Bill No. 42 of 2024

THE ADVOCATES (AMENDMENT) BILL, 2024

By

Dr. Shrikant Eknath Shinde, M.P.

Α

BILL

further to amend the Advocates Act, 1961.

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

1. (1) This Act may be called the Advocates (Amendment) Act, 2024.

Short title and commencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

Definition.

- 2. In section 2 of the Advocates Act, 1961, (hereinafter referred to as the principal Act) in sub-section (1):—
- 25 of 1961.

- (i) for clause (a) the following clauses, shall be substituted, namely:—
- "(a) "advocate" means an advocate entered in any roll under the provisions of this Act and includes an advocate carrying on practice in law with a law firm, by whatever name called, and a foreign lawyer registered under any law in a country outside India and recognised by the Bar Council of India in such manner as may be prescribed;";
- (aa) "Advocates Social Security Fund" means the fund maintained by the Central Government under section 44B to be specifically used for the purposes mentioned under section 44A;";

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- (ii) after clause (i), the following clause shall be inserted, namely:—
- (ia) "practicing advocate" means an advocate with twelve or more recorded hearings and name in five or more vakalatnamas in a year;";
- (iii) after clause (n), the following clauses shall be inserted, namely:—
- "(na) "Vakalatnama" means a written document submitted before a court by an advocate declaring that his client has authorised him to represent him in a legal proceeding;
- (nb) "young practicing advocate" means an advocate under the age of thirty years who is practicing for a period of less than three years from the date of registration.".

Insertion of new sections 44A and 44B.

3. After section 44 of the principle Act, the following sections shall be inserted, namely:-

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"CHAPTER VA

SOCIAL SECURITY BENEFITS

Welfare Scheme for lawyers.

- 44A. (1) The Central Government shall, in consultation with the Bar Council of India, formulate and notify, from time to time, suitable welfare schemes for practicing lawyers on matters relating to-
 - (a) life and disability cover;
 - (b) health and maternity benefits;
 - (c) stipend for young practicing lawyers;
 - (d) group health insurance cover;

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- (e) compensation in case of death; and
- (f) any other benefits as may be determined by the Central Government.
- (2) The State Government may, in consultation with the State Bar Council formulate and notify, from time to time, suitable welfare schemes for practicing advocates, including schemes relating to—

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- (a) housing; and
- (b) capacity building of practicing lawyers.

Constitution of 44B. (1) The Central Government shall, by notification in the Official Gazette constitute a fund to be called the "Advocates' Social Security Fund" which shall be

the Advocates Social Security Fund.

managed by the Central Government in consultation with the Bar Council of India in such manner as may be prescribed.

- (2) There shall be credited to the fund, a compulsory contribution called the social security contribution one per cent of the net income after tax or such higher percentage as may be prescribed by the Central Government, from time to time from practicing advocates having income after tax exceeding rupees one crore.
 - (3) There shall also be credited to the Fund—

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- (a) any voluntary donation or contribution made to the Fund by the Bar Council of India, any State Bar Association, any State Advocates' Association or other association or institution, or any advocate or other person; and
- (b) any grants which may be made by the Central Government or a State Government to the Fund.

STATEMENT OF OBJECTS AND REASONS

The Preamble of the Constitution of India speaks of a solemn resolution to secure to all of its citizens, amongst other things, justice. Of the entire apparatus put in place to ensure timely delivery of justice, the most crucial component is the human resource element—the advocate. Even after 75 years after the country's freedom there is no social security scheme for advocates. The importance of the role of advocates is unquestionable and their role in shaping our society, already acknowledged. Therefore, the well-being of lawyers and a plan for their social security is a matter of grave concern and one that demands the closest attention of the Government, Bar Councils, the Bar and the legal fraternity at large.

The primary aim of the Advocates Act, 1961, is to constitute a single class of legal practitioners, 'Advocates' as well as to introduce the powers of the Bar Council of India and the State Bar Council. According to this Act, only Advocates, who are enrolled in the Bar Council, have the power to practice the law in the court. With the enactment of the *Advocate's Welfare Fund Act, 2001*, some steps were sought to be taken in this direction. Ineffective implementation of its provisions, however, has rendered it almost defunct.

This seeks to amend the Advocates Act, 1961 with a view to constitute Advocates' Social Security Welfare Fund and the rules for the disbursement funds to be made by the Central or the State Government to create a financial security net for the advocates who have retired from practicing because of their age or illness and to the young lawyers who have just started out in the profession for their sustenance.

Hence this Bill.

New Delhi; *July* 2, 2024

SHRIKANT EKNATH SHINDE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of the Advocates' Social Security Fund to be managed by the Central Government. It also provides for the Central Government to provide grants for the fund. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. However, at this stage it is not possible to calculate the exact amount which is likely to be incurred towards recurring and non-recurring expenditure for the purpose.

ANNEXURE

[Extract from the Advocate Act, 1961]

(ACT No. 25 of 1961)

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|--------------|---|---|---|-------------------|---------------------|-------------|
| Definitions. | | 2. (1) * | * | * | * | * |
| | | (a) "advoca this Act; | te" means an advoc | ate entered in an | y roll under the pr | ovisions of |
| | | * | * | * | * | * |
| | | (i) "Legal practitioner" means an advocate or vakil or any High Court, a pleader, mukhtar or revenue agent; | | | | |
| | | * | * | * | * | * |
| | | | roll" means a roll il under section 17. | of advocates pro | epared and mainta | nined by a |
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