



Bar Council of India 20th Qualifying Examination for Indian Nationals Holding Foreign Law Degrees

Paper – VI – Indian Legal Profession and Code of Ethics

Date: 08.06.2024

PART - A

Answer any 5 of the following:

(5 x 5 = 25)

1. 'X' is a sleeping partner in a Partnership Firm and also working as an agent for a Health Insurance Company. He submits application to enroll himself as an advocate. State Bar Council rejects the application. Is the act of council justifiable? Explain with the help of relevant rules/provisions and decided case.
2. A client approaches an advocate Mr. 'A' with document for the advise relating to a property dispute. Subsequently, he appointed another advocate Mr. 'B' to represent him in the court relating to the same dispute. Now, Mr. 'A' intends to represent party opposite to the client before the court. Whether such act of Mr. 'A' amounts to misconduct? Decide with the help of relevant rules/provisions and decided case.
3. What is meant by 'Right to Practice'? "*An advocate may be a law teacher while practicing but a full-time law teacher cannot be an advocate*". Critically examine with the help of relevant rules/provisions and case law.
4. "*A legal practitioner who is specially privileged class of person is bound to conduct in a manner befitting the high and honourable profession to whose privileges he has been admitted and if he departs from the high standards which that profession has set for itself and demands of him in professional matters, he is liable to disciplinary action.*" Critically examine the above statement in the light of judicial pronouncements and relevant rules/provisions.
5. Mr. 'X', accused of an offence appoints Mr. 'A' an advocate to obtain bail for X from the court through his brother Mr. 'Z'. Mr. 'Y' obtains Rs. 5,00,000 for the same and does not represent him before the court. When Mr. 'Z' enquires Mr. 'A' says that documents required were submitted and waiting for the order of the court. At the same time Mr. 'X' was convicted by the court. In fact Mr. 'A' has not represented Mr. 'X' in the court. Is there any professional misconduct? Decide with the help of relevant rules/provisions and decided case.
6. "*Unfortunately strikes and boycott calls are becoming a frequent spectacle. On the slightest pretence strikes and/or boycott calls are resorted to. The Judicial System is being held ransom and administration of law and justice is threatened. The rule of law is undermined.*" Explain this statement in the light of judicial approach to

the question whether lawyers have a right to strike and/or give a call for boycott of the Court.

PART - B

Answer any 3 of the following:

(3 x 15 = 45)

7. A daily newspaper named "Sandesh" published an article which attributed motives to Mr. Justice 'X' of the High Court that there was a connection between tender of Rs. 10 Crore granted to a firm by PWD in which the Judge's uncle was a partner and the judgment in a service matter involving the Chief Engineer, PWD wherein the matter was decided in favour of the latter by Mr. Justice 'X'. It was also mentioned in the article that Mr. Justice 'X' was well aware about the tender having been granted to the firm of his uncle. A criminal contempt proceeding was initiated against the editor of the newspaper wherein the High Court found no basis for the insinuation that there was any connection between the tender and the judgment in the service matter or that Mr. Justice 'X' knew or might have known about any tender having been granted to his uncle's firm. High Court found the editor guilty of criminal contempt and passed sentence to undergo imprisonment for a month and a fine of Rs. 1000. An appeal was preferred against this order before the Supreme Court of India. While the matter was being heard before the Supreme Court, it was observed by the bench that *"Justice is not a cloistered virtue; she must be allowed to suffer the scrutiny and respectful, even though spoken, comments of ordinary men."*

Critically examine the above statement in the light of given facts, relevant rules/provisions and decided cases.

8. Mr. 'A', a practising lawyer, was representing Mrs. 'S' in a property related dispute. He wrote a letter to her stating that his another client had told him that the concerned judge accepts bribe and he (another client of Mr. 'A') has obtained several favourable orders from him in his favour. If Mrs. 'S' can influence the judge through some other person, then it is a different thing, otherwise she should send him a sum of Rs 50,000/- so that through the said client the suit is decided in her favour. On receiving the letter Mrs. 'S' is very upset with the entire functioning of the legal system, including the behaviour of her lawyer. Mrs. 'S' wants to take a legal action against her lawyer, Mr. 'A', and files a complaint for Professional Misconduct.
- (a) Advise Mrs. 'S' whether she should file a complaint for Professional Misconduct and frame the arguments.
- (b) Argue whether Mr. 'A' can defend his action on the grounds of duty to the client.
9. Mr. 'X', a citizen India went to United States of America on foreign assignment for two years. He met Ms. 'S' in United States of America, married her and completed his assignment. 'L' was born to them on 5th February 2000. Mr. 'X' took another assignment in United States of America and continued with his stay. In January 2003, both Mr. 'X' and Ms. 'S' died in a car accident in United States of America. The paternal grandfather of 'L' living in Bihar brought him to Delhi and became

his legal guardian. 'L' took admission in Five Year Integrated B.A., LL.B Course. One month after appearing for his last paper of Five Year Integrated B.A., LL.B Course 'L' got convicted for bank fraud for forging his grandfather's signature in bank but was released on bail. While on bail, 'L' applied for enrolment with the Delhi State Bar Council. Delhi State Bar Council refused to enroll him as an advocate.

Discuss the validity of the decision of Delhi State Bar Council with the help of relevant rules/provisions and decided cases.

10. Mr. 'A', one of the renowned advocates of Delhi High Court has been publishing articles about Legal Profession in India in a leading daily newspaper. In one of his articles, he wrote that the High Court Judges should understand the existing problems of Legal Profession in India. He stated that these judges are unaware about what situation the Advocates are facing. He also added that this situation is fatal to healthy administration of justice. Explain whether Mr. 'A' should be liable for Criminal Contempt under the Contempt of Courts Act, 1971. Justify your answer with supporting legal provisions and decided cases.

PART - C

Answer any 1 of the following:

(1 x 30 = 30)

11. An advocate, Mr. 'A' while appearing for a Multinational Company before the Civil Judge of Delhi Court, used intemperate language and spoke in loud voice in highly agitated manner. The Civil Judge made a complaint to the High Court through District judge and conveyed the statements uttered by Mr. 'A' in his court which read as: *"How did you dare pass such an order against my client? No Judicial Officer has, ever, dared pass an order against me. I have relations with highly notorious persons and I can get you harmed by such notorious persons to the extent I want to do, and I myself am capable of doing any deed as I wish, and I am not afraid of any one. In the Court compound, even my shoes are worshipped and I was prosecuted in two murder cases. If you, in future, dare pass an order on the file against my client in which I am a counsel, it will not be good for you."* The letter also mentioned that Mr. 'A' had warned the judge and also threw the papers handed over to him by other counsel. There were several instances of his contumacious conduct, intimidation and brow beating the judicial officers. On complaint, Delhi High Court found him to be guilty of Criminal contempt and sentenced him to simple imprisonment of two months with a fine of Rs. 2,000/- and in default of payment of the fine, the appellant to undergo further imprisonment of 2 weeks. Delhi High Court made reference to the Delhi State Bar Council and directed to consider the complaint and initiate appropriate proceedings against the appellant for professional misconduct. Appeal was filed against the judgement of Delhi High Court to the Supreme Court of India. The Delhi State Bar Council failed to take any action for more than 10 years when the appeal was pending before the Apex Court. The Apex court confirmed the conviction and also suspended the licence of the appellant for a further period of 3 years and also directed that the appellant be debarred from appearing in any court in Delhi even after 3 years unless he purged himself of contempt.

Applying the law to the facts, discuss the appellate powers of the Supreme Court with the help of relevant rules/provisions and decided cases.

12. *"Court and Counsel are the two wheels of chariot of justice. In the adversarial system, it will be more appropriate to say that while the judge holds the reigns, the two opponent counsels are the wheels of chariot, while the direction of the movement is controlled by the judge holding the reign, the movement itself is felicitated by the wheels without which the chariot of justice may not move and may even collapse."* Discuss this statement in the light of the statutory duties of an Advocate to the Court, Client and Colleagues with the help of relevant rules/provisions and decided cases.
