

**In Chamber**

**Case :-** PUBLIC INTEREST LITIGATION (PIL) No. - 569 of 2020

**Petitioner :-** In Re - Assistance To The Needy Advocates And Registered Advocate Clerks

**Respondent :-** State of U.P.

**Counsel for Petitioner :-** Suo Motu

**Counsel for Respondent :-** C.S.C.

**Hon'ble Govind Mathur, Chief Justice**

**Hon'ble Siddhartha Varma, J.**

In an endeavour to know about the steps taken by the Bar Council of India, the Bar Council of Uttar Pradesh, the Government of Uttar Pradesh, the Allahabad High Court Bar Association, Advocates' Association and the Oudh Bar Association, for ameliorating the financial difficulties of the lawyers and their registered clerks in the present time when there is a complete lock-down on account of the virus COVID-19, the instant Public Interest Litigation was entertained suo-motu by this Court.

Today, when the case was taken up through video-conferencing, the State Government appeared through Sri Manish Goyal and the Awadh Bar Association appeared through Sri H.G.S. Parihar and Sri Sharad Pathak, its President and General Secretary respectively. However, no one appeared from the side of the Bar Council of India, the State Bar Council, Allahabad High Court Bar Association and the Advocates' Association.

Sri Goyal had also sent through the internet a Short Counter Affidavit to the High Court and informed that under Rules 40, 41, 42, 43, 44, 44A and 44B of Part VI of "The Bar Council of India Rules", sufficient provisions had been made for creating a corpus of funds and for their distribution amongst Advocates in times of need.

Since Rules 44A and 44B were specifically relied upon by the learned Additional Advocate General, they are being reproduced here as under :-

**"44A.** (1) There shall be a Bar Council of India Advocates Welfare Committee, consisting of five members elected from amongst the members of the Council. The term of the members of the Committee shall be co-extensive with their term in the Bar Council of India.

**(2) (i) Every State Council shall have an Advocate Welfare Committee known as Bar Council of India Advocates Welfare Committee for the State.**

(ii) The Committee shall consist of member Bar Council of India from the State concerned who shall be the *ex-officio* Chairman of the Committee and two members elected from amongst the members.

(iii) The Secretary of the State Bar Council concerned will act as *ex-officio* Secretary of the Committee.

(iv) The term of the member, Bar Council of India in the Committee shall be co-extensive with his term in the Bar Council of India.

(v) The term of the members elected from the State Bar Council shall be two years.

(vi) Two members of the Committee will form a quorum of any meeting of the Committee.

(3) Every State Bar Council shall upon an account in the name of the Bar Council of India Welfare Committee for the State, in any Nationalised Bank.

(4) No amount shall be withdrawn from the Bank unless that cheque is signed by the Chairman of the Welfare Committee and its Secretary.

(5) **The State Bar Council shall implement Welfare Schemes approved by the Bar Council of India through Advocates Welfare Committee as constituted under sub-clause (2)(i). The State Bar Councils may suggest suitable modifications in the Welfare Schemes or suggest more schemes, but such modifications or suggested schemes shall have effect only after approval by the Bar Council of India.**

(6) The State Bar Council shall maintain separate account in respect of the Advocate Welfare Fund which shall be audited annually along with other accounts of the State Bar Council and send the same along with Auditor's Report to the Bar Council of India:

Provided that the Bar Council of India Advocates Welfare Fund Committee for the State shall be competent to appoint its own staff in addition to the staff of the Bar Council of the State entrusted with duty to maintain the account of the fund if their fund are adequate to make such appointment. The salary and other conditions of the said staff be determined by the Bar Council of India Advocates Welfare Fund Committee for the State:

Provided further that Chairman of the Bar Council of India Advocates Welfare Fund Committee for the State shall be competent to make temporary appointment for a period not exceeding six months in one transaction if the situation so requires subject to availability of fund in the said Committee for making such appointment.

**44B.** The Bar Council of India shall utilise the funds received under rule 41(2) in accordance with the schemes which may be framed from time to time.

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**SCHEME FOR FINANCIAL ASSISTANCE TO STATE BAR COUNCILS AND INDIVIDUALS UNDER RULE 44B OF THE BAR COUNCIL OF INDIA RULES**

1. This Scheme 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 immediately.**

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.

4. That on receiving information from the Chairman of the State Bar Council or Member, Bar Council of India from the State, the Chairman, Bar Council of India on being satisfied by such report may immediately sanction a reasonable amount not exceeding Rs.10,000 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;

(c) the advocate or advocates have suffered or is suffering from such serious disease or illness which is likely to 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."

Learned Additional Advocate General, therefore, submitted that the Bar Council of India as also the State Bar Councils had sufficient funds to cater to the present circumstances. Learned Additional Advocate General further submitted that sufficient

funds under the Uttar Pradesh Advocates Welfare Fund Act, 1974 were in existence. Still further, he submitted that the State Government had transferred the money which had been collected by it through the Stamp for the welfare of the Advocates to the Treasury in the State of U.P. for it to be transferred to the relevant accounts.

Sri Anadi Krishna Narayan, learned Advocate appearing for the Bar Council of Uttar Pradesh, though did not appear through the video-conferencing, through e-mail has informed the Court that the Bar Council of Uttar Pradesh was making an endeavour to make available funds for the Advocates who required help in these difficult times.

The Allahabad High Court Bar Association through different office-bearers has also communicated to the Court through e-mail that efforts were being made for disbursement of funds to lawyers who might require money in these times of difficulty.

Sri Parihar, on behalf of the Awadh Bar Association, mentioned that a temporary scheme for disbursement of certain amounts to lawyers who required financial assistance had been formulated but he prayed that a definite scheme be brought into existence by the State Bar Council and the Bar Council of India for helping Advocates who require help in the present times. He prays that such schemes be prepared which would also in the future come in handy.

Having heard Sri Manish Goyal and Sri Parihar for the State of Uttar Pradesh and the Awadh Bar Association respectively and after having gone through the communications of the Counsel for the State Bar Council and the Allahabad High Court Bar Association, we propose to fix this case for **20.4.2020** on which date, we direct, the Bar Council of India and the Uttar Pradesh Bar Council to produce before the Court through e-mail, the definite procedure by which they have brought into effect the provisions of Rules 44A and 44B of the Bar Council of India Rules contained in Chapter VI. We also expect that the representatives of the Allahabad High Court Bar Association and the Bar Council of India would appear through video-conferencing on the next date and shall also produce before us the schemes which they might have formulated in the meantime.

Before parting, we would like to express a word of appreciation for the efforts made by the Awadh Bar Association and Sri Manish Goyal, learned Additional Advocate General for assisting the Court today.

**Order Date :- 15.04.2020**  
**GS**

**(Govind Mathur, C.J.)**

**(Siddhartha Varma, J.)**