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भारतीय विधिज्ञ परिषद्  
अधिसूचना

नई दिल्ली, 10 मार्च, 2023

भारत में विदेशी वकील एवम् विदेशो लॉ फर्म के पंजीकरण और विनयमन के लिए भारतीय विधिज्ञ परिषद् नियम, 2022

## BAR COUNCIL OF INDIA

### NOTIFICATION

New Delhi, the 10th March, 2023

#### Bar Council of India Rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms in India, 2022

##### Objects and Reasons:

**No. BCI : D: 1260/2023.**—1. In India Legal profession is treated as a noble profession. There is and should be no commercial competition or procurement associated with the Legal Profession. Legal Profession is not treated as a commercial activity or service in India. Law is not a trade, and briefs no merchandise so the leaven of commercial competition or procurement should not vulgarize the legal profession (Hon'ble Justice Krishnairyer, V.R .)

2. In the opinion of Bar Council of India the legal profession in India has to rise to the occasion to meet the global changes in the Legal Arena caused by migration of people from one country to other on such a large scale that had not been witnessed in earlier days. The world is becoming a global village.
3. International trade and commerce is advancing at a great pace. The demand for an open, responsive and receptive legal professional dispensation mechanism in India from clients/public who operate in international and cross-country business is becoming severe day by day. Growth in international legal work sphere and globalization of legal practice and internationalization of the law is increasingly becoming relevant to the growth of the legal profession and practices in India.
4. Bar Council of India was initially opposing entry of foreign lawyers and foreign law firms in India in any form. However, it was authorized by the legal fraternity of the Country in the years 2007-2014 in Joint Consultative Conferences of Bar Council of India and Chairmen, Vice-Chairmen and Chairmen of Executive Committees of all the State Bar Councils in India to hold dialogue and to interact with the Government of India, Ministry of Law and Justice, Ministry of Trade and Commerce and Law Councils/Law Societies of foreign countries to explore the potential and prospects of opening the law practice in India to foreign lawyers in the field of practice of foreign law and diverse international legal issues in non-litigious matters on the principle of reciprocity and it has been doing so. In the interregnum, came the judgment of the Bombay High Court on 16.12.2009 in Lawyers Collective Versus Bar Council of India in which the Bombay High Court held that Reserve Bank of India was not justified in granting permission to the foreign law firms to open liaison offices in India. It was further held that the expression "to practice the profession of law" in Section-29 of Advocates Act, 1961 is wide enough to cover the persons practicing in litigious matters as well as persons practicing in non-litigious matters, and, therefore, to practice in non-litigious matters in India, the respondents were bound to follow provisions contained in Advocates Act, 1961.
5. The Madras High Court delivered a Judgment on 21.12.2012 in A.K. Balaji Versus Govt. of India which, inter alia, held as follows:-

"After giving our anxious consideration to the matter, both on facts and on law, we come to the following conclusion:-

  - (i) Foreign law firms or foreign lawyers cannot practice the profession of law in India either on the litigation or non-litigation side, unless they fulfill the requirement of the Advocates Act, 1961 and the Bar Council of India Rules.
  - (ii) However, there is no bar either in the Act or the Rules for the foreign law firms or foreign lawyers to visit India for a temporary period on a "fly in and fly out" basis, for the purpose of giving legal advise to their clients in India regarding foreign law or their own system of law and on diverse international legal issues.
  - (iii) Moreover, having regard to the aim and object of the International Commercial Arbitration introduced in the Arbitration and Conciliation Act, 1996, foreign lawyers cannot be debarred to come to India and conduct arbitration proceedings in respect of disputes arising out of a contract relating to international commercial arbitration.

6. Both the above judgments were challenged in the Supreme Court. While Bar Council of India challenged the Judgment of the Madras High Court, Lawyers Collective challenged the judgment of Bombay High Court.
7. **The Hon'ble Supreme Court vide Judgment dated 13.3.2018 disposed of the appeals in both matters under the Civil Appeal Nos. 7875-7879 of 2015 with Civil Appeal Nos. 7170 of 2015 and Civil Appeal Nos. 8028 of 2015 in Bar Council of India Vs. A. K. Balaji and Ors. after consideration of the issues and held that:-**

“37. We have considered the rival submissions. Questions for consideration mainly arise out of directions in para 63 of the Madras High Court judgment which have already been quoted in the beginning of this judgment. viz. :

- (i) Whether the expression ‘practise the profession of law’ includes only litigation practice or non-litigation practice
- also;
- (ii) Whether such practice by foreign law firms or foreign lawyers is permissible without fulfilling the requirements of Advocates Act and the Bar Council of India Rules;
  - (iii) If not, whether there is a bar for the said law firms or lawyers to visit India on ‘fly in and fly out’ basis for giving legal advice regarding foreign law on diverse international legal issues;
  - (iv) Whether there is no bar to foreign law firms and lawyers from conducting arbitration proceedings and disputes arising out of contracts relating to international commercial arbitration;
  - (v) Whether BPO companies providing integrated services are not covered by the Advocates Act or the Bar Council of India rules.

RE : (i)

“38. In **Pravin C. Shah versus K.A. Mohd. Ali**<sup>17</sup>, it was observed that right to practice is genus of which right to appear and conduct cases is specie. It was observed:

“.....The right of the advocate to practise envelopes a lot of acts to be performed by him in discharge of his professional duties. Apart from appearing in the courts he can be consulted by his clients, he can give his legal opinion whenever sought for, he can draft instruments, pleadings, affidavits or any other documents, he can participate in any conference involving legal discussions etc. ....”

In **Ex. Capt. Harish Uppal versus Union of India**<sup>18</sup>, same view was reiterated.

“39. Ethics of the legal profession apply not only when an advocate appears before the Court. The same also apply to regulate practice outside the Court. Adhering to such Ethics is integral to the administration of justice. The professional standards laid down from time to time are required to be followed. Thus, we uphold the view that practice of law includes litigation as well as non litigation.

RE : (ii)

“40. We have already held that practicing of law includes not only appearance in courts but also giving of opinion, drafting of instruments, participation in conferences involving legal discussion. These are parts of non-litigation practice which is part of practice of law. Scheme in Chapter-IV of the Advocates Act makes it clear that advocates enrolled with the Bar Council alone are entitled to practice law, except as otherwise provided in any other law. All others can appear only with the permission of the court, authority or person before whom the proceedings are pending. Regulatory mechanism for conduct of advocates applies to non-litigation work also. The prohibition applicable to any person in India, other than advocate enrolled under the Advocates Act, certainly applies to any foreigner also.

RE : (iii)

“41. Visit of any foreign lawyer on fly in and fly out basis may amount to practice of law if it is on regular basis. A casual visit for giving advice may not be covered by the expression ‘practice’. Whether a particular visit is casual or frequent so as to amount to practice is a question of fact to be determined from situation to situation. Bar Council of India or Union of India are at liberty to make appropriate rules in this regard. We may, however, make it clear that the contention that the Advocates Act applies only if a person is practicing Indian law cannot be accepted. Conversely, plea that a foreign lawyer is entitled to practice foreign law in India without subjecting himself to the regulatory mechanism of the Bar Council of India Rules can also be not accepted. We do not find any merit in the contention that the Advocates Act does not deal with companies or firms and only individuals. If prohibition applies to an individual, it equally applies to group of individuals or juridical persons.

RE: (iv)

“42. It is not possible to hold that there is absolutely no bar to a foreign lawyer for conducting arbitrations in India. If the matter is governed by particular rules of an institution or if the matter otherwise falls under Section 32 or 33,

there is no bar to conduct such proceedings in prescribed manner. If the matter is governed by an international commercial arbitration agreement, conduct of proceedings may fall under Section 32 or 33 read with the provisions of the Arbitration Act. Even in such cases, Code of Conduct, if any, applicable to the legal profession in India has to be followed. It is for the Bar Council of India or Central Government to make a specific provision in this regard, if considered appropriate.

RE: (v)

“43. The BPO companies providing range of customized and integrated services and functions to its customers may not violate the provisions of the Advocates Act, only if the activities in pith and substance do not amount to practice of law. The manner in which they are styled may not be conclusive. As already explained, if their services do not directly or indirectly amount to practice of law, the Advocates Act may not apply. This is a matter which may have to be dealt with on case to case basis having regard to a fact situation.

“44. In view of above, we uphold the view of the Bombay High Court and Madras High Court in para 63 (i) of the judgment to the effect that foreign law firms/companies or foreign lawyers cannot practice profession of law in India either in the litigation or in non-litigation side. We, however, modify the direction of the Madras High Court in Para 63(ii) that there was no bar for the foreign law firms or foreign lawyers to visit India for a temporary period on a “fly in and fly out” basis for the purpose of giving legal advice to their clients in India regarding foreign law or their own system of law and on diverse international legal issues. We hold that the expression “fly in and fly out” will only cover a casual visit not amounting to “practice”. In case of a dispute whether a foreign lawyer was limiting himself to “fly in and fly out” on casual basis for the purpose of giving legal advice to their clients in India regarding foreign law or their own system of law and on diverse international legal issues or whether in substance he was doing practice which is prohibited can be determined by the Bar Council of India. However, the Bar Council of India or Union of India will be at liberty to make appropriate Rules in this regard including extending Code of Ethics being applicable even to such cases.

45. We also modify the direction in Para 63 (iii) that foreign lawyers cannot be debarred from coming to India to conduct arbitration proceedings in respect of disputes arising out of a contract relating to international commercial arbitration. We hold that there is no absolute right of the foreign lawyer to conduct arbitration proceedings in respect of disputes arising out of a contract relating to international commercial arbitration. If the Rules of Institutional Arbitration apply or the matter is covered by the provisions of the Arbitration Act, foreign lawyers may not be debarred from conducting arbitration proceedings arising out of international commercial arbitration in view of Sections 32 and 33 of the Advocates Act. However, they will be governed by code of conduct applicable to the legal profession in India. Bar Council of India or the Union of India are at liberty to frame rules in this regard.

46. We also modify the direction of the Madras High Court in Para 63(iv) that the B.P.O. Companies providing wide range of customized and integrated services and functions to its customers like word processing, secretarial support, transcription services, proof reading services, travel desk support services, etc. do not come within the purview of the Advocates Act, 1961 or the Bar Council of India Rules. We hold that mere label of such services cannot be treated as conclusive. If in pith and substance the services amount to practice of law, the provisions of the Advocates Act will apply and foreign law firms or foreign lawyers will not be allowed to do so.”

8. Further, it is relevant to note that recently in course of some discussions and deliberations with the Law Society of England & Wales and some Governmental delegates of U.K. with the Secretary of Department of Legal Affairs, Government of India, it has been stated by the side of U.K. that Indian lawyers/law firms can establish in England and Wales and can practice Indian law, international law as well as provide English law advice. They however normally cannot practice in any of the six reserved activities detailed in the high-level summary of the regulation of foreign lawyers in UK (e.g. exercise of a right to audience/appear before a Court, conduct litigation, carry out reserved instrument activities (a contract to grant a short lease, a will or other testamentary instrument, an agreement not intended to be executed as a deed, other than a contract that is included above, a letter or power of attorney, a transfer of stock containing no trust or limitation of the transfer, conveyancing of property and similar work), probate activities, administration of oaths, notarial activities). The Bar Council/Bar Standards Board also has a process for temporary call to the Bar for a visiting advocates engaged in one case/a series of cases before the English courts.

As per the delegates of U.K. the Indian lawyers only need to register as Registered Foreign Lawyers (RFL) if they are in partnership with solicitors of England and Wales. They remain in any case under the regulatory remit of their Home Bar (Bar Council of India).

As per discussions, there is already a way to requalification for Indian advocates through the Solicitors Qualification Examination (SQE), with a process to apply for eligible exemptions.

The Bar Council of India proposes to examine such truth/the veracity of such statements and its ramifications in details, and, shall hold enquiries and further deliberations after involving the Government of India through Ministry of Law and Justice and the Government of U.K. and the Bar Council of India, and thereafter may also think to introduce some Qualifying Exam for the purpose of eligibility and exemptions in similar manner, if it does not adversely effect the interest of Indian Lawyers/Law Firms and the Government of India.

It is also to be noted that the Bar Council of India is keen to progress on the idea of an MoU between the Bar Council of India, the Government of India (through Ministry of Law and Justice) on one part and the Law Society of England and Wales, Government of U.K., Bar Council of England and Wales, on the other.

The U.K. Delegates have also assured the Bar Council of India that the Authorities in U.K. are also keen and interested in the means of collaboration, cooperation and joint practice between Indian advocates and UK lawyers.

9. Time has come to take a call on the issue. Bar Council of India is of the view that opening up of law practice in India to foreign lawyers in the field of practice of foreign law; diverse international legal issues in non-litigious matters and in international arbitration cases would go a long way in helping legal profession/domain grow in India to the benefit of lawyers in India too. It is noteworthy that the standards of Indian lawyers in proficiency in law is comparable with the international standards and the legal fraternity in India is not likely to suffer any disadvantage in case law practice in India is opened up to foreign lawyers in a restricted and well controlled and regulated manner on the principle of reciprocity as it would be mutually beneficial for lawyers from India and abroad and these Rules are an attempt by Bar Council of India in this direction. These rules will also help to address the concerns expressed about flow of Foreign Direct Investment in the country and making India a hub of International Commercial Arbitration. In case, we sleep over the matter, the legal fraternity of India may be left behind in providing legal/professional expertise in accordance to the rule of law in a manner consistent with the best interests of this fast growing class of clients in India. Let us ensure that an opportunity for creating development and growth for legal profession and in the legal sphere in India is not lost.

Many countries have already allowed the foreign lawyers to practice foreign law and diverse international legal issues and arbitration matters in their countries in restricted fields with specific and prescribed conditions.

10. Taking an all-inclusive view, the Bar Council of India resolves to implement these Rules enabling the foreign lawyers and Foreign Law Firms to practice foreign law and diverse international law and international arbitration matters in India on the principle of reciprocity in a well defined, regulated and controlled manner.

For the aforesaid reasons and in order to meet the aforesaid objectives, the Bar Council of India has framed the Bar Council of India Rules for registration of foreign lawyers and foreign Law Firms in India, 2021 under its rule making powers under clauses (d), (e), (ic), (1) and (m) of sub-section (1) of section 7 and clauses (ah), (ag), (c), (e) and (h) of sub-section (1) of section 49 read with sections 24, 29 and 47 of the Advocates Act, 1961 and under all other enabling provisions.

## CHAPTER-I

### PRELIMINARY

1. Short title, extent and commencement.: –
- These Rules shall be called as the Bar Council of India Rules for registration and regulation of foreign lawyers or foreign law firms in India.
  - These Rules shall come into force in whole of India as soon as notified in the official Gazette.
2. Definitions. :-
- 'Act' means The Advocates Act, 1961 as amended from time to time.
  - The definitions of different terms as given in the Act shall apply to these Rules as well.
  - 'Foreign lawyer' means a person, including a law firm, limited liability partnership, company or a corporation, by whatever name called or described, who/which is entitled to practice law in a foreign country.

Indian lawyers means an Advocate enrolled on the roll of any of the State Bar Council of India in accordance with the provisions of the Advocate Act, 1961.

Indian law firms means as partnership/LLP firm with Indian Lawyers as its partners.

- (iv) 'Foreign Country' means a country, which is recognized as such by the Government of India and it includes a constituent State thereof in case such as a foreign country has a federal structure of governance and such constituent State has its own justice-delivery system and a separate class of persons entitled to practice law.
- (v) 'Country of the primary qualification' means a foreign country in which the foreign lawyer is entitled to practice law as per law of that country.
- (vi) 'Foreign law' means a law, which is or was effective, in the country of primary qualification.
- (vii) 'Competent Authority of the foreign country' means the government or a Court of law or a statutory authority or Bar Council or Legally authorized Association or any other legally recognized and constituted body by whatever name called or described, which is competent to grant license to practice law.
- (viii) "International commercial arbitration' means an alternative method of resolving disputes concerning commercial transactions which is conducted in India in which all or any of the parties are persons/entities who have their registered address or principal office or head office in a foreign country.
- (ix) "International arbitration case' means an arbitration case concerning a commercial or monetary matter which is conducted in India in which all or any of the parties are persons who have an address or principal office or head office in a foreign country.
- (x) Foreign client means an individual/s who is/are citizen/s of a foreign nation or a firm/corporation/business entity having its registered office/head office in a foreign country with a branch/regional office or manufacturing unit in India.

#### CHAPTER-II

#### REGISTRATION OF FOREIGN LAWYERS OR FOREIGN LAW FIRMS AND THE EXTENT AND CONDITIONS SUBJECT TO WHICH THEY CAN PRACTICE LAW IN INDIA

#### 3. Registration of foreign lawyers or foreign law firms and eligibility criteria there for:—

- (1) A foreign lawyer or foreign law firm shall not be entitled to practice law in India unless he/it is registered with the Bar Council of India under these Rules:  

Provided that this prohibition will not apply to law practice by a foreign lawyer or foreign law firm in case such practice is done on a 'fly in and fly out basis' for the purpose of giving legal advice to the client in India regarding foreign law and on diverse international legal issues and provided further that such expertise/advice of such a foreign lawyer or foreign law firm had been procured by the client in a foreign country and foreign lawyer or foreign law firm does not maintain an office in India for the purpose of such practice and lastly such practice in India for one or more periods does not, in aggregate, exceed 60 days in any period of 12 months.
- (2) 'Right to practice law' in the concerned 'foreign country of the primary qualification' shall be the primary qualification for practicing law in India under these rules.

#### CHAPTER-III

#### APPLICATIONS FOR REGISTRATION, RENEWAL OF REGISTRATION AND MATTERS CONNECTED WITH LAW PRACTICE IN INDIA

#### 4. Application for registration:—

- (1) A foreign lawyer or foreign law firm may apply for registration under these rules in 'FORM A' appended to these Rules along with registration fee and guarantee amount either in person or through registered Post. This application and fee may also be submitted on-line.  

Such an application shall also be accompanied by non-refundable Process charges of such an amount as may be fixed by Bar Council of India from time to time. This application shall be addressed to the Secretary, Bar Council of India and shall be accompanied by the following documents:

  - (i) A certificate from the Government of India, (Ministry of Law & Justice and Ministry of External Affairs and Trade) or such other authority or officer as Union Government may authorize in this behalf that an effective legal system exists in concerned foreign country of the primary qualification and that it has no objection in case the applicant is registered under these Rules and practices law in India; (However the Bar Council of India may seek any information from any departments/Ministries of any foreign Countries, if it thinks

necessary and/or it may contact any. Foreign Government/Department in case if any information required.)

- (ii) A certificate from the Competent Authority of the concerned foreign country of primary qualification certifying that the applicant is entitled to practice law in that Country;
- (iii) A certificate from the Government of the foreign country of primary qualification or from a competent Authority thereof certifying that advocates enrolled under the Advocates Act, 1961 are permitted to practice law in that country in the manner and to the extent which is comparable to the law practice permitted under these Rules along with copies of the relevant Laws and Rules;
- (iv) A certificate from the Competent Authority of the concerned country of primary qualification or any other competent authority/ies, Courts, Bar Association, Bar Council etc. that the applicant has been in practice in that country;
- (v) A certificate of the competent authority of the concerned foreign country of primary qualification that no proceedings of professional or other misconduct are pending either before it or before any other authority competent to entertain and decide such proceedings;
- (vi) A certificate of the competent authority of the concerned foreign country of primary qualification giving details of the fee structure and other amounts chargeable from an advocate enrolled under the Act for enabling him to practice law in that country along with relevant Rules and Laws;
- (vii) 'No objection Certificate' of the competent authority of the concerned foreign country of primary qualification that it has no objection in case the applicant starts law practice in India and that the applicant enjoys a good standing in the Bar.
- (viii) A declaration on affidavit that the applicant has not been convicted of any offence and has not suffered any adverse order in any disciplinary matter. (In case he has suffered relevant attested any conviction/adverse order, copies of the order of conviction/adverse order and other related documents about the matter like appeal and stay, if any, or sentence/fine suffered/paid etc. are to be annexed);
- (ix) A declaration on affidavit that the applicant has no objection and consents to the making of enquiries and investigation by the Bar Council of India on its own or through such government or non-government investigating agency, as it may deem fit, to verify the veracity of the particulars disclosed by the applicant in the application and genuineness of the documents annexed therewith;
- (x) An undertaking on oath that he/it shall not practice Indian law in any form or before any court of Law, Tribunal, Board or any other Authority legally entitled to record evidence on oath;
- (xi) A declaration on oath that he/it shall not be entitled to and shall not claim any interest on the guarantee amount deposited by him/it with Bar Council of India at the time of registration under these Rules and that the Bar Council shall be entitled to adjust and apply this guarantee amount to the penalty and cost amounts that may be awarded by the Bar Council of India under the provisions of these Rules;
- (xii) A declaration on oath that the applicant fully understands and appreciates the fact that on registration under rule 7 of these Rules, the Advocates Act, 1961 and Rules made there under, mutatis mutandis, apply to him/it in respect of law practice by him/it in India and that he/it is subject to the jurisdiction of Courts of Law in India and to the jurisdiction of Bar Council of India in relation to such practice.

5. Validity of registration and renewal of registration. :-

- (1) The registration done under rule 7 shall be valid for a period of 5 (five) years only and the foreign lawyer and/or Law Firm would be required to renew it by filing an application for renewal in Form B within 6 months before the date on which such validity expires.
- (2) A foreign lawyer or foreign Law Firm may apply for renewal of registration under these rules in 'FORM B' appended to these Rules along with renewal fee either in person or through registered Post.
- (3) This application for renewal shall be addressed to the Secretary, Bar Council of India and shall be accompanied by the following documents: -

- (i) A certificate from the government of India or such other authority or officer as it may authorize in this behalf that an effective legal system continues exist in concerned foreign country of the primary qualification since his/its registration under rule 7 and that it has no objection in case the registration of the applicant is renewed under these Rules and he/it continues to practice law in India;
  - (ii) Certificate from the Competent Authority of the concerned foreign country of primary qualification certifying that the applicant continues to be entitled to practice law in that Country since his/its registration under rule 7;
  - (iii) A certificate from the government of the foreign country of primary qualification or from a competent Authority there of certifying that advocates enrolled under the Advocates Act, 1961 are continued to be permitted to practice law in that country in the manner and to the extent which is comparable to the law practice permitted under these Rules since his/its registration under rule 7 along with copies of the relevant law and Rules.
  - (iv) Certificate of the competent authority of the concerned foreign country of primary qualification that no VIEWS proceedings of professional or other misconduct have been filed either before it or before any other authority competent to entertain and decide such proceedings since his/its registration under rule 7;
  - (v) “No objection Certificate of the competent authority of the concerned foreign country of primary qualification that it has no objection in case the applicant continues to practice law in India.
  - (vi) A declaration on affidavit that the applicant has not been convicted of any offence and has not suffered any adverse order in any disciplinary matter after registration under rule 7. (In case it/he has suffered any conviction/adverse order, relevant attested copies of the order of conviction/adverse order and other related documents about the matter like appeal and stay, if any, or sentence/fine suffered/paid etc. are to be annexed);
  - (vii) A declaration on affidavit that the applicant has no objection and consents to the making of enquiries and investigation by the Bar Council of India on its own or through such government or non-government investigating agency, as it may deem fit, to verify the veracity of the particulars disclosed by the applicant in the application for renewal and genuineness of the documents annexed therewith.
- (4) The Bar Council of India may refuse to register any Foreign Lawyer or Foreign Law Firm, if in the opinion of the Council, the number of Foreign Lawyers or Foreign Law Firms of any particular Foreign country registered in India is likely to become disproportionate to the number of Indian Lawyers or Indian Law Firms registered or allowed to practice law in the corresponding foreign country. Bar Council of India may limit the number of registration of Foreign Lawyers and/or Foreign Law Firm in order to maintain a balance or to ensure complete reciprocity or to protect the interest of Indian Law Firms/Indian Lawyers.

6. Registration and renewal fee and guarantee amount:-

- (A) After receipt of such application, the Bar Council of India or a committee constituted by the Council in this behalf, shall examine the application, hold an enquiry with regard to genuineness of the contents and the documents attached with the application. The Council will also examine the relevant Laws, Rules and practice in order to ascertain the truth about the reciprocity with the concerned foreign country. And after such examination and enquiry, if the application is found to be fit for registration, the Council shall grant a Certificate of Registration with a separate Registration Number.
- (B) The Council will inform the Government of India (through the Ministry of Law and Justice) soon after such registration and shall also send a copy of such Registration certificate.
- (C) In the matter of Registration, the Designated Advocates i.e. some other superior class of Advocates (by whatever name they are known in the concerned foreign country) such Advocates shall be given preference as the rights and privileges of such senior or Designated Advocates are prescribed under Section 23 of the Advocates Act 1961.
- (D) An application for registration/renewal of registration shall be accompanied by registration/renewal fee of such an amount as is equivalent to the fee and other charges chargeable in the concerned foreign country of primary qualification from an advocate enrolled under the Act on account of registration/permission to practice law there but such fee shall not be less than fee amount as per the schedule, which may be updated/amended from time to time.



- (E) The Security deposit shall be returnable to the foreign lawyer or Foreign Law Firm when he/it voluntarily terminates foreign law practice in India or when its/his registration expires or when his registration is cancelled permanently but Bar Council of India shall be entitled to adjust and deduct amounts equivalent to the penalty and costs imposed by it on it/him under rule 9 and 10 from this Security deposit in case it/he omits to pay.
- (F) The Security deposit shall be kept by the Bar Council of India under a separate Head and interest accruing thereon shall be used by it for meeting its expenses for the due implementation and management of these Rules.

7. Disposal of applications for registration and renewal:-

The Bar Council of India may allow the application for registration filed under rule 4 and for renewal filed under rule 5, if it is satisfied that the application is supported by all the relevant documents, and fulfills all the conditions as required under these Rules and that the applicant does not suffer from any criminal or disciplinary proceedings that are likely to make him/it unsuitable for practicing law in India under these rules and lastly that the country of the primary qualification allows advocates enrolled under the Act to practice law in that country in the manner and to the extent which is comparable to the law practice permitted by these Rules.

However, the Bar Council of India may not reject an application for registration/renewal unless a reasonable opportunity of being heard has been afforded to the applicant Advocate or Law Firm. In the event of rejection of application for registration/renewal, the registration fee/renewal fee/guarantee amount deposited by the applicant shall be returned to him after adjusting and deducting such amounts as are recoverable by the Bar Council of India under these Rules.

Provided that the Bar Council of India may, hold consultation with the Government of India through the Ministries of Law and Justice, if the same is deemed necessary in a particular case, to ensure that the applicant fulfills all the relevant requirements and conditions as laid down by these Rules. The Bar Council of India may also seek the opinion of the Hon'ble Chief Justice of India or any sitting Judge of Supreme Court, the Union Minister of Law & Justice and / or the Union Minister for Foreign Affairs, any other Senior Advocate or Jurist or the Bar Council of India may place the matter before Advisory Board of Bar Council of India for the Development of Legal Education & Legal Profession on any issue relating to registration or cancellation of registration of any foreign lawyer or foreign law firm or their area(s) of practice it deems fit and proper.

However, Bar Council of India shall be the final authority in all these matters.

Provided that the aforesaid registration and renewal thereof shall not, in any way, entitle the foreign lawyer or foreign law firm to have free and unregulated entry and stay in India for which it/he remains governed by the Indian Law and lawful orders/instructions issued by the Government of India, State Governments, statutory bodies or any other competent authorities in India from time to time.

Provided further that the government of India shall have the right of recommending cancellation of the aforesaid registration or renewal at any time on the ground of national security or if it is of the opinion that such registration or renewal is against the National interest, or for any other valid ground.

Provided further that the Bar Council of India may seek information from the Government of India through and Ministry of Law and Justice or various Ministries of Union Government about the existence of an effective legal system in the concerned foreign country and also about the existence of any unfair discrimination in the matter of law practice by Indian advocates in that country and Bar Council of India may initiate proceedings for cancellation of registration or for cancellation of renewal of registration in case government of India certifies, either on its asking or otherwise, that an effective legal system no longer exists in the concerned foreign country and that Indian Lawyers are being subjected to unfair discrimination there.

#### CHAPTER-IV

#### LAW PRACTICE BY FOREIGN LAWYERS

8. Law practice by a foreign lawyer: nature and extent thereof:-

- (1) A foreign lawyer registered under rules shall be entitled to practice law in India in non-litigious matters only subject to such exceptions, conditions and limitations as are laid down under these Rules and he/it shall be deemed to be an advocate within the meaning sections 29, 30 and 33 of the Act qua such acts and deeds as are envisaged to be performed by him under these Rules as a foreign lawyer. However, a foreign Lawyer or Foreign Law Firm shall not be proceeded under Chapter V of the Advocates Act; rather in case of any substantive misconduct, the Bar Council of India may cancel the registration of such Foreign Advocate or Foreign Law Firm as the case may be.

- (2) The areas of practice of law by a foreign lawyer or Foreign Law Firm shall be laid down by Bar Council of India And if need be, the Bar Council of India may consult the Govt. of India, Ministry of Law and Justice in this regard.

The foreign lawyers or foreign Law Firms shall not be permitted to appear before any courts, tribunals or other statutory or regulatory authorities.

They shall be allowed to practice on transactional work /corporate work such as joint ventures, mergers and acquisitions, intellectual property matters, drafting of contracts and other related matters on reciprocal basis.

They shall not be involved or permitted to do any work pertaining to conveyancing of property, Title investigation or other similar works.

The Practice of Law by a Foreign Lawyer and/or Foreign Law Firm shall include the following arenas:-

- (i) doing work, transacting business, giving advice and opinion concerning the laws of the country of the primary qualification;
- (ii) providing legal expertise/advise and appearing as a lawyer for a person, firm, company, corporation, trust, society etc. who/which is having an address or principal office or head office in a foreign country in any international arbitration case which is conducted in India and in such arbitration case “foreign law may or may not be involved;
- (iii) providing legal expertise/advise and appearing as a lawyer for a person, firm, company, corporation, trust, society etc. who/which is having an address or principal office or head office in the foreign country of the primary qualification in proceedings before bodies other than Courts, Tribunals, Boards, statutory authorities who are not legally entitled to take evidence on oath, in which knowledge of foreign law of the country of the primary qualification is essential;
- (iv) providing legal expertise/advise concerning the laws of the Country of primary qualification and on diverse international legal issues, provided that such legal expertise/advise, unless otherwise provided for in these Rules, shall not include representation or the preparation of documents regarding procedures before an Indian Court of Law, Tribunal or any other Authority competent to record evidence on oath or preparation of any documents, petitions etc. to be submitted to any such forum regarding such procedures.
- (v) Provided that an Advocate enrolled with any State Bar Council in India and is a partner or Associate in any Foreign Law Firm registered in India under these rules and regulations, can take up only the non-litigious matters and can advise on issues relating to countries other than the Indian Laws only. Such Lawyer shall have no advantage / right of his being an Advocate enrolled in India.

9. Incidental matters as regards opening of law offices, entering into partnerships, procuring other legal expertise/advise etc. in connection with the practice of law in India.:-

- (1) The registered foreign lawyer or foreign Law Firm shall be entitled to do the following things in connection with the practice of law in India: -
  - (i) to open law office or offices in India for carrying on law practice in India as mentioned in Rule 8 of these Rules and subject to the condition that Bar Council of India shall be kept informed of the particulars of such office/offices viz. postal address, name of the owner/lessee of the property in which the office/offices are located and the documents enabling and entitling him/it to occupy it.
  - (ii) to engage and procure legal expertise/advise of one or more Indian Advocates Registered as foreign lawyers,
  - (iii) to procure the legal expertise/advise of any Advocate enrolled with any State Bar Council in India on any subject relating to Indian Laws. But such registered foreign lawyer or foreign Law Firm shall not be entitled to appear before any Indian Court, Tribunal or any other statutory forum except for the matters mentioned under provision of Rule 8 of these Rules.
  - (iv) to enter into Partnership with one or more Foreign Lawyers or Foreign Law Firm registered in India under these rules.

## CHAPTER-V

## DISCIPLINARY ISSUES AND PENALTIES FOR SECURING REGISTRATION BY MISREPRESENTATION ETC.

## 10. Disciplinary issues. :-

- (1) A foreign lawyer or Lawyer associated with foreign Law Firm registered under these rules shall normally be subject to the same ethical and practice standards laid down under the Advocates Act, 1961 and Rules made there under as are the advocates enrolled under the Act.
- (2) Where on receipt of a complaint or otherwise the Bar Council of India has reason to believe that any foreign lawyer or foreign law firm registered under these Rules has been guilty of professional or other misconduct in connection with law practice in India or has violated the terms and conditions and / or provisions of these Rules in any manner, the Bar Council of India shall refer the matter to the Disciplinary authority of the concerned foreign country for the needful. However, if the misconduct or violation is grave and prima-facie apparent on face of record, then the Council may suspend the registration and refer the matter to the concerned Disciplinary Authority, with intimation of Government of India through Ministries of Foreign Affairs and Ministry of Law and Justice.

## 11. Consequences of securing registration by misrepresentation, fraud etc.: -

- (1) The Bar Council of India may, if satisfied, either on a complaint made to it either by the Govt. of India or any individual or otherwise that any person or Law Firm has secured registration/renewal of registration as a foreign lawyer or foreign Law Firm by misrepresentation as to an essential fact or by fraud or undue influence, it may make, after giving him/it an opportunity of being heard, cancel the registration/renewal of registration of such a foreign lawyer/Foreign law firm (as the case may be) with or without penalty of such an amount as it may deem fit.

However, the Council may also :-

- (a) dismiss the complaint or drop the proceedings; if there is no substance in it.
- (b) reprimand the Foreign Lawyer/Foreign Law Firm.
- (c) suspend the registration of the foreign lawyer/foreign law firm for such period as it may deem fit;
- (d) impose penalty of such an amount as it may deem fit;
- (e) impose costs.

## CHAPTER-VI

## 12. Regulatory authority. –

The Bar Council of India shall have the right of issuing such directions and regulations from time to time, as are necessary for the proper implementation and execution of these Rules. The Bar Council of India may hold deliberations and consultations with its counterparts i.e. statutory authorities in regulation of the legal profession in different foreign countries in consultations with the Government of India (Ministry of Law and Justice and/or Ministry of External Affairs or if necessary the Ministry of Home Affairs or any other Ministry of Govt. of India) on the principle of reciprocity so as to promote and strengthen the legal profession in India to keep pace with the globalization and to provide a vibrant and effective framework of legal profession that can cater to the ever changing needs of the people, belonging to different religions, faiths and having different personal laws, migrating from one country to the other and to promote international progress, coherence and unity. The Bar Council of India is responsible for ensuring the reciprocity: The Council has right to cancel the registration of any foreign lawyer or law firm, any time, if it comes to the notice of the council through any source that the Indian lawyers or Indian law firms are being discriminated by the concerned counterpart foreign country in any manner. The Council shall cancel such registration after giving the concerned foreign lawyers/foreign law firm or the concerned government an opportunity to place their views.

## 13. Removal of difficulties.:-

In case any doubt or dispute as to the meaning, interpretation and execution of these Rules arise, the Bar Council of India shall be the final authority to resolve and settle all such disputes and its decision thereon shall be final.

**SCHEDULE**

- (i) Registration fee in case of a foreign lawyer, if he is an individual:  
USD 25,000/- (USD Twenty Five Thousand Only);
- (ii) Registration fee in case of a foreign lawyer, if it is a firm, private limited partnership, company, Limited Liability Partnership (LLP) etc.:  
USD 50, 000/- (USD Fifty Thousand Only);
- (iii) Renewal fee in case of a foreign lawyer:  
USD 10,000/- (USD Ten Thousand Only);
- (iv) Renewal fee in case of a foreign lawyer, if it is a firm, private limited partnership, company, Limited Liability Partnership (LLP) etc.:  
USD 20, 000/- (USD Twenty Thousand Only).
- (E) The application for registration shall also be accompanied by Security Deposit as follows: -
- (i) Security Deposit in case of a foreign lawyer, if he is an individual:  
USD 15,000/- (USD Fifteen Thousand Only);
- (ii) Guarantee amount in case of a foreign lawyer, if it is a firm, private limited partnership, company, limited liability partnership (LLP) etc.:  
USD 40,000/- (USD Forty Thousand Only).
- SRIMANTO SEN, Secy.  
[ADVT.-III/4/Exy./688/2022-23]