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La Gazette de L'État de Poudouchéry

The Gazette of Puducherry

PART - I

சிறப்பு வெளியீடு

EXTRAORDINAIRE

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அதிகாரம் பெற்ற
வெளியீடு

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GOVERNMENT OF PUDUCHERRY LAW DEPARTMENT

No. 1532/1/2020-LD.

Puducherry, dated 29th July 2020.

NOTIFICATION

The notification and the Madras High Court Designation of Senior Advocates Rules, 2020 are hereby published for general information.

J. JULIET PUSHPA,
Secretary to Government (Law).

The Madras High Court Designation Of Senior Advocates Rules, 2020.

(R.O.C. No. 36685/2017/F2)

No.SRO C-8/2020.

In exercise of the powers conferred by Section 34(1) read with Section 16(2) of the Advocates Act, 1961, the High Court of Judicature at Madras hereby makes the following Rules: -

1. Short Title, Extent And Commencement: -

- (1) These Rules shall be called "The Madras High Court Designation of Senior Advocates Rules, 2020".
- (2) These Rules shall extend to the entire jurisdiction of the High Court at Madras, including its Bench at Madurai.
- (3) These Rules shall come into force from the date of its publication in the Official Gazette of the State Government.

2. Definitions:

- (1) 'Advocate' means an Advocate entered in any roll under the provisions of the Advocates Act, 1961.
- (2) 'Advocate General' means the Advocate General for the State of Tamil Nadu;
- (3) 'Advocates Act' means Advocates Act, 1961 (Act 26 of 1961);
- (4) 'Chief Justice' means Chief Justice of the Madras High Court;
- (5) 'High Court' means the Madras High Court;
- (6) 'Permanent Committee for Designation of Senior Advocates' means the Committee headed by the Hon'ble the Chief Justice and consisting of the two senior-most Judges of the High Court, the Advocate-General and one nominated member from the Bar;
- (7) 'Permanent Secretariat' means the Establishment for processing proposals or applications for designation of Senior Advocates, as decided by the Chief Justice from time to time;
- (8) 'Senior Advocate' means an Advocate designated as a Senior Advocate under Section 16 (2) of the Advocates Act, 1961;
- (9) 'Website' means the official website of the Madras High Court.

3. Permanent Committee For Designation Of Senior Advocates:-

- (1) All matters relating to designation of Senior Advocates in the High Court shall be dealt with by the Permanent Committee for designation of Senior Advocates, which will be headed by the Chief Justice and consist of the two Senior-most Judges of the High Court, the Advocate General and a designated Senior Advocate of the Bar to be nominated by the members of the Permanent Committee.
- (2) The Committee constituted under Sub-Rule (1) shall have a Secretariat, the composition of which will be decided by the Chief Justice of the High Court, in consultation with other members of the Committee.
- (3) The Committee may issue such directions from time to time as deemed necessary regarding functioning of the Secretariat, including the manner in which, and the source from which the necessary data and information with regard to designation of Senior Advocates are to be collected, compiled and presented.

4. Qualification Criteria:-

- (1) An Advocate will be qualified to be designated as a 'Senior Advocate', if he:
 - (a) has completed 45 years of age and is ordinarily practicing in the Madras High Court or its Bench at Madurai and Courts Subordinate to it, including Tribunals for not less than 10 years preceding the date of consideration of his application for designation as Senior Advocate; or
 - (b) has 15 years combined standing as an Advocate or a District and Sessions Judge, or as a Judicial Member of any Court or Tribunal in India whose qualification for eligibility for such appointment, is not less than that prescribed for appointment as a District Judge; and
 - (c) is an Income-tax assessee for the previous 10 consecutive years. The Advocate shall furnish copies of the annual income tax returns for the preceding 10 years duly certified by a Chartered Accountant.
 - (d) exhibits distinction and eminence for legal acumen and special knowledge and maintains integrity, reputation and high ethical standards expected of a Senior Advocate both inside and outside the Court;
 - (e) has 15 judgments to his credit, in the preceding five years, where he has contributed to the growth of law;
- (2) No Advocate is eligible to be designated as a 'Senior Advocate', if
 - (a) a charge has been framed for an offence involving moral turpitude or he has been convicted by any court of law for an offence involving moral turpitude or
 - (b) any proceeding for professional misconduct is pending before the Bar Council or if he has been found guilty of professional misconduct by the Bar Council

- (c) any contempt of court proceedings are pending before any Court of Law or if he has been found guilty of contempt of court.
- (3) The Permanent Committee and the Full Court shall take into account the caliber, merit and ability and academic distinction of the Advocate concerned, including his character, conduct and behavior towards the court and other members of the Bar.

5. Modes Of Proposal & Method Of Submission:-

- (1) An Advocate, who fulfills the eligibility criteria, may be considered for being designated as Senior Advocate either:
 - (a) on a written recommendation by the Chief Justice or any permanent Judge of the High Court, made after a due assessment that the Advocate concerned deserves such designation for his ability, eminence, distinction, special knowledge in law, participation in pro-bono work etc; or
 - (b) on a proposal for designation as Senior Advocate by two designated Senior Advocates of having a standing of fifteen years as Senior Advocate of the Madras High Court; or
 - (c) on an Application by an Advocate, endorsed by two designated Senior Advocates of having a standing of fifteen years as Senior Advocate of the Madras High Court.
- (2) No Judge or Senior Advocates of having a standing of fifteen years as Senior Advocate shall propose names of more than two Advocates for designation in one calendar year.
- (3) Every application or proposal for designation as Senior Advocate shall be submitted to the Permanent Secretariat and the Permanent Secretariat, in turn, shall place the papers before the Permanent Committee for scrutiny and consideration during its sittings, as fixed by the Permanent Committee.
- (4) Every proposal by two Senior Advocates of having a standing of fifteen years as Senior Advocate for designation as Senior Advocate shall be submitted as per Form in Appendix-A, annexed to these Rules.
 Provided that the proposal from the Chief Justice or a Permanent Judge of the Madras High Court need not be submitted in the prescribed Form, but once the proposal is received, the Permanent Secretariat shall request such Advocate to submit an application in the Form prescribed in Appendix-A, within 15 days, duly complying with all the provisions of these Rules and the requirements stipulated in the Form.
- (5) Along with the requisite forms, the Advocate concerned shall submit a self-attested certificate to the effect that he has not applied to the Supreme Court or any other High Court, seeking designation as Senior Advocate and that his Application has not been rejected by the Supreme Court or any other High Court, within a period of two years prior to the date of proposal or application.
- (6) Canvassing in any form by the candidate or the proposer shall render him disqualified from being considered for designation.

6. Receipt & Processing Of Proposals Or Applications.

- (1) All proposals or applications shall be submitted to the Permanent Secretariat which shall scrutinize the same as per the directions and instructions given by the Permanent Committee from time to time and, in case of any defect being found in the Application, the Permanent Secretariat shall intimate the Advocate concerned of the defect, which shall be rectified forthwith.
- (2) Thereafter, the Permanent Secretariat shall compile data, apart from what is submitted by the candidate, containing exhaustive information, from such source or sources as the Permanent committee may direct with regard to the Advocate's reputation, conduct, integrity, participation in pro-bono work, publications and reported judgments of the previous five years in which the Advocate has actually appeared and argued.
- (3) The Permanent Secretariat shall publish the proposal for designation on the Website of Madras High Court, inviting views and suggestions within 30 days from the date of such publication, with verifiable materials.
- (4) The Permanent Secretariat shall not receive any anonymous or pseudonymous petitions or views and only such submissions, views or suggestions, which are submitted in physical form in writing with verifiable materials, bearing the name and full address of the addressor shall be entertained.
- (5) The Permanent Secretariat, after completion of the above procedure, shall submit on every proposal or application, a report along with the comprehensive individual data, to the Permanent Committee.

7. Procedures To Be Followed By The Permanent Committee & Designation Process:-

- (1) The Permanent Committee shall meet atleast once in a year.
- (2) The Permanent Committee will assess each proposal or application in the light of the material submitted by the Permanent Secretariat, and shall take into account the suggestions, views or objections received by the Permanent Committee.
- (3) The Permanent Committee may interact with the Advocate for his overall assessment, which shall be on the

basis of the point-based format provided in 'Appendix-B' appended to these Rules.

- (4) Any proposal or Application deferred by the Permanent Committee shall not be considered until the expiry of one year from the date of deferment.
 - (5) All names that are listed before and cleared by the Permanent Committee, along with the recommendation or specific remarks if any, of the Permanent Committee, shall be placed before the Full Court for approval.
 - (6) Voting by secret ballot will not normally be resorted to by the Full Court except when unavoidable.
 - (7) The decision shall be carried by a majority. However, in case of a tie, the Chief Justice shall have a second and casting vote.
 - (8) Any case that has not been favourably considered by the Full Court may be reviewed or reconsidered after expiry of a period of two years following the manner indicated above as if the proposal is being considered afresh.
8. **On Designation Of Advocates As Senior Advocates:-**
- (1) On designation as a Senior Advocate, the Advocate concerned shall not:
 - a) file any Vakalat or Memo of Appearance,
 - b) appear before any court, tribunal or judicial authority unless assisted by another Advocate,
 - c) directly give consultation to any litigant,
 - d) appear for mentioning any matter to the Court nor seek an adjournment in any Court,
 - e) accept instruction to draw pleadings or affidavits, advise on evidence or do any drafting or work of an analogous nature in any Court or Tribunal, or undertake conveyancing work of any kind whatsoever. However, these prohibitions shall not extend to settling any such matter as aforesaid in consultation with an instructing advocate,
 - f) be a standing counsel of any Government, Public Sector undertaking, institution or local corporate body and if he holds such a position, he shall resign or relinquish the same upon being designated a Senior Advocate.
 - (2) Upon designation as Senior Advocate, the name of such Senior Advocate shall be entered in the Roll of Senior Advocates to be maintained by the Registry and an order to that effect shall be issued conferring such distinction on the Advocate, by the Registrar General, whereupon, the Advocate shall thereafter be addressed as a 'Senior Advocate' of the High Court.
 - (3) Upon an Advocate being designated as Senior Advocate, the Registrar General, shall communicate the same to the Supreme Court of India, all the High Courts, Bar Council of India, the State Bar Councils and the Bar Associations of the Madras High Court and Madurai Bench.
9. **Privileges Of The Senior Advocate:-**
- A Senior Advocate:
- (a) shall have a preferential right of audience in all Courts according to seniority;
 - (b) shall be entitled to wear special robes meant for Senior Advocates;
 - (c) shall be entitled to such other rights and privileges conferred by the practice of Senior Advocate under the Advocates Act, 1961.
10. **Withdrawal Of Designation By The Court:-**
- In the event that a Senior Advocate is found guilty of any professional conduct or for involvement in any alleged offence involving moral turpitude or is found guilty of contempt of court or found guilty of misconduct by the Bar Council, rendering him unworthy to continue as Senior Advocate, the Full Court may review its decision to designate the person concerned and recall the same, after complying with the principles of natural justice, and the decision to recall the designation shall be intimated / notified in the same manner as provided in Rule 8(3) of these Rules
11. **Interpretation Clause:-**
- All questions and issues on interpretation of these Rules shall be referred to the Hon'ble the Chief Justice, for being placed before Permanent Committee and then to Full Court whose decision thereon shall be final.
12. **Repeal & Savings:-**
- The existing Norms of the Madras High Court for designating an Advocate as a Senior Advocate are hereby repealed. However, this repeal shall not invalidate the previous actions taken under those Norms. All pending applications, proposals or recommendations for designation shall be returned to the Advocate concerned for applying afresh in accordance with these Rules.

APPENDIX-A (FORM)

APPLICATION-CUM-CONSENT LETTER FOR BEING DESIGNATED AS SENIOR ADVOCATE
FOR ADVOCATES-ON-RECORD / ADVOCATES

		Recent Passport size Photograph to be affixed here
1.	Name of the Applicant – Advocate (Mr./Mrs./Ms.)	
2.	Father's Name	
3.	Date of Birth	
4.	Age (as on date)	
5.	ADDRESS IN FULL Office Address	
	Residential Address	
6.	Contact Details Landline No. Mobile No. Email, if any	
7.	Educational / Professional Qualifications	
8.	Date of Enrolment as Advocate	
9.	Bar Council E.No. and where registered	
10.	Whether Member of any Bar Association, if so, specify:	
11.	Field/s of law in which the Applicant has Specialisation / Expertise (Special knowledge or experience in law)	

12.	Number of Reported / Unreported Judgments, showing his appearance (List of such citations to be provided in separate sheet)	
13.	Details of Pro bono work during previous five years: (with details of cases)	
14.	Whether holds / held any position in Bar Council / Bar Association; If so, details thereof	
15.	Have you ever been arrested/ Prosecuted / FIR filed / detained / fined / Convicted / debarred at the time of filling up this form/ If "yes" give particulars, thereof.	
16.	Whether any proceedings were initiated or pending against you before Bar Council of India or State Bar Council. If so, particulars thereof	
17.	General state of health	
18.	Any other information, in this regard:	

DECLARATION:

I _____ Advocate, do hereby declare that the particulars furnished by me are true and correct and that no material fact has been suppressed by me. I further declare that neither any proceeding is pending against me before any Bar Council for any professional misconduct nor any Contempt Proceedings before any Court of Law and that I never involved in a criminal activity.

(Signature of Applicant)

Note: Applicants should read the instructions attached herewith before filling up the Application-cum-Consent Letter.

GENERAL INSTRUCTIONS TO BE FOLLOWED WHILE FILLING UP "APPLICATION – CUM – CONSENT LETTER" FOR BEING DESIGNATED AS SENIOR ADVOCATE.

1.	Every Application-cum-consent Letter, in the prescribed format shall be made in English, typed/printed with font size (Arial-12) in double spacing on one side of the white paper (A4 Size) with an inner margin of about four centimeters width on top and on the left side.
2.	Document and accompanying the Application should be numbered consecutively in the Index, in all sets of Application (The Registry, at any stage, may ask for supportive documents for verification in the light of the facts mentioned in the Application).
3.	Name of the Applicant should tally with his name as mentioned in his enrolment certificate. Abbreviated name will NOT be accepted.
4.	The Application should be presented in the shape of a Paper Book, duly tagged & indexed and not in spiral binding and the like.
5.	All photocopies of the accolades/testimonials should be legible and true copy of their respective originals.
6.	Application in the form of file, identical in all respects with sufficient copies shall be furnished to the Secretariat.
7.	Passport size photograph (original) should be pasted on each copy of the Application-cum-consent Letter.
8.	The Application should be accompanied by its soft copy in a searchable PDF format in a pen drive.

APPENDIX-B

POINT BASED ASSESSMENT OF SHRI _____, ADVOCATE
OR BEING DESIGNATED AS A SENIOR ADVOCATE

Sl. No.	Matter	Points
1	Number of years of practice of the Advocate from the date of enrolment. (10 points for 10 - 20 years of practice, 20 points for practice beyond 20 years)	20 points
2	Judgments (Reported and unreported) which indicate the legal formulations advanced by the Advocate in the course of proceedings of the case; pro-bono work done by the Advocate; domain expertise of the Advocate in various branches of law, such as Constitutional Law, Inter-state Water Dispute, Criminal Law, Property Law, Service Law, Arbitration Law, Corporate Law, Family Law, Human Rights, Public Interest Litigation, International Law, Law relating to Women, Customary Laws in the State of Tamil Nadu and Puducherry etc.	40 points
3	Publications by the Advocate	15 points
4	Personality & Suitability test on the basis of interview/interaction	25 points

High Court, Madras,
2nd July 2020.

C. KUMARAPPAN,
Registrar General.

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