

# **THE MADHYA PRADESH ADHIVAKTA KALYAN NIDHI**

## **ADHINIYAM, 1982**

[ No. IX of 1982]

[ 27th March, 1982]

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### AMENDING ACTS

- |                           |                            |
|---------------------------|----------------------------|
| (i) M. P. Act 48 of 1984  | (ii) M. P. Act 24 of 1994  |
| (iii) MR Act 35 of 1994   | (iv) M. P. Act 9 of 1998   |
| (v) M. P. Act 16 of 1999. | (vi) M.P. Act 18 of 2004   |
| (vii) M.P. Act 4 of 2013  | (viii) M.P. Act 17 of 2019 |

*An Act to provide for the constitution of a Welfare Fund for running various schemes for the social security and welfare of Advocates in the State of Madhya Pradesh and for matters connected therewith or incidental thereto.*

Be it enacted by the Madhya Pradesh Legislature in the Thirty -third Year of the Republic of India as follows :—

### CHAPTER I

#### PRELIMINARY

**1 . Short title and extent.**—( 1) This Act may be called **The Madhya Pradesh Adhivakta Kalyan Nidhi Adhiniyam, 1982.**

(2) ) It extends to the whole of the State of Madhya Pradesh.

**2 Definitions.** - In this Act unless the context otherwise requires, -

- (a) " advocate" means a person whose name has been entered in the State roll of advocates prepared and maintained by the Bar Council of Madhya Pradesh under Section 17 of the Advocates Act, 1961 ( 25 of 1961) and who is a member of a Bar Association;
- (b) " Bar Association" means an association of advocates recognised by the Bar Council under Section 16;
- (c) " Bar Council" means the Bar Council of Madhya Pradesh constituted under Section 3 of the Advocates Act, 1961 ( 25 of 1961);
- (d) " cessation of practice" means permanent stoppage or cessation of practice by an advocate on account of his retirement, death or any other reason, as the case may be, duly notified to the Bar Council, and include removal of the name of an advocate from the State roll maintained by the Bar Council;

- (e) "dependants" means wife, husband, father, mother, unmarried children or widowed daughter of the advocate and actually dependent on him for maintenance;
- (f) '*fund*' means the Advocates' Welfare Fund constituted under Section 3;
- (g) "*junior advocate*" means an advocate who was enrolled as an advocate by the Bar Council not more than five years ago;
- (h) "*member of the fund*" means an advocate as defined in clause (a) ;
- (i) "*retirement*" means permanent stoppage of practice as an advocate on account of advanced age infirmity any time after attaining the age of sixty years and communicated to and recorded by the Bar Council;
- (j) "*suspension of practice*" means voluntary suspension of practice as an advocate or suspension by the Bar Council for misconduct;
- (k) "*Trustee Committee*" means the committee established under Section 4.

## CHAPTER II

### CONSTITUTION OF FUND

3. **Advocates' Welfare Fund.-** (1) With effect from the date of establishment of Trustee Committee under sub-section (1) of Section 4, there shall be constituted a fund called the Advocates' Welfare Fund.

(2) There shall be credited to the fund -

- (a) a grant of rupees six lakhs that shall initially be made by the State Government to the fund;
- (b) any amount paid by the Bar Council;
- (c) any voluntary donation or contribution made to the fund by the Bar Council of India, a Bar Association, other association or institution, any advocate or any other person;
- (d) any sum borrowed under Section 12;
- (e) all moneys credited under Section 18;
- (f) all sums received from the Life Insurance Corporation of India on the death of an advocate under the group insurance of the member of the fund;
- (g) any profit, dividend, or refund received from the Life Insurance Corporation of India in respect of the policies in group insurance of the member of the fund;
- (h) any interest or dividend or other return on any investment made of any part of the fund;

⑩ any other amount received by the Trustee Committee.

[(2 -a) The amount received by the State Bar Council on account of payment of Stamp Duty on certificate of enrolment, issued under Section 22 of the Advocates Act, 1961 (No. 25 of 1961), shall be credited to the fund and such credits shall discharge the State Bar Council of its liability in respect thereof to the State Government, under Article 17 -A of Schedule I-A of the Indian Stamp Act, 1899 (No. II of 1899) as applicable to the State of Madhya Pradesh.]

③ The sums specified in sub-section (2) shall be paid to, or collected by, such agencies, at such rate and in such manner, and the account of the fund shall be maintained in such form, as may be prescribed.

### **CHAPTER III**

#### **ESTABLISHMENT OF TRUSTEE COMMITTEE, APPLICATION OF FUND AND ITS MANAGEMENT, ETC.**

**4 Establishment of Trustee Committee.**-( 1) With effect from such date as the State Government may, by notification, appoint in this behalf there shall be established 'for the purpose of this Act a Trustee Committee to be called the Madhya Pradesh Advocate's Welfare Fund Committee.

② The Trustee Committee shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract, and shall by the said name sue and be sued.

③ The Trustee Committee shall consist of the following, namely: —

#### **A.- EX- OFFICIO MEMBERS**

- (i) the Minister-in-Charge of Law-Chairman ;
- (ii) The Minister of State-in-Charge of Law-Vice-Chairman;
- (iii) the Chairman, Bar Council -Vice Chairman;
- (iv) the Advocate General, Madhya Pradesh;
- (v) the Secretary to the Government of Madhya Pradesh, Law and Legislative Affairs Department-Secretary;
- (vi) Secretary, Bar Council-Joint Secretary (having no voting rights);
- (vii) Treasurer, Bar Council-Treasurer;
- (viii) the General Manager of the Local Head Office of the State Bank of India or his nominee not below the rank of Regional Manager;

- (ix) the Divisional Manager of the Life Insurance Corporation of India, Indore or his nominee not below the rank of Deputy Divisional Manager;
- (x) the Secretary to the Government of Madhya Pradesh, Finance Department '[ or his nominee not below the rank of Deputy Secretary];

## **B. NOMINATED MEMBERS**

- (xi) two members to be nominated by the Bar Council;
- (xii) two members to be nominated by the State Government of whom one shall be a member of Parliament from the State and the other shall be a member of the State Legislative Assembly.

(4) A nominated member shall hold office during the pleasure of the authority nominating him but the term of his office shall not exceed five years from the date of his nomination.

(5) Whenever any person is nominated or appointed as a member of the Trustee Committee by virtue of the post or office held by him, he shall forthwith cease to be a member of the Trustee Committee on his ceasing to hold such post or office.

**5 Disqualification for being a member of Trustee Committee.** - A person shall be disqualified for being nominated or appointed as, and for being a member of, the Trustee Committee if he-

- (a) becomes of unsound mind; or
- (b) is adjudged insolvent; or
- (c) is absent without leave of the Trustee Committee for more than three consecutive meetings of the Trustee Committee; or
- (d) is a defaulter to the fund (in case he is a member of the fund) or has committed breach of trust; or
- (e) is convicted by a criminal Court for an offence involving moral turpitude or an economic offence unless such conviction has been set aside,

**6 Resignation by nominated Members of Trustee Committee.** - A nominated member may resign his office by a notice in writing to the Chairman of the Trustee Committee and it shall be deemed to have been accepted as soon as it is so tendered as to be out of the reach or control of the tenderer.

**7 Filling up of casual vacancy.**- A casual vacancy in the office of a member may be filled up, as soon as may be and a member so nominated to fill such vacancy shall hold office for the unexpired portion of the term of office of the member whose place he fills.

**8 Act of Trustee Committee not to be invalidated by vacancy, defect, etc.-** No act done or proceedings taken under this Act or the rules made thereunder by the Trustee Committee shall be invalidated merely by reasons of -

- (a) any vacancy or defect in the constitution of the Trustee Committee; or
- (b) any defect or irregularity in the nomination of any person as a member thereof; or
- (c) any defect or irregularity in such act or proceeding not affecting the merits of the case.

**9 Vesting an application of Fund.-** (1) The fund shall vest in, and be held and applied by the Trustee Committee subject to the provisions, and for the purposes of this Act.

- (2) The Trustee Committee shall administer the fund, through the Secretary.

**10 Meetings of Trustee Committee.-** (1) The Trustee Committee shall meet atleast once in three calendar months or more often if found necessary to transact business under this Act or the rules made thereunder.

(2) Five members of the Trustee Committee shall form the quorum for a meeting of the committee.

(3) The Chairman or in his absence, one of the Vice Chairman shall preside over a meeting of the Trustee Committee.

(4) Any matter coming up before a meeting of the Trustee Committee shall be decided by a majority of the members present and voting at the meeting and, in the case of an equality of votes the Chairman or Vice -Chairman, as the case may be, shall preside over the meetings and shall have a casting vote.

**11 Travelling and daily allowance to members of Trustee Committee.-** (1) The non-official members of the Trustee Committee shall be eligible to get such travelling allowance and daily allowance as may be prescribed.

(2) Official members shall draw their travelling and daily allowance as admissible to them by virtue of their office in the Government.

(3) The travelling and daily allowance so payable to the members shall be paid out of the fund.

**12 Funds, borrowing and investments. -** (1) The Trustee Committee may borrow, from time to time, any sum required for carrying out the purposes of this Act.

(2) The Trustee Committee shall deposit all moneys and receipts forming part of the Fund in any scheduled bank or invest the same in loans to any corporation owned or controlled by the Central Government or the State Government or in loans floated by the Central Government or the State Government or in any other manner.

(3) All amounts due and payable under this Act and all expenditures relating to the management and administration of the fund shall be paid out of the fund.

(4) The accounts of the Trustee Committee shall be audited annually by a Chartered Accountant appointed by it.

(5) As soon as the accounts of the Trustee Committee have been audited, the Trustee Committee shall send a copy thereof together with a copy of the report of the Chartered Accountant and thereon to the State Government.

(6) The Trustee Committee shall comply with such directions as the State Government may, after perusal of the audit report of the Chartered Accountant think fit to issue.

**13. Power and duties of Secretary.-** The Secretary of the Trustee Committee shall,-

- (a) be the chief executive authority of the Trustee Committee and be - responsible for carrying out its decisions;
- (b) represent the Trustee Committee in all suits and proceedings for and against the Trustee Committee;
- (c) authenticate by his signature all decisions and instructions of the Trustee Committee;
- (d) operate the bank accounts of the Trustee Committee jointly with the Treasurer;
- (e) convene meetings of the Trustee Committee and prepare its minutes;
- (f) attend the meetings of the Trustee Committee with all the necessary records and information;
- (g) maintain such forms, registers and other records as may be prescribed, from time to time, and do all correspondence relating to the Trustee Committee;
- (h) prepare an annual statement of business transacted by the Trustee Committee during each financial year ; and
- (i) do such other acts, on their behalf, as may be directed by the Trustee Committee or the Chairman.

**14. Transfer of certain moneys to the fund. -** The Bar Council shall pay to the fund annually an amount as may be prescribed.

## **CHAPTER IV**

### **FRAMING OF SCHEMES**

**15. Preparation of schemes by the Trustee Committee. -** ( 1) The Trustee Committee in consultation with the Bar Council of Madhya Pradesh may prepare scheme for,-



- (i) the group insurance of the advocates;
- (ii) granting gratuity and/ or retirement benefits to the advocates enrolled as participating members of such schemes;
- (iii) the financial aid to the junior advocates by way of stipend on nominal interest repayable in easy instalments or for giving guarantee for facilitating advance of such loan to the junior advocates by a financing institution;
- (iv) medical insurance of the advocates;
- (v) facilitating house building loans to the advocates; and
- (vi) such other welfare or benefits to the advocates as it deems fit.

(2) The scheme shall be submitted to the State Government which shall publish it and thereafter shall lay it on the table of the Legislative Assembly for ten days.

(3) On such publication, the provisions of the scheme shall form part of this Act.

## **CHAPTER V**

### **BAR ASSOCIATION, ITS REGISTRATION, DUTIES AND FUNCTIONS**

**16. Recognition and registration of Bar Association.**-(1) An association of advocates, known by any name, functioning in any part of the State may, before a date to be notified by the Bar Council in this behalf, apply for recognition and registration, to the Bar Council in such form and on payment of such annual subscription, or other fees as the Bar Council may, from time to time, determine.

(2) Every such application shall be accompanied by the rules or byelaws of the association, names and addresses of the office-bearers of the association and an up-to-date list of the members of the association showing the name, address, date of birth, age, date of enrolment and the ordinary place of practice of each member.

(3) The Bar Council may, after such enquiry as it deems necessary, recognise the association and issue a certificate of registration in such form as it may specify.

(4) The decision of the Bar Council regarding the recognition and registration of a Bar Association shall be final.

(2) Every Bar Association shall intimate to the Bar Council, -

- (a) any change of the office bearers of the association within fifteen days from the date of such change;
- (b) any change in the membership including admissions and readmissions within thirty days from the date of such change;

- (c) the death, retirement, cessation or suspension of practice of any of its member within thirty days from the date of the happening of the event or on receiving of the intimation thereof, whichever is later; and
- (d) such other matters as may be required by the Bar Council, from time to time.

## CHAPTER VI

### STAMPS AND THEIR DISTRIBUTION

#### 17A. Definitions . -In this chapter,-

- (a) "*Court*" means [\* \* \*] a civil, revenue, criminal, labour or any other Court or Tribunal or Authority, by what ever name called, acting in the proceedings of judicial or quasi-judicial nature ;
- (b) "*memo of appearance* " includes Vakalatnama and any authorisation, under Order III of the First Schedule to the Code of Civil Procedure, 1908 ( V of 1908), by whatever name called, for acting or pleading before a Court.]

**18. Printing of Madhya Pradesh Adhivakta Kalyan Nidhi Stamps.** -[ 1] The State Government shall on the requisition made by the Bar Council of Madhya Pradesh, print or cause to be printed in such form and in such manner as may be prescribed in consultation with the Bar Council, adhesive stamps bearing the words " Madhya Pradesh Adhivakta Kalyan Nidhi Stamp" of the value of twenty rupees and fifty rupees] for being supplied to the Bar Council for distribution and sale on 10 percent commission basis.

( 2) Any Bar Association or Stamp Vendor who purchases Adhi vakta Kalyan Nidhi Stamps worth-

- (a) one thousand rupees or more from the counter of the Bar Council shall be entitled for a commission of ten percent ; and
- (b) less than one thousand rupees or through Postal Service shall be entitled for a commission of five percent.]

**19. Memo of appearance to bear stamps .**-( 1) A memo of appearance filed in any Court other than the High Courts shall bear the Madhya Pradesh Adhivakta Kalyan Nidhi Stamp of the value of [forty rupees].

(2) A memo of appearance filed in the High Court shall bear the Madhya Pradesh Adhivakta Nidhi Stamp of the value of <sup>9</sup>[ hundred rupees].

(3) It shall be duty of the Advocates to affix on the memo of appearance stamps under sub-sections ( 1) and ( 2) and no Court including the High Court shall accept such memo of appearance unless it is so stamped.]

**20. Cancellation etc. of the stamps.-** Every stamp so affixed on the memo of appearance shall be cancelled in a manner provided in the Court Fees Act, 1870 ( 7 of 1870) for cancellation of court fee stamps.

**21. Contribution to Advocates Welfare Fund.** - Net proceeds received from the distribution and sale of the Madhya Pradesh Adhivakta Kalyan Nidhi Stamps shall be contributed by the Bar Council to the Madhya Pradesh Adhivakta Kalyan Nidhi.

**22. Value of the stamp shall not be chargeable from the clients.** - No advocate shall charge the value of the Madhya Pradesh Adhivakta Kalyan Nidhi Stamps from any client and contravention thereof shall be deemed to be a misconduct.

## **CHAPTER VII**

### **MISCELLANEOUS**

**23. Protection of action taken in good faith.** - ( 1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

( 2) No suit or other legal proceedings shall lie against the Trustee Committee or the Bar Council for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

**24. Bar of jurisdiction of Civil Courts.** - No Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by the Trustee Committee or the Bar Council.

**25. Power to make rules.**-( 1) The Trustee Committee may, with the previous approval of the State Government, by notification, make rules for the purpose of carrying into effect the provisions of this Act :

Provided that before giving approval to the rules framed by the Trustee Committee, the State Government shall consult the Bar Council.

( 2) All rules made under this Act shall be laid on the table of the Legislative Assembly.

**26. Application of Advocates Act 1961 not barred** – The provisions of this Act shall be complimentary to and not in derogation of the provisions of the Advocates Act, 1961 (No. 25 of 1961).

**27. Repeal.**- The Madhya Pradesh Adhivakta Kalyan Nidhi Adhyadesh, 1981 (No. 14 of 1981) is hereby repealed.

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