

# High Court of Gujarat Designation of Senior Advocates Rules, 2012

GUJARAT

India

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### Rule

### HIGH-COURT-OF-GUJARAT-DESIGNATION-OF-SENIOR-ADVOCATES of 2012

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High Court of Gujarat Designation of Senior Advocates Rules, 2012Published vide Notification No. C. 3001/2012, dated 31.7.2012Last Updated 7th November, 2019No. C. 3001/2012. - In supersession of the existing Rule Numbers 419 to 425 along with Schedule made by the High Court of Gujarat under the Advocates Act (Act 25 of 1961) pertaining to the procedure to designate an Advocate as Senior Advocate, contained in the Gujarat High Court Rules, 1993, and in exercise of the powers conferred by Section 16(2) of the Advocates Act, 1961, the High Court of Gujarat makes the following Rules for designation of Senior Advocates.

#### 1. Short title and commencement.

- (i) These Rules may be called the High Court of Gujarat Designation of Senior Advocates Rules, 2012.(ii)These Rules shall extend throughout the territorial jurisdiction of the High Court of Gujarat.(iii)These Rules shall come into force on and with effect from the date of their publication in the Official Gazette.

#### 2. Definitions.

- In these Rules, unless the context otherwise requires,(a)"Act" means the 'Advocates Act, 1961'.(b)"Advocate" means an Advocate enrolled on the roll under the provisions of the Act.(c)"Court" means the 'High Court of Gujarat' and all the 'Subordinate Courts of Gujarat' under the jurisdiction of the High Court of Gujarat.(d)"High Court" means the 'High Court of Gujarat at Ahmedabad'.(e)"Standing at the Bar" means the position of eminence attained by an Advocate, by

virtue of his/her seniority, legal acumen, integrity and high ethical standards maintained by him/her both inside and outside the Court.(f)"State Bar Council" means the Bar Council of Gujarat.

### **3. Who may be designated as Senior Advocate.**

- The High Court may designate an Advocate, with his/her consent, as Senior Advocate, if in its opinion, he/she by virtue of his/her ability, Standing at the Bar, special knowledge or expertise in law, is deserving of such distinction.

### **4. Procedure for designation as Senior Advocate.**

(a)Conferment of such designation as Senior Advocate shall be considered on the written proposal made by any of the following proposers:(i)the Chief Justice or any sitting Judge of the High Court.(ii)the Advocate intending to be designated as Senior Advocate.In so far as clause, (i) of Rule 4(a) above is concerned, a proposal may be initiated after ascertaining the willingness of the Advocate concerned.Every proposal by the concerned learned Advocate shall be accompanied by his bio-data, in the form annexed hereto as Annexure-1.(b)No Advocate shall be eligible to be designated as Senior Advocate, unless:(i)he/she has completed 40 years of age, and(ii)he/she has minimum of 15 years standing at the Bar as an Advocate in the High Court and/or in any Court within the jurisdiction of the High Court, and Explanation: In this clause, while calculating the standing of 15 years, the period spent by a Judicial Officer during his service career shall be taken into consideration.(iii)Reference to at least ten reported/reportable Judgments in cases in which the applicant has appeared as arguing Counsel and contributed to the making of law.(iv)he/she has not been convicted by any competent Court or against whom no charge should have been framed for offence involving moral turpitude or against whom no proceedings under the Contempt of Courts Act, 1971 or any proceedings before the State Bar Council, or the Bar Council of India, should have been initiated; and(v)he/she has net taxable income of minimum of Rs. 15 lace (Rupees fifteen Lac) from the profession consistently during the last three preceding assessment years:Provided that the High Court, in case of an Advocate with outstanding merit may waive the requirements of Rule 4(b)(v).

### **5. Process on Receipt of Proposal.**

- Immediately on receipt of the proposal, the same shall be entered in a Register maintained in the Registry for such purpose.

### **6. Consideration of the proposal by the High Court.**

(a)The procedure for designating a Senior Advocate shall be as follows: -(i)The proposals for designating Senior Advocate shall be submitted to the Registrar General in accordance with clauses (i) and (ii) of Rule 4(a) so as to reach him before 31st January, 30th April, 31st July and 31st October of each year for consideration of Honorable the Chief Justice and other Honorable Judges.(ii)On receipt of the proposals, the Registrar General shall scrutinize them and if there be any irregularity,

bring it to the notice of the proposer, who within 15 days shall remove such irregularities. The Registrar General on examining all the proposals shall submit a report to the Honorable Chief Justice stating as to whether the proposal(s) is/are in consonance with the requirement of the Rules for being designated as Senior Advocate.(iii)The Registrar General shall submit all proposals received along with his report before the Honorable Chief Justice not later than 15th of March, 15 of June, 15th of September and 15th of December, as the case may be, of each year for directions to circulate the valid proposal(s) to all the Honorable Judges.(iv)After circulation of the proposal(s), the same shall be placed before the Full Court for its consideration. The acceptance of the Full Court shall be accorded only if not less than two-thirds of the Judges present and voting in the meeting, vote in favour of acceptance of the proposal(s). Normally, the Judges present at the meeting shall vote or abstain from voting for or against the proposal(s).Note. - (a) Subject to clause (iv) of Rule 6(a), while calculating the proportion of two-thirds only the votes cast as Yes or No will be counted. In case a Judge abstains/defers from voting for a particular candidate or candidates, the abstained deferred vote/votes shall not be counted for calculating the two-thirds required for that candidate.(b)In calculating the proportion of two-thirds of the Judges present and voting, a fraction shall be ignored and only a whole number should be taken into consideration.(v)Voting shall be by secret ballot. Each Judge present will be given a ballot paper without any identification, containing the names of the Advocate/ Advocates under consideration. The ballot papers, against each name will have four columns indicating "Yes", "No", "Deferred" and "Abstained" and when the agenda is taken up for consideration, on conclusion of the discussions, each Judge will cast the ballot in a box separately kept or circulated.(vi)The Registrar General, from the ballot papers received, shall then prepare a list of candidates with the votes secured by each candidate,(vii)The names of candidates who secured the required number of votes in terms of clause (iv) of this Rule will be announced by the Chief Justice as accepted by the Full Court, to be designated as Senior Advocate.

## 7.

(i)Once rejected, the case of an advocate shall not be considered for designation as Senior Advocate for a period of two years from the date of such rejection.(ii)If the voting for deferring proposal is 50% or more of Judges who voted, application; may be placed before Chamber after one year for reconsideration.

## 8. Process on designation as Senior Advocate by the Full Court.

- (i) The name of the concerned Advocate designated as Senior Advocate shall be entered in the Register of the Senior Advocates to be maintained by the Registry.(ii)The Registrar General shall notify such designation(s) to the following:(a)The Bar Association of High Court of Gujarat.(b)All District and Sessions Judges in the State of Gujarat.(c)All Chief Judicial Magistrates, Senior Civil Judges and Civil Judges and Judicial Magistrates, First Class in the State of Gujarat.(d)The State Bar Council.(e)The Bar Council of India, New Delhi.(f)The Secretary General of Supreme Court of India.(g)The Secretary, Supreme Court Bar Association, New Delhi.(h)Registrar Generals of all other High Courts, and(i)The concerned designated Senior Advocate.

## **9. Withdrawal of the conferment of Senior Advocate.**

- The designation of Senior Advocate may be withdrawn by the High Court, after due notice, in the event it is found that: (i) If, after being designated as a Senior Advocate, it is reported by a Judge of the High Court that by virtue of his/her conduct and behavior either inside or outside the High Court, the Advocate has forfeited his/her privilege to the distinction conferred upon him/her by the High Court, the matter may be placed before the Chief Justice for consideration of withdrawal of designation as Senior Advocate. (ii) The Chief Justice, on receiving the report, shall constitute a Committee of not less than three Judges of the High Court. The Committee will give an opportunity to the Senior Advocate to plead his/her case including a personal hearing and thereafter ordinarily submit its finding to the Chief Justice not later than six months from the date of reference to the Committee. The Committee may, at its discretion, evolve its own procedure. (iii) If the Committee, in its report, recommends withdrawal of designation as Senior Advocate, the Chief Justice shall then place the report with the recommendation of the Committee at the immediate next Full Court meeting for its consideration. (iv) If, a majority of Judges present and voting through secret ballot at the Full Court meeting are of the view that the Senior Advocate has forfeited his/her privilege, the Court shall recall his/her designation as a Senior Advocate.

## **10. Process on withdrawal of the conferment of Senior Advocate.**

- (i) The Registrar General shall notify the decision of such withdrawal, as provided in Rule 8(ii) of these Rules. (ii) A record of all such decisions shall be maintained in the Registry of the High Court.

## **11. Repeal and Savings.**

- (i) On publication of these Rules in the Official Gazette, the existing Rule Numbers 419 to 425 along with Schedule made by the High Court of Gujarat under the Advocates Act, 1961 (Act 25 of 1961) pertaining to Procedure to designate an Advocate as Senior Advocate contained in the Gujarat High Court Rules, 1993, shall stand repealed. (ii) Notwithstanding such repeal, any decision to designate an Advocate as Senior Advocate or action taken under any of the aforesaid repealed provisions or notifications, orders, regulations etc., shall be deemed to have been made or taken under these Rules and is hereby saved. (iii) Any action pending under the repealed rules on the date of implementation of these rules, shall be deemed to be pending under these rules and shall be dealt with accordingly. Annexure 1 Proforma of Bio-Data and Consent To Hon'ble the Chief Justice and Companion Judges of the High Court of Gujarat at Ahmedabad. Through: The Registrar General Sir, I hereby forward my consent for designation as a Senior Advocate. My Bio-data is as follows: Bio-data

### **1. Name**

**2. Permanent Address**

**3. Educational Qualifications**

**4. Date of birth**

**5. Date of enrollment as Advocate and place where Enrolled**

**6. Place of Practice**

**7. Member of which Bar Association.**

**8. Code number assigned by the High Court to the Advocate.**

**9. Number in the Roll of advocates maintained by the State Bar Council and date thereof:**

**10. Number of years of practice (or judicial service) and in which Court?**

**11. Fields of specialty in branches of law.**

**12. Whether the applicant is in the panel of or holds any office under the State or Central Government?**

**13. Whether any cases in which he/she appeared have been reported in any journal? If so, details thereof.**

**14. Details of important matters in which he/she appeared.**

**15. Number of cases received/handled every year in the past three years.**

**16. Whether the applicant has refrained from signing Vakalatnama? If yes, since how long?**

**17. Whether the applicant's name was earlier proposed for being designated as Senior Advocate of the Gujarat High Court or any other High Court or of the Supreme Court of India. If so, the decision thereon with its date.**

**18. Whether the annual accounts of the applicant for the last three years have been audited by a chartered accountant under the taxing provisions of the Income Tax Act, 1961 or not. If Yes, furnish Tax-Audit reports and Income Tax returns for the last three years, including Permanent (Income Tax) Account Number (PAN).**

**19. Other information (optional), if any, including legal aid work, Publication of books, journals, Participation in Seminar/Conference, association with any Faculty of Law in any Law Institute, University or College, etc.,**

Date: Signature of the Advocate concerned (Applicant) Consent I..... Advocate do hereby consent to be designated as a Senior Advocate in terms of Section 16(2) of the Advocates Act, 1961 and agree and undertake to abide by all laws, rules, regulations, norms and guidelines as are in force for the time being, or which are referred to in Annexure-2 hereto and/or which may be prescribed hereafter for this purpose. Ahmedabad

Date: Signature

Annexure-2

## **Part IV – Restrictions on Senior Advocate**

[As provided in Part IV - Rules Governing Advocates (Chapter I)] of The Bar Council of India Rules [Rules under Section 16(3) and 49 (1)(g) of the Act] A Senior Advocate shall, in the matter of practice of the profession of law mentioned in Section 30 of the Act, be subject to the following restrictions: (a) A Senior Advocate shall not file Vakalatnama or act in any Court, or tribunal or before any person or other authority mentioned in Section 30 of the Act. Explanation. - "To act" means to file an appearance or any pleading application in any Court or Tribunal or before any person or other authority mentioned in Sec 30 of the Act, or to do any act other than pleading required or authorized by law to be done by a party, in such Court, or Tribunal, or before any person or other authority mentioned in the said section, either in person or by his/her recognized agent or by an advocate or an attorney on his/her behalf. (b) (i) A Senior Advocate shall not appear without an advocate on record in the Supreme Court, or without an advocate enrolled in the State Roll, in any Court or Tribunal or before any person or other authorities mentioned in Section 30 of the Act. (ii) Where a Senior Advocate has been engaged prior to the coming into force of these Rules, he/she shall not continue thereafter unless an advocate enrolled in the State Roll is engaged along with him/her, provided that a Senior Advocate may continue to appear without an advocate enrolled in the State Roll in cases in which he/she had been briefed to appear for the prosecution or the defence in a criminal case, if he/she was so briefed before he/she was designated as Senior Advocate or before the coming into operation of these Rules as the case may be. (c) He/she shall not accept instructions to draft pleading or affidavits, advice on evidence or to do any drafting work of an analogous kind in any Court, or Tribunal or before any person or other authority mentioned in Section 30 of the Act or undertake conveyancing work of any kind whatsoever. This restriction,

however, shall not extend to settling any such matter as aforesaid in consultation with an advocate enrolled in the State Roll.(d)A Senior Advocate shall, however, be free to make concessions or give undertakings in the course of arguments on behalf of his/her client on instructions from the junior advocates.(e)He/she shall not accept directly from a client any case or instructions to appear in any Court or Tribunal or before any person or other authority in India.(f)A Senior Advocate who had acted as an advocate (Junior in a case), shall not, after he/she has been designated as a Senior Advocate, advise on grounds of appeal in a Court of appeal or in the Supreme Court, except with an advocate as aforementioned.(g)A Senior Advocate may in recognition of the services rendered by an advocate enrolled in the State Roll appearing in any matter, pay him a fee which he considers reasonable.