

# Judicial Understanding Of Law Of Professional Misconduct By Advocates In India

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*Abstract: Professional misconduct by advocates in India has been the subject of evolving judicial scrutiny due to the unique role that advocates play in the administration of justice. Although the Advocates Act, 1961 does not expressly define “professional misconduct,” it provides a framework under which disciplinary proceedings can be initiated and sanctions imposed for misconduct by advocates. Section 35 of the Advocates Act and the Bar Council of India Rules outline the disciplinary mechanisms, while courts have interpreted its scope and application. This paper critically examines how Indian courts understand, interpret, and enforce professional misconduct by advocates, the standards applicable to advocates’ conduct, key judicial pronouncements elucidating misconduct, and the jurisprudential implications for professional ethics. The study analyses statutory provisions, judicial decisions, and examples of conduct considered culpable or innocuous. Finally, it highlights the need for clearer definitions and judicial guidance in light of consistent jurisprudential developments.*

*Keywords: Professional Misconduct, Advocates Act, Judicial Interpretation, Bar Council, Disciplinary Proceedings, Legal Ethics, Advocates, India*

## I. INTRODUCTION

The legal profession occupies a unique and indispensable position in the administration of justice. Advocates are not merely representatives of private interests but are also officers of the court, entrusted with the responsibility of upholding the rule of law, maintaining ethical standards, and ensuring public confidence in the justice delivery system. In India, this responsibility is reinforced through statutory provisions, professional codes of conduct, and judicial oversight. Professional misconduct by advocates, therefore, is not viewed as a private failing alone but as a matter that directly affects the credibility and integrity of the judicial process.

The law governing professional misconduct of advocates in India is primarily rooted in the Advocates Act, 1961, along with the Bar Council of India Rules. While these instruments lay down the substantive and procedural framework for regulating professional behaviour, their interpretation and application have been significantly shaped by judicial pronouncements. Indian courts, particularly the Supreme Court and High Courts, have played a pivotal role in defining

the contours of *professional misconduct*, clarifying ethical obligations, and balancing disciplinary control with the independence of the legal profession.

Judicial understanding of professional misconduct has evolved over time, responding to changing societal expectations, complexities of legal practice, and emerging challenges such as commercialization of the profession and abuse of legal processes. Courts have examined a wide range of conduct—ranging from negligence, dishonesty, and contemptuous behaviour to conflicts of interest and misuse of professional status—while emphasizing that disciplinary measures must serve both corrective and deterrent purposes.

This research paper seeks to analyse the judicial approach towards the law of professional misconduct by advocates in India. It aims to examine how courts have interpreted statutory provisions, articulated ethical standards, and addressed tensions between professional autonomy and accountability. By studying key judicial decisions, the paper endeavours to provide a comprehensive understanding of the principles governing advocate misconduct and their significance in

preserving the dignity, discipline, and trustworthiness of the legal profession in India.

## II. UNDERSTANDING THE ESSENCE OF SECTION 35 ADVOCATES ACT, 1961

Section 35 of the Advocates Act, 1961 deals with disciplinary action against advocates for professional or other misconduct. It lays down the procedure and powers of the State Bar Councils to maintain ethical standards in the legal profession. Under this section, when a State Bar Council receives a complaint or otherwise has reason to believe that an advocate enrolled on its roll has been guilty of professional misconduct or any other misconduct, it may refer the matter to its Disciplinary Committee. The Disciplinary Committee is required to give the advocate and the complainant a reasonable opportunity of being heard, ensuring principles of natural justice. After conducting an inquiry, the Committee may pass one of three orders depending on the seriousness of the misconduct. First, it may dismiss the complaint if no misconduct is proved. Second, it may reprimand the advocate, which is a formal expression of disapproval. Third, it may suspend the advocate from practice for a specified period or remove the advocate's name from the State roll, which effectively disbars the advocate.

Overall, Section 35 plays a crucial role in upholding the dignity, discipline, and integrity of the legal profession. By empowering Bar Councils to punish misconduct, it protects the interests of clients, maintains public confidence in the justice system, and ensures that advocates adhere to ethical and professional standards expected of officers of the court.

THE COURT CLARIFIED THAT SUSPENSION OF LICENCE IS A STATUTORY FUNCTION OF BAR COUNCILS, NOT A PUNISHMENT THAT THE SUPREME COURT CAN IMPOSE IN CONTEMPT JURISDICTION.

In *Re: Vinay Chandra Mishra* (1995), the Supreme Court convicted an advocate of criminal contempt for obstructing justice and used insulting and threatening language. The Court, invoking its constitutional powers under Articles 129 and 142, sentenced him to six weeks' simple imprisonment (suspended) and suspended his licence to practice as an advocate for three years. The Supreme Court Bar Association challenged the suspension of the advocate's licence, arguing that only disciplinary committees under the Advocates Act, 1961 have exclusive jurisdiction to suspend or debar advocates, even when contempt is involved. They filed a writ petition under Article 32 of the Constitution seeking a declaration to that effect.

The Constitution Bench held that while the Supreme Court has inherent jurisdiction to punish for contempt under Article 129 and make orders necessary for complete justice under Article 142, it does not have power to suspend an advocate's licence for professional misconduct in contempt proceedings, bypassing the disciplinary process prescribed in the Advocates Act, 1961. The Court clarified that suspension of licence is a statutory function of Bar Councils, not a punishment that the Supreme Court can impose in contempt

jurisdiction. Hence, the writ petition succeeded, and the challenged power was rejected.

THE COURT AFFIRMED THE HIGH COURT'S ORDER TO REMOVE MANAK LAL FROM THE ROLL OF ADVOCATES, STRESSING THE NEED FOR HIGH PROFESSIONAL STANDARDS.

Dr. Prem Chand filed a complaint under the Bar Councils Act alleging that *Manak Lal*, an advocate practising in Rajasthan, was guilty of professional misconduct by procuring a fraudulent stay order from the Session's Court clerk to benefit his clients. A tribunal appointed by the Chief Justice of the Rajasthan High Court—chaired by a senior advocate who had once represented the complainant—heard the matter, found Manak Lal guilty, and reported the same to the High Court. The High Court upheld the finding and directed removal of Manak Lal's name from the roll of advocates. Manak Lal appealed to the Supreme Court challenging the tribunal's constitution and the merits of misconduct.

The Supreme Court held that the tribunal's composition was technically flawed but Manak Lal had waived that objection by not raising it earlier. Waiver applies only if the party knew the facts and his rights. On merits, the Court agreed with concurrent findings of the tribunal and High Court that the fraudulent stay order was orchestrated by Manak Lal. The failure of the complainant to call an accomplice-witness did not attract adverse inference. The Court affirmed the High Court's order to remove Manak Lal from the roll of advocates, stressing the need for high professional standards.

THE COURT REAFFIRMED THAT THE CANONS OF PROFESSIONAL ETHICS EXTEND BEYOND RIGID RULE DEFINITIONS AND MUST PRESERVE PUBLIC CONFIDENCE IN THE LEGAL PROFESSION.

A group of advocates practising in criminal courts in Bombay were accused of professional misconduct under Section 35(1) of the Advocates Act, 1961 for positioning themselves outside magistrate courts, rushing to incoming litigants, scrambling to secure briefs, undercutting fees, and engaging in physical contests to obtain clients. The Bar Council of Maharashtra referred complaints to its Disciplinary Committee, which found the advocates guilty and suspended them from practice for three years. On appeal, the Disciplinary Committee of the Bar Council of India reversed the finding, holding that professional misconduct under the rules required: (i) soliciting work, (ii) from a particular person, and (iii) in respect of a specific case. It therefore acquitted the advocates. The State Bar Council appealed to the Supreme Court.

The Supreme Court held that the appellate tribunal erred in narrowly interpreting the rules and in applying a three-element test to absolve the respondents. The Court emphasised that the legal profession demands high ethical standards and totally prohibits solicitation, advertising, scrambling, or other practices to procure business. Soliciting through physically competing for clients or similar conduct is unbecoming and a breach of professional ethics, even if not confined to the specific rule construction applied by the appellate body. It also noted procedural defects in the state

disciplinary process, including joint trials and inadequate record-keeping. The Court reaffirmed that the canons of professional ethics extend beyond rigid rule definitions and must preserve public confidence in the legal profession.

#### APPEAL FILED BY THE ADVOCATE-GENERAL WAS INCOMPETENT, AND THE BAR COUNCIL OF INDIA'S ORDER WAS SET ASIDE.

The petitioner, *Adi Pherozshah Gandhi*, an advocate in Maharashtra, was convicted by a summary court in London for pilfering and fined. The State Bar Council of Maharashtra initiated suo motu disciplinary proceedings under Section 35 of the Advocates Act, 1961. On explanation, the State Bar's Disciplinary Committee found no professional misconduct and dismissed the complaint. The Advocate-General of Maharashtra, who had received notice as per statutory requirement and appeared before the Committee, filed an appeal under Section 37 of the Advocates Act to the Bar Council of India. The appellant contended the Advocate-General lacked locus standi to appeal. The Bar Council of India overruled the objection and on appeal found Gandhi guilty of misconduct. Gandhi appealed to the Supreme Court under Section 38.

The Supreme Court held that the Advocate-General is not a "person aggrieved" under Section 37 of the Advocates Act, since he has no independent legal right affected by the disciplinary order, nor does the decision legally injure him. His statutory role is limited to assisting the Disciplinary Committee; he does not represent the Bar Council or have a prosecutorial function giving rise to a legal grievance. Therefore, the appeal filed by the Advocate-General was incompetent, and the Bar Council of India's order was set aside.

#### THE SUPREME COURT UPHELD THAT CHADHA WAS GUILTY OF PROFESSIONAL MISCONDUCT FOR COLLUDING TO FABRICATE A COMPROMISE WITHOUT HIS CLIENT'S KNOWLEDGE, MISUSING THE BLANK VAKALATNAMA AND MISLEADING THE COURT.

*D.P. Chadha*, an advocate, was engaged by Shri Triyugi Narain Mishra to defend an ejectment suit filed by Upasana Construction Pvt. Ltd. While the complainant was away contesting elections, Chadha retained a signed blank vakalatnama and blank paper from him. These were later used to fabricate a compromise petition in court without the complainant's knowledge. The compromise, which was detrimental to the complainant's interest, led to a decree for eviction. The trial court, suspicious of the compromise's genuineness, directed the personal presence of parties; instead, counsel repeatedly tried to avoid this, even filing misc. appeals. The compromise was ultimately taken on record and a decree passed, resulting in closure of the school run by the complainant. The complainant filed a complaint before the State Bar Council alleging professional misconduct by Chadha and two other advocates. Both the State Bar Council and the Bar Council of India found Chadha guilty, initially suspending

him for five years and then the Bar Council of India enhancing the suspension to ten years.

The Supreme Court upheld that Chadha was guilty of professional misconduct for colluding to fabricate a compromise without his client's knowledge, misusing the blank vakalatnama and misleading the court. The Court agreed with the disciplinary findings but held that the Bar Council of India's enhancement of punishment without giving reasonable opportunity to show cause was invalid. Accordingly, the original five-year suspension by the State Bar Council was restored.

#### ADVOCATE LICENCE WAS SUSPENDED (TWO-YEAR SUSPENSION UNDER SECTION 24A OF THE ADVOCATES ACT AND ADDITIONAL FIVE YEARS' DISCIPLINARY SUSPENSION) DUE TO PROFESSIONAL MISCONDUCT.

*Advocate Mahipal Singh Rana*, was accused of committing criminal contempt by intimidating and threatening a Civil Judge (Senior Division), Etah during court proceedings on 16 April 2003 and 13 May 2003. The Judge reported that Rana used loud, indecent, and threatening language, disparaged judicial orders, and hindered court work, including threatening harm and claiming influence with *notorious persons*. These incidents were referenced under Section 15(2) of the Contempt of Courts Act, 1971 to the Allahabad High Court. The High Court convicted Rana for criminal contempt, sentenced him to two months' simple imprisonment and a Rs. 2,000 fine, and restrained him from practising in courts within the Etah judgeship; it also directed the Bar Council of Uttar Pradesh to consider professional misconduct proceedings. Rana challenged this conviction before the Supreme Court.

The Supreme Court upheld Rana's conviction for criminal contempt, affirming that his conduct interfered with the administration of justice and violated professional standards. However, considering his age, the imprisonment term was set aside, while the fine and default sentence were maintained. The restraint on appearing in Etah courts until he purged contempt was sustained. Further, his advocate licence was suspended (two-year suspension under Section 24A of the Advocates Act and additional five years' disciplinary suspension) due to professional misconduct. The Court emphasized that an advocate must uphold the dignity of court proceedings and can be restricted from practice upon conviction for contempt.

#### THE SUPREME COURT HELD THAT ABUSING COURT PROCEDURES BY REPEATEDLY SEEKING ADJOURNMENTS WHEN WITNESSES ARE PRESENT AMOUNTS TO PROFESSIONAL MISCONDUCT UNDER SECTIONS 35 AND 36 OF THE ADVOCATES ACT, 1961.

The appellant, *N.G. Dastane*, an agriculturist and former UNO advisor, filed a complaint in a Magistrate's Court, Pune, for theft of electricity against certain accused. The accused engaged two advocates (respondents) to defend them. After the appellant was examined-in-chief, his cross-examination was repeatedly adjourned multiple times at the request of the

respondents' counsel, despite the appellant and his witnesses being present at great personal inconvenience. Adjournments were sought on various grounds — including the unnecessary insistence on the presence of other witnesses, personal engagements, and alleged illness — causing undue hardship. Frustrated by the delay tactics, the appellant complained to the Maharashtra State Bar Council alleging professional misconduct by the advocates. The State Bar Council and Bar Council of India both dismissed his complaint for want of a prima facie case. The appellant then moved the Supreme Court by special leave petition.

The Supreme Court held that abusing court procedures by repeatedly seeking adjournments when witnesses are present amounts to professional misconduct under Sections 35 and 36 of the Advocates Act, 1961. The Court found that both the State Bar Council and the Bar Council of India had erred in not referring the matter to a disciplinary committee. It set aside their orders and directed that the complaint be placed before the Disciplinary Committee of the Bar Council of India for appropriate action. The Court emphasised that advocates must facilitate, not frustrate, the administration of justice.

THE COURT DISTINGUISHED BETWEEN IMPROPER AND MERE WRONG LEGAL ADVICE, EMPHASISING THAT NEGLIGENCE WITHOUT MORAL DELINQUENCY DOES NOT AMOUNT TO PROFESSIONAL MISCONDUCT.

The appellant, *Pandurang Dattatreya Khandekar*, and another advocate, *A.N. Agavane*, faced disciplinary proceedings initiated on complaints by local advocates alleging professional misconduct in relation to their legal practice. The Disciplinary Committee of the Bar Council of India found both guilty of giving improper legal advice on two specific matters: advice regarding remarriage without legal divorce and preparation of an affidavit allegedly misrepresenting a gift of land, and suspended Khandekar for four months (and Agavane for two months). The appellant challenged the Committee's order before the Supreme Court under Section 38 of the Advocates Act, 1961.

The Supreme Court held that an appellate court should not lightly overturn concurrent findings of fact by disciplinary authorities unless based on no evidence or mere conjecture. It clarified that disciplinary findings require a higher degree of proof than in civil cases, though less than in criminal cases. Crucially, the Court distinguished between improper and mere wrong legal advice, emphasising that negligence without moral delinquency does not amount to professional misconduct. On merits, it found the evidence insufficient to prove professional misconduct by Khandekar and Agavane despite suspicious circumstances, and therefore set aside the Disciplinary Committee's order and dropped the proceedings.

THE COURT FOUND NO RELIABLE EVIDENCE THAT RATNAM HAD PAID THE FUNDS TO HIS CLIENTS. GIVEN THE SERIOUSNESS OF THE MISCONDUCT, THE SUSPENSION FROM PRACTICE WAS JUSTIFIED.

*P.J. Ratnam*, an advocate, represented three plaintiffs in a suit concerning land possession. During the appeal

proceedings, the court ordered the proceeds from crop sales, amounting to approximately ₹1,600, to be deposited in court. After deductions, a cheque for ₹1,452/4 was issued to Ratnam, which he acknowledged receiving on behalf of his clients. Subsequently, the High Court allowed the second appeal against the plaintiffs, directing them to refund the sum. When the clients demanded the money from Ratnam, he claimed he had already paid them, presenting a receipt purportedly in their possession. Upon the clients' complaint alleging non-payment, proceedings were initiated under the Legal Practitioners Act. The High Court, following an inquiry by the District Judge, found Ratnam guilty of professional misconduct for failing to remit client funds and suspended him from practice for five years. Ratnam then appealed to the Supreme Court.

The Supreme Court upheld the High Court's decision, holding that the absence of explicit Bar Council consultation did not invalidate the proceedings. The complaint was properly signed and verified, and the proceedings under the Bar Councils Act were appropriate since the misconduct involved the advocate's professional duty. The Court found no reliable evidence that Ratnam had paid the funds to his clients. Given the seriousness of the misconduct, the suspension from practice was justified. Consequently, Ratnam's appeal was dismissed, affirming the High Court's order.

THE SUPREME COURT DISMISSED THE APPEAL AND HELD THAT THE APPELLANT'S ATTESTATION OF AN AFFIDAVIT WHERE THE DEPONENT HAD NOT SIGNED OR APPEARED BEFORE HIM AMOUNTED TO GROSS PROFESSIONAL MISCONDUCT.

Respondent Tek Chand complained under Section 35 of the Advocates Act, 1961 that the appellant, advocate *M. Veerabhadra Rao*, improperly attested an affidavit purporting to be of Tek Chand in support of an application for an income-tax clearance certificate. This certificate was necessary to register a sale deed of property. The affidavit and application bore Tek Chand's name but his signature was forged; he never appeared before the appellant. The forged documents secured a clearance certificate that facilitated registration of the sale, causing loss to Tek Chand. The State Bar Council's Disciplinary Committee found the appellant guilty of professional misconduct and reprimanded him. The Bar Council of India's Appellate Committee affirmed the reprimand but struck out some adverse observations. The appellant then appealed to the Supreme Court.

The Supreme Court dismissed the appeal and held that the appellant's attestation of an affidavit where the deponent had not signed or appeared before him amounted to gross professional misconduct. By attesting the forged affidavit, he became party to a fraudulent document and facilitated a fraud. The Court ruled that his conduct was unbecoming of a member of the legal profession and therefore justified enhanced punishment. Rather than a mere reprimand, the Court suspended him from practice for five years (until 31 Oct 1989) and awarded costs to the respondent.

SINCE THE ALLEGED MISCONDUCT OCCURRED WHEN THE RESPONDENT WAS A JUDICIAL OFFICER

AND NOT PRACTISING AS AN ADVOCATE, THE DISCIPLINARY PROVISION COULD NOT BE INVOKED.

Respondent No. 1 was originally enrolled as an advocate in 1963 but joined judicial service in 1965, suspending his advocate licence. While serving as a Judicial Magistrate-cum-Sub-Judge, he was found guilty in a departmental inquiry of corruption and misconduct, leading to his dismissal in 1977. After unsuccessful legal challenges, he applied to the State Bar Council to resume legal practice and was permitted to do so. Several members of the Samrala Bar (including the appellants) objected and filed complaints under Section 35(1) of the Advocates Act, 1961, alleging "other misconduct" and sought disciplinary action. The disciplinary proceedings were eventually taken over by the Bar Council of India, which dismissed the complaint. The appellants challenged that order before the Supreme Court.

The Supreme Court upheld the dismissal of the complaint. It held that Section 35(1) of the Advocates Act applies only to misconduct committed by an advocate while practising law and when his name is on the roll as a practising advocate. Since the alleged misconduct occurred when the respondent was a judicial officer and not practising as an advocate, the disciplinary provision could not be invoked. The Court further noted that resumption of practice was rightly permitted under the Bar Council rules as no disqualification under Section 24-A had been incurred. Consequently, the complaint was not legally maintainable under Section 35(1) and the Bar Council's order dismissing it was sustained.

**STRIKES BY ADVOCATES ARE UNPROFESSIONAL, UNBECOMING AND TANTAMOUNT TO CONTEMPT, AND BAR COUNCILS MUST ENSURE COMPLIANCE WITH PROFESSIONAL STANDARDS.**

The *District Bar Association, Dehradun*, challenged the Uttarakhand High Court's 25.09.2019 order in a PIL filed by respondent Ishwar Shandilya. The High Court had directed that Bar Associations of Dehradun, Haridwar and Udham Singh Nagar withdraw their call for strike and boycott of courts on working Saturdays, and attend courts on all Saturdays, as long-standing strikes were seriously obstructing access to justice. The High Court further directed disciplinary action by the Bar Council of India and the Uttarakhand State Bar Council against Bar office-bearers, and required District Judges to ensure court functioning on Saturdays. The High Court also called for police support to prevent disruptions caused by advocates' strikes. Data showed that advocates in these districts were boycotting courts on numerous days, contributing to delay and pendency in the judicial system.

The Supreme Court dismissed the Special Leave Petition, holding the High Court was justified in issuing its directions. It reiterated settled law that lawyers have no right to go on strike/ boycott courts, even as peaceful protest, and that strikes interfere with the administration of justice and litigants' rights. The Court relied on precedents like *Ex-Capt. Harish Uppal v Union of India* and *Common Cause v Union of India*, to confirm that strikes by advocates are unprofessional, unbecoming and tantamount to contempt, and Bar Councils must ensure compliance with professional standards. The

Supreme Court agreed that disciplinary measures and compliance with High Court directions are essential to uphold access to justice.

*Ex-Captain Harish Uppal*, and others filed writ petitions challenging the practice of lawyers going on strike and calling for boycotts of court proceedings. The petitions sought a declaration that such strikes/calls for boycott by advocates and Bar Associations were illegal and unconstitutional because they disrupted court functions and hindered the administration of justice. Notices were issued to Bar Councils and Bar Associations nationwide, and responses were invited, revealing differing views on whether lawyers had a right to strike.

The Supreme Court held that lawyers have no right to go on strike or give calls for boycotts of courts, even as a form of protest, since they are officers of the court with duties to aid the administration of justice. Strikes by lawyers were held to interfere with the fundamental right of litigants to a speedy trial and the orderly dispensation of justice. The Court reiterated that abstention by a lawyer from appearing in court where he holds a vakalat is unprofessional, unethical, and amounts to misconduct. The judgment emphasised that alternative forms of protest (e.g., peaceful demonstrations outside court, resolutions) are acceptable, but strike calls that disrupt court proceedings are illegal. The duty of courts to proceed irrespective of lawyer strikes was also upheld.

**COURT HELD THAT THE DISCIPLINARY COMMITTEE OF THE BAR COUNCIL OF INDIA HAS BROAD JURISDICTION UNDER SECTIONS 37-38 OF THE ADVOCATES ACT, 1961 TO HEAR APPEALS AND PASS ANY ORDER IT DEEMS FIT.**

A disciplinary inquiry was initiated by the Bar Council of Uttar Pradesh against *Narendra Singh*, an advocate, based on complaints from Chhotey Singh and Faqir Chand alleging professional misconduct. The core allegations were: that Singh obtained a gift deed from an elderly relative (Khazan Singh) in favour of the relative's daughter-in-law against instructions; that he caused a forged Vakalatnama and written statement to be filed in a civil suit; and that he filed an antedated application to implicate an Assistant Registrar in a criminal case. Three charges were framed. The State Bar Council's disciplinary committee found Singh guilty on the first two charges (related to the deed and forged documents) and suspended him for six months, but exonerated him on the third charge. On appeal, the Bar Council of India reversed the findings on the first two charges due to unreliable affidavits and remanded the third charge for fresh reasons. Singh challenged this remand order before the Supreme Court.

The Supreme Court upheld the remand order. It held that the disciplinary committee of the Bar Council of India has broad jurisdiction under Sections 37-38 of the Advocates Act, 1961 to hear appeals and pass any order it deems fit. The Court rejected the argument that the appellate committee lacked jurisdiction to set aside the acquittal on the third charge and remand it for proper reasons, and dismissed Singh's appeal.

### THE SUPREME COURT UPHELD THE BAR COUNCIL'S ORDER, DISMISSING DESHPANDE'S APPEAL

*Vikas Deshpande*, an advocate, was accused of serious professional misconduct under Section 35 of the Advocates Act, 1961. Three convicts (Jadhavs) on death row sought court-appointed counsel due to poverty. After the Sessions Court appointed an amicus curiae, Deshpande met the convicts in Yervada Central Prison, obtained copies of the judgment and their signatures/thumb impressions on vakalatnamas, offering to appeal without initial fee. Later, he got their signatures on stamp papers which he did not explain to them. After the High Court upheld the death sentences and they were executed, Deshpande claimed to have sold their land under a power of attorney (allegedly executed by the convicts) to recover his fees.

The convicts' families complained that the power of attorney was obtained by misrepresentation and no authorization was given to sell the land. The State Bar Council initiated disciplinary proceedings, later transferred to the Bar Council of India. The Disciplinary Committee, hearing the matter ex-parte, found Deshpande guilty of gross professional misconduct and recommended removal of his name from the roll and payment of costs. The Supreme Court upheld the Bar Council's order, dismissing Deshpande's appeal. The Court agreed he failed to prove valid authorization to sell the land or settlement of his fees, and that he took advantage of the vulnerable position of his clients, misrepresented documents, and fraudulently appropriated proceeds—constituting grave professional misconduct. Consequently, his debarment from practice and imposition of costs were sustained.

### CONSIDERING THE GRAVITY OF THE MISCONDUCT AND THE ADVOCATE'S PRIOR REPRIMAND, THE COURT SUSPENDED THE RESPONDENT FROM PRACTICE FOR THREE YEARS.

The appellant (*Narain Pandey*) filed a complaint under Section 35 of the Advocates Act, 1961 against the respondent (advocate Pannalal Pandey) before the Bar Council of Uttar Pradesh (BCUP), alleging serious professional misconduct. It was contended that the respondent forged and fabricated vakalatnamas (authorizations to act on behalf of clients) and compromise deeds in multiple consolidation court matters without the knowledge or consent of the alleged clients. The complaint included details of four such matters and stated that signatures were forged and orders were obtained fraudulently. The BCUP Disciplinary Committee found the advocate guilty and debarred him from practice for seven years. On appeal to the Bar Council of India (BCI) under Section 37, the BCI disagreed with the finding of forgery, held the conduct as "negligence," and reduced the punishment to a reprimand with a ₹1,000 cost. The appellant then appealed to the Supreme Court under Section 38 of the Act.

The Supreme Court held that the BCI's order was flawed because it overlooked the oral and documentary evidence of seven witnesses confirming unauthorized vakalatnamas and fictitious compromise deeds. Mere oral submissions without evidence were insufficient to overturn the well-reasoned BCUP finding. The Court restored the State Bar Council's

finding of serious professional misconduct and emphasized the high ethical standards expected of legal professionals, noting that punishment must serve both deterrence and correction. Considering the gravity of the misconduct and the advocate's prior reprimand, the Court suspended the respondent from practice for three years.

### THE SUPREME COURT SET ASIDE THE DISCIPLINARY ORDER AND REMANDED THE MATTER TO THE BAR COUNCIL OF INDIA.

The appellant, an advocate, was engaged by the complainant (Haradara), introduced through an old client, to file a recovery suit for ₹30,098 in Bangalore. The appellant delegated filing to his junior. The complainant alleged he was neither informed of hearing dates nor aware that the suit was withdrawn as "settled out of court," nor that half the court fee was taken for this purpose. The State Bar Council initiated disciplinary proceedings for alleged professional misconduct under the Advocates Act, finding the appellant guilty of withdrawing the suit without the client's instructions and suspended him for 3 years. The appellant appealed under Section 38 of the Advocates Act.

The Supreme Court set aside the disciplinary order and remanded the matter to the Bar Council of India. The Court held that the appellant was not given fair notice of the precise charge against him, violating principles of natural justice, and the disciplinary authority failed to apply the doctrine of benefit of doubt or consider whether the act was negligent, imprudent, or constituted bona fide conduct rather than misconduct. The Court did not decide on guilt or punishment on merits but instructed reconsideration of evidence and legal standards by the disciplinary body.

### THE SUPREME COURT QUASHED THE COMPLAINT AND DISCIPLINARY PROCEEDINGS AGAINST NARULA, HOLDING THAT THERE WAS NO JUSTIFICATION TO ARRAIGN HIM FOR MISCONDUCT.

In *Bar Council Of Maharashtra And Goa v. Rajiv Nareshchandra Narula*, the Bar Council of Maharashtra & Goa (BCMG) appealed against a Bombay High Court interim order staying disciplinary proceedings against advocate Rajiv Narula. A complaint filed by Khimji Devji Parmar alleged professional misconduct by Narula in connection with land litigation, claiming suppression of material facts in consent terms recorded in court. A Judge-Advocate of the BCMG referred the complaint to the Disciplinary Committee under Section 35 of the Advocates Act, 1961. Narula, who had simply identified the plaintiff in the consent terms and had no professional relationship with the complainant, challenged the reference order as cryptic and lacking reasons. The High Court stayed the proceedings. The Supreme Court entertained the special leave petition and examined whether the disciplinary reference complied with statutory requirements.

The Supreme Court quashed the complaint and disciplinary proceedings against Narula, holding that there was no justification to arraign him for misconduct—there was no professional relationship or actionable conduct under Section 35. The Court emphasized that before referring a

complaint to the Disciplinary Committee, the Bar Council must record clear reasons showing prima facie belief of misconduct; a cryptic order without discussion of allegations fails the statutory mandate. The Court found the reference order non-compliant with Section 35, bore no application of mind, and was unsustainable. It imposed ₹50,000 costs on the BCMG for entertaining a frivolous complaint and dismissed the appeal.

**THE COURT REDUCED THE PUNISHMENT TO A REPRIMAND, CLARIFYING THAT CLIENT FILES MUST BE RETURNED ON TERMINATION OF ENGAGEMENT AND THAT OTHER LEGAL REMEDIES ARE AVAILABLE FOR FEE DISPUTES.**

*R.D. Saxena*, a senior advocate, was engaged as legal advisor and counsel by the Madhya Pradesh State Cooperative Bank Ltd. After the Bank terminated his engagement in 1993, it asked him to return all case files. Saxena refused, claiming he had a right to retain them until the Bank paid outstanding fees of Rs. 97,100/-. The Bank denied any liability. Unable to retrieve the files, which were needed for ongoing litigation, the Bank filed a complaint before the State Bar Council alleging professional misconduct. The matter ultimately reached the Bar Council of India's Disciplinary Committee, which found Saxena guilty, fined him Rs. 1,000/-, and debarred him from practice for 18 months while directing him to return the files. Saxena appealed to the Supreme Court under Section 38 of the Advocates Act.

The Supreme Court addressed whether an advocate has a lien over client litigation papers for unpaid fees. It held that litigation files are not "goods" under Section 171 of the Contract Act and no statutory or common-law lien exists allowing an advocate to retain them for fees. Withholding client files was held to constitute professional misconduct under Section 35 of the Advocates Act. Considering that Saxena may have genuinely believed in his lien claim, the Court reduced the punishment to a reprimand, clarifying that client files must be returned on termination of engagement and that other legal remedies are available for fee disputes.

**THE COURT HELD THAT IMPUTATIONS OF PARTIALITY, ABUSIVE LANGUAGE, THREATENING CONDUCT, AND ORGANIZING COLLECTIVE INTIMIDATION OF A JUDICIAL OFFICER SCANDALIZE THE COURT AND UNDERMINE PUBLIC CONFIDENCE IN THE ADMINISTRATION OF JUSTICE.**

In *O.P. Sharma & Ors. vs High Court of Punjab & Haryana*, arose from a contempt reference initiated by the High Court of Punjab & Haryana. On 11 September 1999, during remand proceedings before a Civil Judge in Faridabad, advocate L.N. Prashar used abusive, threatening, and unparliamentary language towards the magistrate when an order was not in his favour. He, joined by O.P. Sharma and other advocates, shouted slogans, abused the judge, and threatened him and his staff, creating a hostile courtroom atmosphere. The High Court suo motu prosecuted the advocates for criminal contempt under Sections 2(c), 12 and 15 of the Contempt of Courts Act, 1971, convicted them, and

sentenced them to terms of simple imprisonment and fines. The appellants later tendered unconditional apologies and affidavits of regret before the High Court and magistrate.

The Supreme Court dismissed the appeals and upheld the High Court's conviction and sentences. It emphasized that while advocates must zealously represent clients, they are also officers of the court and must uphold its dignity and decorum. The Court held that imputations of partiality, abusive language, threatening conduct, and organizing collective intimidation of a judicial officer scandalize the court and undermine public confidence in the administration of justice. Such conduct amounts to criminal contempt, and unconditional apologies do not absolve liability where the conduct threatens the integrity of judicial proceedings.

**THE SUPREME COURT ALLOWED THE APPEAL BY HIKMAT ALI KHAN AGAINST THE BAR COUNCIL OF INDIA'S ORDER THAT HAD SET ASIDE THE EARLIER DISCIPLINARY PUNISHMENT.**

Respondent *Ishwar Prasad Arya*, an advocate practising in Badaun, assaulted his opponent Radhey Shyam inside a court room with a knife on 18 May 1971 and reportedly fired a pistol during the incident. He was prosecuted and convicted under Section 307 IPC (attempt to murder) and Section 25 of the Arms Act, receiving three years' rigorous imprisonment for the attempt to murder (the Arms Act conviction was later set aside by the High Court). Before he could serve his sentence, a fraudulent letter was produced alleging the Governor had suspended his conviction under Article 161 of the Constitution, enabling him to remain free until the fraud was discovered. A criminal court lodged a complaint with the Bar Council of Uttar Pradesh, leading to disciplinary proceedings against him for professional misconduct.

The Supreme Court allowed the appeal by Hikmat Ali Khan against the Bar Council of India's order that had set aside the earlier disciplinary punishment. The Court found that the Bar Council of India erred in ignoring the serious misconduct—conviction for an offence involving moral turpitude—which was separate from the forgery issue. The Court set aside the Bar Council of India's order, upheld the findings of the State Bar Council of Uttar Pradesh, and directed the removal of Ishwar Prasad Arya's name from the roll of advocates, holding that debarment alone was inadequate given the gravity of his misconduct and conviction.

**PURCHASING PROPERTY THAT WAS THE SUBJECT MATTER OF LITIGATION INVOLVING HIS CLIENT — WAS UNBECOMING OF A LEGAL PROFESSIONAL AND CONTRARY TO PROFESSIONAL ETHICS.**

*P.D. Gupta*, an advocate practicing in Delhi, acted as counsel for Vidya Wati in multiple legal proceedings concerning the estate of one Srikishan Dass, who died in 1980 leaving extensive movable and immovable property. Vidya Wati claimed to be his sister and heir, although her relationship to the deceased was disputed and under litigation. Despite knowing that the property's title was under dispute and that Vidya Wati's status was unclear, Gupta purchased a portion of the disputed property (at 4858-A, Daryaganj, New

Delhi) from her in December 1982. His son-in-law also bought another part of the same property. Ram Murti, another claimant in the succession dispute, filed a complaint alleging that Gupta's purchase of this property from his client was professionally improper and constituted misconduct. The Bar Council of India's Disciplinary Committee found Gupta guilty of misconduct and suspended him from practice for one year, after proceedings were transferred to it due to delay by the Delhi Bar Council.

The Supreme Court dismissed Gupta's appeal, holding that the Bar Council of India was justified in concluding that his conduct — purchasing property that was the subject matter of litigation involving his client — was unbecoming of a legal professional and contrary to professional ethics. The Court noted that a lawyer must be fair to client, court, and adversary, and saw no reason to interfere with the one-year suspension. It also observed that disciplinary complaints should be disposed of by state Bar Councils within the statutory one-year period.

THE COURT OBSERVED THAT THE DISPUTED SALE WAS NOT IN EXECUTION OF A DECREE IN WHICH THE APPELLANT WAS PROFESSIONALLY ENGAGED, AND THEREFORE DISCIPLINARY PROCEEDINGS WERE IMPROPER AND BEYOND THE BAR COUNCIL'S JURISDICTION.

In *Kaushal Kishore Awasthi vs Balwant Singh Thakur*, the Supreme Court of India dealt with a disciplinary complaint under the Advocates Act, 1961. The respondent (complainant) filed a complaint in 2003 with the Chhattisgarh State Bar Council alleging that the appellant, an advocate, committed professional misconduct by interfering in the registration of a sale deed relating to ancestral family property. Initially, the State Bar Council's Disciplinary Committee found the appellant guilty of professional misconduct and suspended his license to practice for two years. On appeal, the Bar Council of India (BCI) upheld the finding of misconduct but reduced the suspension to one year and imposed a ₹25,000 cost on the appellant. The appellant challenged this decision before the Supreme Court.

The Supreme Court allowed the appeal. The Court held that even accepting the allegations against the appellant at face value, his conduct in objecting to the registration of the sale deed was not in his professional capacity as an advocate and thus did not amount to professional misconduct under the Advocates Act and the Bar Council's Rules. The Court observed that the disputed sale was not in execution of a decree in which the appellant was professionally engaged, and therefore disciplinary proceedings were improper and beyond the Bar Council's jurisdiction. The orders of the State Bar Council and the Bar Council of India were set aside.

THE SUPREME COURT OBSERVED THAT THE STATE BAR COUNCILS ARE STATUTORILY BOUND TO DISPOSE OF COMPLAINTS UNDER SECTION 35 WITHIN ONE YEAR, AND FAILURE TO DO SO LEADS TO AUTOMATIC TRANSFER TO THE BCI.

The appellant, *K. Anjinappa*, filed a complaint in 2013 under Section 35 of the Advocates Act alleging professional

misconduct by his advocate before the Andhra Pradesh State Bar Council. The State Bar Council failed to dispose of the complaint within the mandatory one-year period, so it stood transferred to the Bar Council of India (BCI) under Section 36B of the Act. The Disciplinary Committee of the BCI dismissed the complaint on the technical ground that it was jointly filed with a second complainant whose signature was not verified. The Committee did not examine the substantive allegations. Aggrieved, the appellant filed a civil appeal before the Supreme Court challenging this dismissal.

The Supreme Court observed that the State Bar Councils are statutorily bound to dispose of complaints under Section 35 within one year, and failure to do so leads to automatic transfer to the BCI. The Court emphasised that neither the State Bar Councils nor the BCI should delay disciplinary proceedings and must ensure expeditious disposal. The Supreme Court directed the BCI to issue necessary instructions to all State Bar Councils to comply with the statutory time-frame, and also to dispose of the backlog of transferred complaints within one year. The appeal was disposed of with these directions.

THE APPELLANT'S CONDUCT AMOUNTED TO PROFESSIONAL MISCONDUCT; AND SUSPENSION (MODIFIED TO THREE MONTHS BY THE COURT) WAS AN APPROPRIATE PUNITIVE MEASURE FOR ETHICAL VIOLATIONS BY AN ADVOCATE.

Advocate *Dhanraj Singh Choudahry*, (appellant) was accused of professional misconduct by *Nathulal Vishwakarma* (respondent) before the Disciplinary Committee of the State Bar Council of Madhya Pradesh. The allegation was that the appellant had attested a sale deed dated 3 November 1999 containing a false statement implying that a property occupied by the respondent had already been transferred to the appellant, even though litigation regarding the property was pending and the deed was misleading. The State Bar Council found Choudahry guilty and issued a reprimand. The complainant appealed to the Bar Council of India under Section 37 of the Advocates Act, 1961, seeking enhancement of punishment. The Bar Council of India enhanced the punishment to suspension from practice for one year and rejected the appellant's attempted cross-appeal as not maintainable under the Act.

The Supreme Court dismissed both appeals. It upheld that: (1) cross-appeals are not permissible under Section 37 of the Advocates Act and the attempted cross-appeal was rightly rejected; (2) the appellant's conduct amounted to professional misconduct; and (3) suspension (modified to three months by the Court) was an appropriate punitive measure for ethical violations by an advocate.

THE COURT CONCLUDED THAT MEHTA ACTIVELY PARTICIPATED IN A SCHEME TO DEFRAUD LOAN ASPIRANTS, WAS AWARE OF THE FRAUDULENT NATURE OF THE TRANSACTIONS, AND BENEFITED FROM THEM, RATHER THAN MERELY PROVIDING LEGAL SERVICES.

In this case, the respondent, Rameshchandra Vithaldas Sheth, sought a loan of ₹7 lakh and was introduced to a financier, Balu Bhai Modi, who represented that the appellant, Devendra Bhai Shankar Mehta, was part of the financier's group and would facilitate the loan after examining the security documents. The complainant paid substantial amounts, including ₹13,500 and later ₹10,000, to Mehta for alleged legal and administrative expenses, relying on assurances that the loan would be sanctioned. However, the loan was never disbursed, and instead, a complaint was lodged against the complainant with the police. Consequently, the complainant filed a professional misconduct complaint against Mehta before the Bar Council, which was adjudicated by the Disciplinary Committee of the Bar Council of India.

The Supreme Court, in its judgment, dismissed Mehta's appeal and upheld the Disciplinary Committee's finding that he had engaged in professional misconduct under Section 35 of the Advocates Act. The Court concluded that Mehta actively participated in a scheme to defraud loan aspirants, was aware of the fraudulent nature of the transactions, and benefited from them, rather than merely providing legal services. The Court noted that reasonable inferences from the evidence, including testimonies from other victims, supported this conclusion. Consequently, the Supreme Court affirmed the removal of Mehta's name from the State Roll of the Bar Council, recognizing the breach of ethical duties and the resultant loss of client trust.

THE COURT HELD THAT MERE NEGLIGENCE WITHOUT MORAL TURPITUDE OR DELIBERATE WRONGDOING DOES NOT CONSTITUTE PROFESSIONAL MISCONDUCT.

Advocate *V.P. Kumaravelu*, was appointed as City Government Pleader in Madras Civil Courts. Two complaints were filed against him before the Bar Council of India for failing to properly represent his government clients, resulting in ex parte decrees in two suits because no written statements were filed on behalf of the State of Tamil Nadu. The Bar Council's Disciplinary Committee found that paperwork had not been put before Kumaravelu due to office staff negligence and administrative lapses. It held him guilty of constructive negligence and issued a severe reprimand, noting his seniority and reputation.

The Supreme Court examined whether the negligence amounted to professional misconduct under the Advocates Act, 1961. It agreed that Kumaravelu was negligent in supervising his office, causing client prejudice. However, the Court held that mere negligence without moral turpitude or deliberate wrongdoing does not constitute professional misconduct. Citing precedent, the Court clarified that professional misconduct requires delinquency or moral fault, which was absent here. Thus, while the appellant was rightly found negligent, the finding of professional misconduct was unsustainable. The appeal was allowed and the reprimand on that basis was set aside, with no order as to costs.

ON 31 AUGUST 2020, A THREE-JUDGE BENCH UPHELD THE CONVICTION AND SENTENCED BHUSHAN TO

PAY A NOMINAL FINE OF ₹1, TO BE PAID BY 15 SEPTEMBER 2020.

The Supreme Court took suo motu criminal contempt proceedings against senior advocate Prashant Bhushan for two tweets in which he made scurrilous allegations against the judiciary, including that the Supreme Court had destroyed India's democracy and a picture of the then Chief Justice of India. The Court initially convicted him of contempt on 14 August 2020 for these tweets, holding that they were not fair criticism but tended to scandalize the Court and undermine public confidence in the judiciary. During sentencing hearings, arguments were heard from the Attorney General, senior counsel, and Bhushan himself; Bhushan refused to offer an unconditional apology, claiming doing so would be contempt of his conscience.

On 31 August 2020, a three-judge bench upheld the conviction and sentenced Bhushan to pay a nominal fine of ₹1, to be paid by 15 September 2020. The Court stated that scandalizing the judiciary exceeded the protections of free speech and was punishable; it noted that fair criticism is allowed but not malicious attacks that undermine the institution. If the fine was not paid, Bhushan would face three months' imprisonment and a three-year ban from practising law.

MISAPPROPRIATION OF A CLIENT'S MONEY, EVEN IF TEMPORARILY, IS A GRAVE PROFESSIONAL MISCONDUCT.

The Bar Council of Andhra Pradesh appealed to the Supreme Court against an order of the Disciplinary Committee of the Bar Council of India, which had set aside the State Bar Council's decision to remove advocate Kurapati Satyanarayana from its roll for professional misconduct. The case arose from a civil suit (O.S. No. 1624 of 1991) where Satyanarayana acted as counsel for Shri Gutta Nagabhushanam. In execution proceedings, the advocate received ₹14,600 on behalf of his client but failed to pay it to him. The complainant filed a complaint leading the State Bar Council to refer the matter to its Disciplinary Committee, which held Satyanarayana guilty of grave professional misconduct and removed his name from the roll. On appeal, the Bar Council of India's Disciplinary Committee accepted that though he received the funds, he did not intend to misappropriate them and treated his conduct as mere negligence.

The Supreme Court held that the Bar Council of India's order was unsustainable. Misappropriation of a client's money, even if temporarily, is a grave professional misconduct. The Court restored the State Bar Council's order removing his name from the roll and awarded costs to the appellant. The advocate's excuses were rejected as frivolous, affirming that strict adherence to professional conduct is essential to maintain public confidence in the legal system.

THE SUPREME COURT HELD ON EVALUATION OF THE EVIDENCE THAT THE APPELLANT FAILED TO RETURN THE WILL WHEN DEMANDED AND THAT HIS CONDUCT WAS UNWORTHY OF AN ADVOCATE

The respondent, Edward Ani, filed a complaint in 1986 under Section 35 of the Advocates Act, 1961 alleging that the appellant, advocate John D'Souza of Bangalore, had been entrusted with a 1968 Will of Mrs Mary Raymond (his mother-in-law) for safe custody. According to the complaint, the appellant refused to return the Will despite demands made in two letters dated 4 Jan 1982 and 15 Apr 1986. Mrs Raymond had since made a second Will in 1978 and died in 1983. The Karnataka State Bar Council initially found no case; the Bar Council of India held prima facie misconduct and referred the matter back. The State Disciplinary Committee again cleared the appellant, but on appeal the Bar Council of India held he was guilty of professional misconduct and suspended him for one year. The appellant challenged that order in the Supreme Court, arguing that the Will had been returned in 1982, was revoked, or that no proper demand was proved.

The Supreme Court held on evaluation of the evidence that the appellant failed to return the Will when demanded and that his conduct was unworthy of an advocate; there was no convincing proof that the Will was returned or that it had become res nullius. His earlier denial and later inconsistent stance undermined his defence. The Court dismissed the appeal and upheld the Bar Council of India's order confirming professional misconduct and disciplinary action.

ELECTED REPRESENTATIVES TAKE AN OATH TO SERVE THE PUBLIC FULL-TIME AND DRAW SALARY/ALLOWANCES FROM PUBLIC FUNDS; PRACTISING LAW CONCURRENTLY WOULD AMOUNT TO PROFESSIONAL MISCONDUCT AND CONFLICT OF INTEREST.

The petitioner, *Ashwini Kumar Upadhyay*, filed a Public Interest Litigation under Article 32 seeking a direction to debar legislators (MPs/MLAs/MLCs) from practising as advocates while they held office. He argued that elected representatives take an oath to serve the public full-time and draw salary/allowances from public funds; practising law concurrently would amount to professional misconduct and conflict of interest. The petition challenged Rule 49 of the Bar Council of India Rules (which prohibits advocates from being full-time salaried employees) as arbitrary or unconstitutional, and sought either its amendment or a direction to prohibit legislators from legal practice. The Bar Council of India opposed the petition, stating its rules did not intend to bar legislators from practising law.

The Supreme Court unanimously dismissed the petition. It held that neither the Advocates Act, 1961 nor the Bar Council Rules expressly prohibit legislators from practising as advocates. Legislators are not *full-time salaried employees* as envisaged under Rule 49, so that provision did not apply to them. There was no legal basis to debar them from legal practice merely by virtue of holding elective office. Allegations of conflict of interest or professional misconduct must be pleaded and proved on a case-by-case basis; they cannot justify a blanket prohibition. Thus, the relief sought could not be granted.

NO CASE WAS MADE OUT TO TREAT THE CONDUCT AS PROFESSIONAL OR OTHER MISCONDUCT WARRANTING DISCIPLINARY ACTION, AND THE APPEAL WAS DISMISSED.

The appellant, *Noratanmal Chouraria*, and the respondents had a landlord-tenant dispute, leading to rent control proceedings in the Small Causes Court. During the pendency of these proceedings, the appellant alleged three incidents of misconduct by the first respondent: (1) on 8 Oct 1993 the respondent allegedly struck him from behind outside the court, (2) on 26 Oct 1993 he allegedly threatened him with death along with rowdy elements, and (3) on 1 Mar 1995 he allegedly kicked him inside the courtroom and told him not to appear for evidence. The appellant lodged a complaint before the State Bar Council, which was ultimately considered by the Bar Council of India's disciplinary committee. The committee refused to enquire into the complaint, noting that no criminal proceedings were pursued, no follow-up evidence was produced, and that the respondent was acting as a litigant in person, not as counsel.

The Supreme Court refused to interfere with the Bar Council's order. It held that the disciplinary committee's findings were not irrational, especially since the appellant did not pursue criminal proceedings, failed to produce evidence, and did not alert the presiding judicial officer about the alleged incidents. On this basis, no case was made out to treat the conduct as professional or other misconduct warranting disciplinary action, and the appeal was dismissed.

BCI DISCIPLINARY COMMITTEE, RELYING ON THE EARLIER EVIDENCE, AGAIN FOUND BHAVSAR GUILTY AND REDUCED THE SUSPENSION TO TWO YEARS. BHAVSAR CHALLENGED THIS BEFORE THE SUPREME COURT.

*Vasant D. Bhavsar*, a practising advocate, faced a professional misconduct complaint by a client before the Bar Council of Maharashtra. The State Disciplinary Committee found him guilty under Section 35 of the Advocates Act, 1961 and suspended him for three years. On appeal, the Bar Council of India set aside that order on technical grounds and remitted the case. After remand, the BCI Disciplinary Committee, relying on the earlier evidence, again found Bhavsar guilty and reduced the suspension to two years. Bhavsar challenged this before the Supreme Court, contending that the disciplinary order lacked proper evaluation of evidence and rationale.

The Supreme Court held that the order of the Disciplinary Committee of the Bar Council of India was unsustainable because it did not discuss or analyse the evidence on record or explain how the conclusions were reached. The Court noted serious doubts on the complainant's version, including the fact that the vakalatnama was never filed before relevant authorities, undermining the allegation of dereliction of duty. The apex court emphasized that disciplinary orders must be speaking orders with clear reasoning based on evidence. As a result, the Supreme Court allowed the appeal, set aside the suspension order, and dismissed the complaint.

THE COURT REFUSED TO RECONSIDER THE MERITS OF MOHINDROO'S SUSPENSION, AS THOSE WERE ALREADY CONCLUDED.

*O. N. Mohindroo*, an advocate, was accused of professional misconduct for tearing a court record, and the Delhi State Bar Council's Disciplinary Committee suspended him for one year under Section 35 of the Advocates Act, 1961. He unsuccessfully appealed to the Bar Council of India under Section 37 and then to the Supreme Court under Section 38. The Supreme Court placed his appeal for preliminary hearing and dismissed it summarily under Order V, Rule 7 of the Supreme Court Rules, 1966. Mohindroo challenged the disciplinary orders and the summary dismissal in the High Court by writ petition, arguing that (1) Section 38 was void because it fell under Entry 26 of List III of the Constitution and thus required a state-Central agreement under Article 138(2), and (2) Rule 7 of the Supreme Court Rules curtailed his statutory right of appeal. The High Court dismissed his petition.

The Supreme Court upheld the validity of Section 38, holding the Advocates Act falls under Entries 77 & 78 of the Union List (persons entitled to practise in Supreme and High Courts) and thus validly enacted under Article 138(1) without any state agreement. It also upheld Order V, Rule 7 as valid: the summary disposal at a preliminary stage does not curtail the statutory right, since the appellant is heard on all points. The Court refused to reconsider the merits of Mohindroo's suspension, as those were already concluded.

THE SUPREME COURT HELD THAT THE DISCIPLINARY COMMITTEE'S ORDER WAS ARBITRARY AND UNSUSTAINABLE BECAUSE IT FAILED TO PROPERLY DISCUSS OR APPRAISE ORAL AND DOCUMENTARY EVIDENCE AND DID NOT GIVE REASONS FOR ACCEPTING OR REJECTING EVIDENCE

The respondent (Rohini M. Dandekar) filed a complaint in 1984 before the Bar Council of Maharashtra alleging that the appellant (*Markand C. Gandhi*), an advocate, committed professional misconduct. Since the State Bar Council did not decide the complaint within the statutory one-year period, it was transferred to the Bar Council of India (BCI) and registered as Case No. 107 of 1986. The BCI's Disciplinary Committee framed eight issues arising mainly from alleged threats, drafting of documents to the complainant's detriment, conflict of interest, issuance of a false certificate regarding title marketability, and alleged collusion with third parties. The Committee, in a 23-page order, found the appellant guilty of professional misconduct, suspended him from practice for five years, and imposed costs of ₹5,000, with an additional six-month suspension if costs were not paid.

The Supreme Court held that the Disciplinary Committee's order was arbitrary and unsustainable because it failed to properly discuss or appraise oral and documentary evidence and did not give reasons for accepting or rejecting evidence — violating principles of natural justice and Article 14 of the Constitution. The Court set aside the BCI's order, allowed the appeal, and remitted the matter to a freshly constituted Disciplinary Committee to decide on merits in

accordance with law within six months. The Court also stressed that complaints should be disposed of with reasonable dispatch and that committees must be proficiently constituted.

THE COURT OBSERVED THAT WHILE A COUNSEL SHOULD DISCLOSE SUCH FACTS, NON-DISCLOSURE DID NOT AMOUNT TO PROFESSIONAL MISCONDUCT ON THE FACTS. THE APPEAL WAS DISMISSED.

The appellant engaged the respondent, an advocate, to file a suit for recovery of ₹60,175 against one Siddaramma Shetty (O.S. No. 237/1986). While that suit was pending, property of the defendant was attached by court order. Earlier, the respondent had also represented Siddaramma Shetty in a partition suit (O.S. No. 119/1986) involving the same property — a case in which the appellant was not a party. After the recovery suit was compromised, full satisfaction was not paid. The respondent filed a miscellaneous application under Order XXIV Rule 4(2) CPC, supported by an affidavit sworn by the appellant, to remove the attachment. The appellant later alleged that this application was filed without his instructions and complained of professional misconduct by the respondent to the State Bar Council and Bar Council of India. Both bodies dismissed the complaint and appeal respectively. Aggrieved, the appellant approached the Supreme Court.

The Supreme Court upheld both disciplinary orders, finding that the appellant failed to prove professional misconduct beyond reasonable doubt, as required under Section 35 of the Advocates Act. At most, the appellant showed a negligent act in not disclosing earlier retainer, but no malicious intent or conflict of interest existed. The Court observed that while a counsel should disclose such facts, non-disclosure did not amount to professional misconduct on the facts. The appeal was dismissed.

MISAPPROPRIATION OF CLIENT FUNDS WAS ESTABLISHED AND THAT ADVOCACY DEMANDS HIGH STANDARDS OF INTEGRITY; PUNISHMENT MUST REFLECT MISCONDUCT'S GRAVITY.

The respondent engaged advocate J.S. Jadhav to represent him in a civil suit that was compromised on 14 June 1977, with the court receiver directed to release funds lying with him — a portion to the plaintiff and the balance to the respondent. Acting on the respondent's instructions and a letter of authorization, Jadhav withdrew ₹50,379 from the court receiver. However, he paid only ₹18,000 to the respondent and retained the balance. The respondent filed a complaint with the Bar Council of India in January 1981 alleging misappropriation. The Disciplinary Committee disbelieved certain receipts produced by Jadhav, rejected his plea that account books were lost, and found misappropriation proved. The Committee suspended Jadhav for two years and directed payment of ₹500 to the respondent. Jadhav appealed to the Supreme Court under Section 38 of the Advocates Act, 1961.

The Supreme Court dismissed the appeal. It held that misappropriation of client funds was established and that advocacy demands high standards of integrity; punishment must reflect misconduct's gravity. The Court enhanced the punishment, ordered that Jadhav's name be struck off the roll

of advocates, and directed a decree for ₹22,379 (remaining amount) plus 9% interest in favour of the respondent, to ensure he was not driven to civil proceedings for recovery.

#### THE SUPREME COURT UPHELD THE FINDING OF PROFESSIONAL MISCONDUCT BUT HELD THAT REMOVAL FROM THE ROLL WAS TOO EXTREME A PUNISHMENT.

The appellant, *Rajendra V. Pai*, was an advocate on the roll of the Bar Council of Maharashtra & Goa. During large-scale land acquisition proceedings in his village (involving about 150 landowners including his family), he acted as a leading representative for villagers in securing compensation. Three of the claimants filed complaints alleging that Pai had solicited professional work, agreed on a contingent fee dependent on compensation, and falsely identified certain claimants to open a bank account where compensation cheques were deposited and withdrawn. The Disciplinary Committee of the Maharashtra & Goa Bar Council found him guilty of professional misconduct under Section 35 of the Advocates Act, 1961 and ordered his name removed from the roll of advocates. The Bar Council of India dismissed his appeal. Aggrieved, Pai filed an appeal to the Supreme Court under Section 38 of the Advocates Act.

The Supreme Court upheld the finding of professional misconduct but held that removal from the roll was too extreme a punishment. Observing that it was his first misconduct, only three of about 150 claimants complained, and no financial loss was shown, the Court applied the principle of proportionality. It modified the sanction: instead of removal from the roll, Pai's licence to practise was suspended for seven years. The original costs order was maintained, and no costs were awarded in the Supreme Court.

### III. CONCLUSION

The study of judicial understanding of the law of professional misconduct by advocates in India reveals a consistent effort by the courts to balance the autonomy of the legal profession with the imperative of maintaining ethical standards and public confidence in the justice delivery system. Indian judiciary has repeatedly emphasized that advocates are not merely representatives of their clients but are also officers of the court, entrusted with a duty to uphold the rule of law, fairness, and integrity. Professional misconduct, therefore, is viewed not only as a breach of individual discipline but as conduct that can undermine the administration of justice itself.

Through judicial pronouncements, courts have interpreted professional misconduct broadly, encompassing acts such as abuse of court process, misrepresentation, dereliction of duty, contemptuous behaviour, and actions inconsistent with professional dignity. At the same time, the judiciary has shown restraint by ensuring that disciplinary action is not taken lightly or arbitrarily, recognizing the serious consequences such findings have on an advocate's career and reputation. The requirement of clear evidence, adherence to principles of natural justice, and proportionality in punishment reflects this cautious approach.

The interaction between the judiciary and statutory bodies like the Bar Councils further highlights the shared responsibility in regulating professional conduct. While Bar Councils remain the primary disciplinary authorities, judicial oversight has played a crucial role in correcting delays, inconsistencies, and lapses in disciplinary mechanisms. This judicial engagement has strengthened accountability within the profession without encroaching excessively on its independence.

In conclusion, judicial interpretation of professional misconduct in India demonstrates an evolving and pragmatic approach aimed at preserving the sanctity of the legal profession. By reinforcing ethical standards while safeguarding advocates from undue harassment, the judiciary has contributed significantly to shaping a professional culture rooted in responsibility, competence, and respect for the justice system. This balance remains essential for ensuring that advocacy continues to serve its foundational role in a democratic society governed by the rule of law.

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