]. <http://www.legalservicesindia.com/article/article/professional-misconduct-by-lawyers-in-india-1621-1.html>
- [6]. <http://www.barcouncilofindia.org/about/professional-standards/rules-on-professional-standards/>

- [7]. <http://www.srdlawnotes.com/2016/07/duties-of-advocate-towardsclient>.
- [8]. <http://www.sdrllawnotes.com/2016/03/duties-of-advocate.html>
- [9]. <http://www.lawctopus.com/a-lawyer-duty-towards-the-court/>.
- [10]. <http://www.lawfarm.in/blogs/duties-of-advocates-bar-council-rules>.
- [11]. <http://cyberadvocate.in/cgi-sys/suspendedpage.cgi?id=1031>
- [12]. <http://www.scribd.com/document/93820343/what-are-the-duties-of-an-advocate-towards-his-client>.
- [13]. <https://legalpoint-india.blogspot.in/2016/02/duties-of-advocate-duties-his-client.html>
- [14]. <https://blog.ipleaders.in/write-of-a-lawyer-to-practice-in-india-and-duties-of-a-lawyer/amp/>
- [15]. <http://www.legalblog.in/2011/05/duties-and-conduct-of-advocates-supreme.html>
- [16]. <https://www.sites.google.com/site/tobelawyers/advocate-s-duty>
- [17]. <https://businessethicsblog.com/2011/11/17/the-social-responsibilities-of-lawyers/>
- [18]. <https://blog.ipleaders.in>
- [19]. www.barcouncilofindia.org/wp-content/uploads/2010/05/Advocates-Act1961.pdf
- [20]. lawmin.nic.in/la/subord/bcipart6.html