

Punjab Courts Act - Rules Framed under Section 46-A

HARYANA

India

Punjab Courts Act - Rules Framed under Section 46-A

Rule

PUNJAB-COURTS-ACT-RULES-FRAMED-UNDER-SECTION-46-A of 1910

- Published on 6 May 1910
- Commenced on 6 May 1910
- [This is the version of this document from 6 May 1910.]
- [Note: The original publication document is not available and this content could not be verified.]

Punjab Courts Act - Rules Framed under Section 46-A Published vide Notification Rules and Orders of the Punjab High Court, Volume 1, Chapter 17-B. Rules made by the High Court under the powers conferred by Section 46-A as inserted by Act IV of 1919 in the Punjab Courts Act, 1918, declaring what persons shall be permitted to practise as petition writers in Courts and officers in the Punjab, Regulating the conduct of persons so practising, and determining the authority by which breaches of Rules shall be tried. A. Definitions

1. Definitions.

- In these rules - 'Petition' means a document, written for the purpose of being presented to a Court or a Judicial or Revenue Officer, as such, and includes a plaint and memorandum of appeal. 'To practice as a Petition writer' means to write petitions, as defined above, for hire and includes the writing of a single petition for hire. A Petition-writer is said to practice in a Court when he writes petitions for the purpose of being presented to that Court. 'Court subordinate to the High Court' means any Civil Court (including a Court of Small Causes) and any Criminal Court other than the High Court. 'Revenue Officer' means and includes any person having authority as Revenue Officer under the Punjab Land Revenue Act, 1887, or the Punjab Tenancy Act, 1887. 'Revenue Office' means the office of Revenue Officer. 'Revenue Court' means and includes any Revenue Officer, exercising the jurisdiction described in section 77 of the Punjab Tenancy Act, 1887. 'Revenue Officers invested with jurisdiction under' Chapter XI of the Punjab Land Revenue Act, 1887, shall be deemed to be subordinate Civil Courts or Revenue Courts according as they are under the control of the High Court or of the Financial Commissioners. B. Licensing of Petition-writers

1. Practice as a petition-writer. - No person shall practice as a Petition-writer in the Punjab unless he has been duly licensed under these rules :

Provided, -(1)that any person licensed under any rule hereto in force shall be deemed to have been licensed under these rules;(2)that these rules shall not apply to any Advocate, Pleader or Mukhtiar in respect of a petition written, for presentation to a Court in which he is qualified to practice, whether such petition be written by himself or his clerk or on his behalf;Provided that in the latter case it is signed by the employer.

2. Writing of petition.

- No petition shall be received by a Court unless it is written by the party or his recognised agent, or by a legal practitioner or by a petition-writer except in the case of an application filed by an accused person in custody, provided the name and status of the person writing the document appears on it. A legal practitioner's clerk may write such petition on behalf of his master provided it is signed by the latter.Note - The directions contained in this rule do not apply to Panchayat Courts under the Gram Panchayat Act.

3. Licence.

- No person shall be licensed as a Petition-writer while he is in the service of Government or of a legal practitioner, nor shall any person be so licensed within six months of his quitting the service of a legal practitioner.Note - Service with a District Board is quasi-Government Service.

4. Grades.

- (i) Petition-writers in the Punjab are of two grades, that is to say, -(a)Petition-writers of the first grade, who may practice petition- writing in the High Court and all Courts subordinate thereto and in the Court and Office of the Financial Commissioners and all Revenue Courts and offices under the control of the Financial Commissioners;(b)Petition-writers of the second grade, who may practice petition- writing on the original side of the Court of only District Magistrate, Collectors and District Judges and in Criminal, Civil or Revenue Courts and offices of equal or inferior jurisdiction.Note - It has been decided that with effect from the 6th May, 1910, no person be licensed as a petition-writer of the first grade.(ii)The number of licenses of each grade. - The number of licences of each grade shall be in accordance with the combined scale fixed by the High Court from time to time for each district.

5. Examination.

- No person shall be licensed to practice as a petition- writer unless he has qualified in an examination prescribed by the rules in force before the 20th November, 1936, which has been held or arranged to be held before that date.(ii)The above rule may be relaxed by the High Court in special cases, where local circumstances make it desirable to do so.(iii)Form and grant of licence. -

The licence shall be in Form A annexed to these rules, and will be granted by the District Judge concerned with the previous sanction of the High Court in each case.

6. Fee for renewal of licence.

- A fee of Rs. 5 shall be charged for each licence on enrolment provided that this fee will be reduced to half for licence granted on or after the first of March in each year. Such licences will be valid only upto the 31st day of August in each year and will be renewed between the 1st and 31st days of August on payment of a renewal fee of Rs. 5. Fees will, in all cases, be payable in court-fee stamps.

7. Condition on which licence remains in force.

- A licence granted to a Petition-writer under these rules authorises him to practice subject to these rules, according to its tenure, and conditions in force until, -(1)its operation is suspended by an order made under rule 8 or the petition-writer enters the service of Government or of a legal practitioner; or(2)the Petition-writer is suspended or dismissed by competent authority.

8. Production and suspension.

- (i) Every licensed Petition-writer shall, between the first and 31st day of August of each year, produce, or, if he ordinarily practices in a Subordinate Court, forward through that Court, his license for the inspection of the Court under which it is held. A notice of such production, with the date, will be entered on the licence. If a Petition-writer fails to comply with this rule or pay the renewal fee referred to in Rule 6 above, his name will be posted in a conspicuous place of the Court-house of the highest Court in which he ordinarily practices, with an order that the operation of his licence is suspended, and that he will be liable to penalties if found practising while such order of suspension is in force.(ii)When order of suspension may be withdrawn. - If the Petition-writer produces his licence for inspection at any time before the 31st day of August of the following year, the order of suspension may be withdrawn subject to a charge of rupees five:Provided that the charge shall not be made if it be shown to the satisfaction of the Court that the failure to produce the licence within the time appointed was due to unavoidable causes, and that the licence shall not be restored without the previous sanction of the High Court.

9. Transfer of place of business.

- No licensed Petition-writer shall transfer his place of business from any one to any other district in the Punjab except with the previous sanction of the High Court, subject to there being a vacancy in the district to which transfer is desired. But it shall be within the discretion of the District Judge to transfer any Petition-writer from any one place to any other within the boundaries of any of the districts under his charge.

10. Licence lost or damaged.

- If a licensed Petition-writer loses the licence granted to him under these rules, he may apply to the Court under which it was held for a duplicate licence. The application shall be made in writing, and shall be presented by the applicant in person. The Court to which it is made, if satisfied that the former licence has been lost, shall upon payment by the applicant of rupees five, cause a fresh licence to be issued in the same Form and bearing the same date as the lost licence, and shall cause the word "Duplicate licence" to be effaced thereon, with the date of issue, and shall sign such effacement. Every matter required to be noted upon the licence by Rules 8, 10, 27(ii), 30(ii) or 34, shall be noted on the back of the duplicate licence under the signature of the Court granting it. Note.
 - If a licence becomes damaged, it may be replaced in the manner herein provided in the case of the licence being lost.
- C. Conduct of Petition-writers

11. Registers of Petitions to be kept.

- Every Petition-writer licensed under the foregoing rules shall keep only one register for each calendar year in the Form B annexed to these rules and shall enter therein every petition written by him. Blank spaces shall not be left by a petition-writer in his register. Should one occur, the petition-writer shall forthwith have it cancelled by the Presiding Officer of a Court nearest to his ordinary place of business. Before the close of each year, or immediately thereafter, the register shall be inspected by the Administrative Subordinate Judge, where there is one for the district, otherwise by the Senior Subordinate Judge of the district, who shall also see that blank spaces, if any, have already been cancelled as provided in the preceding sentence.

12. Seal.

- Every licensed petition-writer shall, at his own expense, provide himself with an official seal, to be made under the direction of the Court which licenses him on which shall be engraved in the Urdu character, his name and the year in which he was licensed.

13. Manner of drafting Petitions.

- Every licensed Petition-writer in writing petitions shall confine himself to expressing in plain and simple language, such as the petitioner can understand, and in concise and proper form, the statements and objects of the petitioner and shall not introduce any argument or quotations from a Law Report or other Law Book, or refer to any decision not brought to his notice by the petitioner.

14. Declaration to be made on the Petition by the petition-writer.

- Every licensed petition-writer shall record, at the foot of every petition written by him, other than a petition of merely formal character, a declaration, under his signature, that, to the best of his knowledge and belief, the petition expresses the true meaning of the petitioner, and that its contents have been fully explained to the petitioner.

15. Petition-writer to sign and seal the petition and make certain endorsements.

- Every licensed petition-writer shall sign and seal with his official seal, every petition written by him, and shall enter on it the number which it bears in this register, and the fee which has been charged for writing it.

16. Employment of other person to write petitions.

- A licensed petition-writer shall not dictate a petition to, or cause a petition to be written by, a person who is not a licensed petition-writer nor shall he employ any person who is not a licensed petition-writer to write petitions for him: Provided that a petition-writer may employ typists for the purpose of typing petitions drafted by him and that the petitions so typed shall be scrutinized, verified and signed by the petition-writer concerned; such typists shall not draft petitions themselves but shall only carry out on the typewriter the directions of the petition-writer.

17. Court may order a petition-writer to re-write a petition.

- Every licensed petition-writer shall re-write at his own cost any petition written by himself, when required to do so by order of competent authority.

18. Writing unnecessary petitions.

- A licensed petition-writer shall not instigate any person to cause to be written by himself or by any other licensed petition-writer, any petition which he knows to be unnecessary.

19. Fee Charged.

- (i) Subject to the provisions of Rule 25, every licensed petition-writer may make his own terms with his employer as to the remuneration to be paid for his services: Provided that he enters correctly the actual amount agreed upon on the petition and in the proper column of his register. (ii) Prohibition to share the profits of litigation or to contribute funds for this purpose. - A licensed petition-writer shall not take payment for his services by an interest in the result of any litigation in connection with which he is employed, nor shall he find or contribute towards the funds requisite for carrying on any litigation in which he is not personally interested.

20. Shall not act as recognized agent.

- A licensed petition-writer shall not act as a recognised agent in any case in a Civil Court or in a Revenue Court or office except a case in which he is himself to party or in a Criminal Court, subject to the same exception.

21. Surrender of licence.

- Every licensed petition-writer,(1)the operation of whose licence is suspended under rule 8,(2)who enters the service of Government, or of a legal practitioner, or(3)who is suspended or dismissed under these rules, shall forthwith surrender his licence to the Court under which it was held.

22. Striking off name from register.

- Every petition-writer who gives up practising for over three years shall have his name struck off the register. Note - A petition-writer whose name has been removed after three years absence will be at liberty to apply for the restoration of his licence provided that there is a vacancy on the prescribed scale. He shall, however, be treated in this respect on the same footing as a fresh applicant.

23. Rules as to practice.

- No licensed petition-writer shall practice,(1)contrary to the term of licence;(2)in any Panchayat of which he is a member or Sarpanch;(3)in any Court or office in which he has been forbidden to practice, while such prohibition is in force;(4)after his licence has been or should have been surrendered under these rules; or(5)while under suspension.

24. Engagement in trade or business.

- No licensed petition-writer shall engage in any business or trade without the previous permission in writing of the High Court.

24A.

When a petition-writer has been adjudged an insolvent, his licence to practice as such shall automatically be suspended till the date of his discharge, whether conditional or in full, or till the order of adjudication is annulled. D. Procedure in dealing with breaches of rules and Penalties

25. Reduction of fees charged.

- Any Judicial or Revenue Officer or Court, who upon the representation of any person employing a petition-writer, after hearing such petition-writer, if he desires to be heard, finds that the fee charged for writing a petition presented to his office or Court was excessive, may, by order in writing, reduce the same to such sum as appears to be under the circumstances, reasonable and proper, and may require the petition-writer to refund the amount received in excess of such sum. An order passed under this rule shall not be revised, except by the Officer or Court, who made it.

26. Order to re-write a petition.

- Any Judicial or Revenue Officer or Court may order a licensed petition-writer to re-write any petition written by him which contravenes rule 13, or is illegible, obscure or prolix, or contains any irrelevant matter, or misquotation or is, from any other cause, in the opinion of such Officer or Court, informal or otherwise objectionable. An order passed under this rule shall not be open to revision by any Officer or Court other than the Officer or Court which made the order.

27. Order prohibiting practice.

- (i) The Presiding Officer of any Court, other than the High Court, or of any Revenue Officer may, for sufficient cause to be recorded in writing under his signature, prohibit any petition-writer from practising in his Court or Office, pending a reference, where the prohibition is issued by the Financial Commissioner, to the High Court; and in any other case, to the District Judge. (ii) Every order of prohibition passed under this rule shall be communicated to the Court under which the petition-writer affected holds his licence and such Court shall forthwith endorse the substance and date of the order on the licence under his own signature.

28. Failure to obey order.

- Any person who practices as petition-writer contrary to the provisions of rule 2 or who fails to obey the orders of a competent authority passed under rule 17 and rule 25 shall be liable to a penalty not exceeding rupees fifty.

29. Punishment for violation of rules.

- Any licensed petition-writer who acts in violation of the rules numbered 7, 9, 11, 12, 14, 15, 16, 18, 19, 20, 21 and 24 shall be liable to be suspended, dismissed or reduced.

30. Punishment for inefficiency, misconduct, etc.

- Any licensed petition-writer who, (1) habitually writes petitions contrary to rule 3 or containing irrelevant matter, or which are informal or otherwise objectionable, or (2) in the course of his business as a petition-writer uses disrespectful, insulting or abusive language, or (3) is found to be incapable of efficiently discharging the functions of a petition-writer, or (4) by reason of any fraudulent or improper conduct in the discharge of his duty as a petition-writer is found to be unfit to practice as such; or (5) is convicted of a criminal offence, shall be liable to be suspended or dismissed or reduced in addition to any punishment to which he may be liable under any other rule or enactment for the time being in force.

31. Authority competent to impose penalty.

- Any breach of rules or other misconduct punishable under these rules shall be cognizable by the District Judge under whom the petition-writer concerned holds his licence :Provided that a breach of rule 2 shall be cognizable by the District Judge of the district in which the alleged breach occurred.

32. Inquiry and trial.

- Subject to the provisions of rule 31, the District Judge may take cognizance of any breach of rules or other misconduct punishable under these rules either of his own motion or on the report or complaint of any other Court or person and may, after such inquiry as he may consider necessary, impose on the person charged any penalty prescribed by these rules :Provided that no order shall be passed against any person unless he is given a reasonable opportunity of defending himself.

33. All orders passed to be endorsed on licence.

- Every order passed against a petition-writer (including any warning given in lieu of penalty) shall be recorded on the back of his licence by the Court under which he holds the licence. Every such order passed by any Court other than the Court under which the petition-writer holds his licence shall be communicated to such Court for being so recorded.

34. Punishment which High Court may inflict.

- Notwithstanding anything hereinafter contained, the High Court may, for any sufficient cause to be recorded in writing, and after such inquiry as it thinks fit, -(1)dismiss any licensed petition-writer, or suspend him from practice for a specified period; and(2)in the case of a licensed petition-writer of the first grade, -(a)suspend him from practice in the High Court for a specified period, or(b)reduce him to the second grade :Provided that no order shall be made under this rule unless the person charged shall have an opportunity of defending himself.

35. Appeal Engagement of counsel.

- No appeal shall lie from any order passed by any Court or Officer under any of the preceding rules; but the High Court, as regards order passed by any District Judge, may in its discretion revise any such order, and in place thereof pass such order as it thinks fit. No petition-writer who has been suspended or dismissed for misconduct can claim to be heard through counsel.

36. High Court may grant a new licence or restore a suspended licence.

- The High Court may, at any time, for sufficient reason, grant a new licence to any licensed petition-writer who has been dismissed or direct that any licence of which the operation has been suspended by an order under rules 30 and 33 or by the petition-writer entering the service of

Government or a legal practitioner, be restored to him.

37. High Court's power of control.

- Nothing in the foregoing rules shall be deemed to limit or restrict the exercise by the High Court of its general power of superintendence and control.

Form A(Rule 5)Form of Licence for a Petition-Writer

In the Court of the _____ Judge of the _____

Certified that _____ son of _____ resident of _____ has this day been licensed as a petition-writer of the _____ grade, and is hereby permitted _____ to practice as such in the manner prescribed by rule 4, clause _____ of the rules relating to petition-writers in the Punjab and subject to the provisions of the said rules till the 31st day of August, 19_____. Given under my hand and the seal of this Court, this _____ day of _____, 19_____, at _____. Judge

Note -

Petition-writers are reminded that participation by them in any seditious or disloyal movement will be regarded as sufficient cause for dismissal, suspension or reduction in grade under rule 34 of the rules made by the High Court under section 46-A of the Punjab Courts Act.

Date of renewal of the licence Renewing Officer

Form B(Rule 11)Register to be maintained by every licensed petition-writer

1	2	3	4	5	6	7	8	9	10
Serial number of petition	Date on which petition was written	Name, parentage, caste and residence of the person at whose instance the petition was written	Description of petition	Brief abstract of contents of petition	Value of court-fee labels affixed to the petition	Fee charged for writing the petition	Remarks	Signature of petition-writer	Signature or thumb impression of the petitioner