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THE BAR COUNCIL OF RAJASTHAN
HIGH COURT BUILDINGS
JODHPUR – 342001

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website: www.barcouncilofrajasthan.org

No.BCR/Sec./BA/Ju/2019/ 3197

दिनांक 15.05.2019

श्रीमान अध्यक्ष/सचिव महोदय
राज्य की समस्त बार संघ

मान्यवर जी,

अधिवक्ता अधिनियम, 1961 की धारा 24ए व 26ए में कुछ संशोधन हेतु श्री रबिन्द्र कुमार जेना, सांसद द्वारा Private Member Bill titled as "The Advocates (Amendment) Bill, 2019 प्रस्तावित किया था, जिसे भारत सरकार के विधि एवं न्याय विभाग द्वारा दिनांक 06.02.2019 को बार कौंसिल ऑफ इण्डिया, नई दिल्ली को भेजा गया था।

अधिवक्ता अधिनियम की धारा 24ए एवं 26ए इस प्रकार से है :

24A. Disqualification for enrolment.—(1) No person shall be admitted as an advocate on a State roll—

- if he is convicted of an offence involving moral turpitude;
- if he is convicted of an offence under the provisions of the Untouchability (Offences) Act, 1955 (22 of 1955);
- if he is dismissed or removed from employment or office under the State on any charge involving moral turpitude.

Explanation.—In this clause, the expression "State" shall have the meaning assigned to it under Article 12 of the Constitution.

Provided that the disqualification for enrolment as aforesaid shall cease to have effect after a period of two years has elapsed since his release or dismissal or, as the case may be, removal.

(2) Nothing contained in sub-section (1) shall apply to a person who having been found guilty is dealt with under the provisions of the Probation of Offenders Act, 1958 (20 of 1958).]

26A. Power to remove names from roll.—A State Bar Council may remove from the State roll the name of any advocate who is dead or from whom a request has been received to that effect.

PROPOSED AMENDMENTS

In section 24A of the Advocates Act, 1961, for sub section (1), the following section shall be substituted namely :-

24A. Disqualification for enrolment (1) No person shall be admitted as an advocate on a State roll—

- if he is convicted of an offence involving moral turpitude; or
- if he is convicted of an offence under the provisions of the Untouchability (Offences) Act, 1955 (22 of 1955); or the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989); or
- if he has been convicted of contempt of court subject to any order or decision of court;
- if he is dismissed or removed from service or employment under the Union or the State or its undertakings or any statutory body or Corporation."

For section 26A of the Advocates Act, 1961, the following shall be substituted, namely :-

26A. Power to remove names from roll.—A State Bar Council may on receipt of information or request, remove from the State roll, the name of any advocate,

- who is dead, or
- from whom a request has been received to that effect; or
- who is found guilty of serious misconduct or abstaining from courts work or causing obstruction in court's functioning; or
- who has incurred any disqualification under section 24A."

बार कौंसिल ऑफ इण्डिया, नई दिल्ली द्वारा अपने पत्र दिनांक 09.05.2019 द्वारा Private Member Bill titled as "The Advocates (Amendment) Bill, 2019 के सम्बन्ध में राज्य बार कौंसिल के टिप्पणी/सुझाव चाहे गये हैं। उक्त पत्र एवं प्रस्तावित (संशोधन) बिल की प्रतिलिपि संलग्न है।

माननीय श्री चिरंजीलाल सैनी, चैयरमैन, बार कौंसिल ऑफ राजस्थान के निर्देशानुसार आपसे अनुरोध है कि उक्त बिल के सम्बन्ध में आप अपने अमूल्य सुझाव इस पत्र के मिलने के 7 दिवस के भीतर भीतर इस कार्यालय को भिजवाने का श्रम करावें, जिससे कि आपके द्वारा भेजे गये सुझावों पर विचार विमर्श कर बार कौंसिल ऑफ इण्डिया को अवगत करवाया जा सके।

भवदीय,

(राजेन्द्रपाल मलिक)
सचिव

संलग्न : उपरोक्तानुसार



भारतीय विधिज्ञ परिषद्
BAR COUNCIL OF INDIA

(Statutory Body Constituted under the Advocates Act, 1961)

21, Rouse Avenue Institutional Area, Near Bal Bhawan, New Delhi - 110002

Cir. No.05/2019 BCI: D: 2286 /2019(Council) 09.05.2019

**To Secretaries
All the State Bar Councils**

Sub: Request to send comments/ views of the State Bar Councils with respect to Private Member Bill titled as "The Advocates(Amendment) Bill, 2019 by Shri Rabindra Kumar Jena, M.P.

Sir's,

The General House of the Council at its meeting held on 07.04.2019 under Item No. 102/2019 has considered the above mentioned letter received from Assistant Legal Adviser, Ministry of Law & Justice. After consideration, the Council has directed to call for comments/ view from All the State Bar Councils. Therefore, you are requested to send comments/ view in this regard i.e. Private Member Bill titled as "The Advocates(Amendment) Bill, 2019. (Copy enclosed) on or before 15th May, 2019.

Yours sincerely,

Srimanto Sen
(Srimanto Sen)
Secretary

To consider letter dated 06.02.2019 received from Assistant Legal Adviser, Union Ministry of Law & Justice seeking comments/views of Bar Council of India on the Private Member Bill titled as "The Advocates(Amendment) Bill, 2019 by Shri Rabindra Kumar Jena, M.P.

The letter dated 06.02.2019 received from Assistant Legal Adviser, Ministry of Law & Justice seeking comments/views of Bar Council of India on the Private Member Bill titled as "The Advocates(Amendment) Bill, 2019 by Shri Rabindra Kumar Jena, M.P. is reproduced below :-

G.E.M.Tg

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12/2/19
AK

F.No.-14/1/2019-IC
Government of India
Ministry of Law & Justice
Department of Legal Affairs
(Implementation Cell)

Shastri Bhawan, New Delhi,
Dated: 06.02.2019

To
The Secretary,
Bar Council of India, 21, Rouse Avenue,
Institutional Area, New Delhi-110002



Subject: - Private Member Bill titled "The Advocates (Amendment) Bill, 2019 by Sh. Rabindra Kumar Jena, M.P

Sir

Please refer to Private Member Bill on above mentioned subject and it is stated that Sh. Rabindra Kumar Jena, M.P in this private member Bill has suggested some amendments in Section 24A and 26A in Advocate Act, 1961.

2. The Bar Council of India is empowered to make rule regarding enrollment of an Advocate on State roll, remove the name from roll and to regulate the legal profession throughout the country.

3. Bar Council of India is the regulatory body with regard to regulation of the legal profession in the Country and a stake-holder, Therefore above mentioned Private Member Bill is being transferred to Bar Council of India to furnish their comment/ views on the said Bill.

Encl:-As above.


(R.K.Choudhary)
Assistant Legal Adviser
Ph. No. 23381932
Fax-23385117
Email: jmpcell-dla@nic.in

LOK SABHA SECRETARIAT
(LEGISLATIVE BRANCH-II)

324151/6/19
25/1/19

82, PARLIAMENT HOUSE,
NEW DELHI-11 0001.

No. 1/15(3)/2019/L-II

Dated: 24 January, 2019
4 Magha, 1940 (Saka)

OFFICE MEMORANDUM

SUBJECT: The Advocates (Amendment) Bill, 2019 (Amendment of section 24A) by
Shri Rabindra Kumar Jena, M.P.

The undersigned is directed to forward herewith a copy of letter dated 24 January, 2019 from Shri Rabindra Kumar Jena, M.P., giving notice of his intention to move for leave to introduce the Bill noted above in Lok Sabha and also applying for President's recommendation, if necessary.

2. A copy of the Bill together with the Statement of Objects and Reasons also accompanies.

M. Meda

(MAHESHWAR)
ADDITIONAL DIRECTOR
Tel. No. 23034715

To
The Secretary,
Ministry of Law and Justice,
(Department of Legal Affairs)
Government of India,
New Delhi.

AS(LH)
①
25/1/19

25/01/2019

DLA (OPB)

28/1/19

Pl. examine.

AWA/BOCRKC

NOTICE OF BILL

Dated:

To
The Secretary-General,
Lok Sabha,
New Delhi.

Madam,

I give notice of my intention to move for leave to introduce during the current/ next/ensuing Session of Lok Sabha the following Bill:

Short title: The Advocates (Amendment) Bill, 2019 (Amendment of section 24A) by Shri Rabindra Kumar Jena, M.P.

2. I enclose herewith

- a) A copy of the Bill;
- b) Statement of Objects and Reasons duly signed;
- c) Financial Memorandum; and
- d) Memorandum regarding Delegated Legislation.

3. I also request you to obtain, if necessary, the recommendation of the President for introduction and/or consideration of the Bill in Lok Sabha.

Yours faithfully,

Sd/-

SHRI RABINDRA KUMAR JENA
M.P.

-TO BE INTRODUCED IN LOK SABHA

THE ADVOCATES (AMENDMENT) BILL, 2019

By

Shri. Rabindra Kumar Jena, M.P.

A

BILL

further to amend the Advocates Act, 1961

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

- | | | |
|---|--|-------------------------------|
| 1 | 1. (1) This Act may be called The Advocates (Amendment) Act, 2019.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. | Short title and commencement. |
|---|--|-------------------------------|

2. In Section 24 A of the Advocates Act, 1961, for sub-section (1), the following section shall be substituted, namely: -

Amendment of
Section 24 A (1)

- "24 A. (1) No person shall be admitted as an advocate on a State roll-
- a) if he is convicted of an offence involving moral turpitude; or
 - b) if he is convicted on an offence under the provisions of the Untouchability (Offences) Act, 1955 (22 of 1955) or the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989); or
 - c) if he has been convicted of contempt of court subject to any order or decision of court.
 - d) if he has been dismissed or removed from service or employment under the Union or the State or its undertakings or any statutory body or Corporation."

3. For section 26 A of the Advocates Act, 1961, the following shall be substituted, namely: -

Amendment of
Section 26 A

- "26 A. A State Bar Council may on receipt of information or request, remove from the State roll, the name of any advocate,-
- a) who is dead; or
 - b) from whom a request has been received to that effect; or
 - c) who is found guilty of serious misconduct or abstaining from courts work or causing obstruction in court's functioning; or
 - d) who has incurred any disqualification under section 24 A."

STATEMENT OF OBJECTS AND REASONS

1. Section 24A provides that any person who has been convicted of an offence, may become eligible to be enrolled as an advocate after the expiry of two years from completion of the sentence. Further, it is also seen that section 26A, which makes provision for Bar Councils to remove names from the rolls, does not provide for removal of names of advocates, who stands convicted for an offence. These aspects need examination, keeping in view the judgment given by the Gujarat High Court in 'C' v. Bar Council of Gujarat³⁴ which was quoted and reiterated by the Supreme Court in Mahipal Singh Rana (supra)
2. Thus, wiping out the bar after enrolment, in case of conviction of an advocate after two years in the nature of cases mentioned in section 24A, does not render the person in any way desirable to plead on behalf of a person seeking redressal of his grievance through the justice delivery system. The legal profession, as such, has been placed on a very high pedestal acknowledging advocates' legal status and authority to plead on behalf of a person in court of law. Similarly, there can be hardly any justification for wiping out such disqualification, which is otherwise applicable for enrolment, after the enrolment is made. Having regard to the broader objective of the provision, the said bar should certainly operate post enrolment. With this in view, the bill seeks the substitution of section 24A and 26A with new provisions to take care of the objectives of undesirability of a convicted person being allowed to perform important public functions.
3. Hence, this bill.

NEW DELHI
23rd January, 2019

RABINDRA KUMAR JENA
IC No.- 308

ANNEXURE

EXTRACTS FROM THE ADVOCATES ACT, 1961

(25 OF 1961)

* * * * *

- 24 A (1) No person shall be admitted as an advocate on a State roll—
- a) if he is convicted of an offence involving moral turpitude;
 - b) if he is convicted of an offence under the provisions of the Untouchability (Offences) Act, 1955 (22 of 1955);
 - c) if he is dismissed or removed from employment or office under the State on any charge involving moral turpitude

Disqualification
for enrolment.

* * * * *

26 A A State Bar Council may remove from the State roll the name of any advocate who is dead, or from whom a request has been received to that effect.

Power to remove
names from roll.

* * * * *