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Introduction

Advocates play a quintessential role in pursuit of justice. But, the fact that they face number of difficulties cannot be denied. To bring difficulties to an end the draft of Advocates Protection Bill, 2021 was issued by Bar Council of India. The Bill aligns with the resolution of United Nations Congress on the Prevention of Crime and Treatment of Offenders, which took place in Havana, Cuba. The Constitution of India under Article 19 guarantees the freedom to every individual irrespective of their role and position in society. In the case of *O.N. Mohindroo v. The Bar Council of Delhi and others* (1968), the Apex Court clearly stated that Advocates Act is an essential part of legislation. In the case of *Hari Shankar Rastogi v. Giridhar Sharma*, (1978) the court stated that advocate is considered as the master of an expert and the discharge of justice depends on advice of legal professionals. In the other case of *Ramon Services Pvt. Ltd. v. Subhash Kapoor* (2001), the Apex Court stated legal profession as social elite. In the recent case of *Secretary v. Ishwar Shandilya and others* (2020), the Apex Court stated that advocates are the essential part of justice system and they are the officers of the court.

P. D. Gupta v. Ram Murti and Others [1]

“A lawyer owes a duty to be fair not only to his client but also to the court as well as to the opposite party in the conduct of the case. The primary duty of the lawyer is to inform the court as to the law and facts of the case and to aid the court to do justice by arriving at the correct conclusions.

Need of the Hour

According to the data it is found that lot of time of judiciary get waste while protesting. For example, Jabalpur High Court registrars noted that 960 hours of judicial work at the court and 40,000 hours of lower courts were lost due to the advocate's strike. Thus, enactment of provisions of the advocate's protection is very essential, but to have a check and rider to the enforcement as well as usage/misuse of the same should be the topmost priority while enacting and special focus or attention should be made by regulating the strikes and demonstrations by the advocates, making them accountable not only to their clients but also to the entire society, for whose benefit they render their invaluable service. Advocate Protection Act must not be limited to the State of Madhya Pradesh but the union should also bring forward the demand and necessity of this bill in the parliament, because the legal profession is unified and uniform across the whole nation, therefore the protection, privileges and responsibilities be made same throughout the entire nation. Thus, advocates are the indispensable part of society and judiciary. They are the one who maintain the public policy and order within the country further more being the protector they serve the society or nation to its full capacity. While the nation acknowledged them as their work to serve society but mankind hails them as great as well as noble people who through their selfless service taught

us invaluable lesson to humanity. To this extremely special fraternity mankind must express sincere gratitude and demand government to bring Advocate Protection Act for the common good for whole nation. So that society can grow fast and live more. As advocates are the one to promote love, affection, compassion, modesty, sympathy, forgiveness and equality, across the nation. Last but not the least by Advocate Protection Act, advocates may blossom into an incredible gentleman who may be capable of satisfying all needs of society and by Advocate Protection Act advocates can carry out their duties without any fear, threats or attacks. While serving the society advocates always keep in my one of the motto of judiciary that “the 100 culprits may let go free but no innocent should be punished”. To fulfil this motto it is very essential for advocates to play their part perfectly.

FEW TRAGEDIES WITH AN ADVOCATE

1. Advocate Shahid Jamal 36-year-old in November 2016 was assaulted by a group of youths in Bhopal. Police of Bhopal therefore replied that it was the consequence of personal enmity between the attackers and the lawyers.
2. A woman advocate in Jan, 2017 was assaulted by her client husband in Indore. As husband of her client was quite furious over dismissal of the petition filed against his wife.
3. Similarly, in November 2017 advocates in Andhra Pradesh demanded for a security act in the alert of assaults on many advocates in Vijayawada and Rajahmundry.
4. Even our senior advocate of Supreme court of India Mr. Rajiv Dhawan told in an interview with a news agency that how he was assaulted and intimidated while he was acting as the counsel for the appellants of Ayodhya Babri Masjid matter.

Advocates all around the country are seen as the preservers of the legal system and are considered to be an integral part of the judiciary system. They are the voices who play a major role in the reformation of the judiciary and the society at large. Yet, several instances take place all over the nation which involve physical violence on advocates.

The Recent *R. Muthukrishnan v Registrar of High Court* [2] of Judicature of Madras case emphasized upon the importance of the Bar as, “The legal profession cannot be equated with any other traditional professions. It is not commercial in nature and is a noble one considering the nature of duties to be performed and its impact on the society. The independence of the Bar and autonomy of the Bar Council has been ensured statutorily in order to preserve the very democracy itself and to ensure that judiciary remains strong. Where Bar has not performed the duty independently and has become a sycophant that ultimately results in the denigrating of the judicial system and judiciary itself. There cannot be existence of a strong judicial system without independent bar.

Understanding Advocate Protection Act

Black Law's dictionary defines an Advocate as the one who renders legal advice and aid and pleads the cause of another before a court. According to Advocate Act 1961:- an Advocate is a person authorized to appear in litigation on behalf of a party and who possesses a law degree enrolled with the bar council.

Just like the profession of the advocate its dress code also has a meaning like:

- 1) Black coat: is the color of authority, power and submission to justice
- 2) White band and shirt: shows light, goodness, innocence, purity and hope of justice.

This shows that the profession of lawyer is an elite profession that's why in layman's term lawyer call as "Vakil Shahab".

Now after so many years of struggle finally Bar Council of India on July 2, 2021, constitute a seven-member committee to draught the law, which deal with the problem encountered by an Advocate in their profession. The bill contains the "Preamble" in which 9 points describe the statement of object and reasons for the greater protection of the advocate and their functions in the discharge of professional duties.

Proposal of the bill: [3]

The bill also defines the Advocate with the same meaning as provided under section 2(1)(a) of the Advocate Act 1961. The bill also deals with the act of violence against the Advocate, which is also an essential object for an Advocate, it refers to an act committed by any person against an Advocate with an intent to prejudice or derails the process of impartial, fair and fearless conduct of any litigation before any court, tribunal or authority in which such Advocates is engaged or acts of retribution towards the outcome of a proceeding before any of the above forums.

Under section 3 of the bill which contains the punishment for offenses, whoever commits or abets the commission of an act of violence except for grievous hurt against an Advocate shall be punishable with imprisonment for a term, not less than 6 months but which may extend to five years and with fine, not less than fifty thousand up to one lakh rupees depending on the gravity of the offense. Whoever has already been convicted of an offense under this act shall be punishable with imprisonment for two years which may extend to ten years and a fine which shall not be less than ten lakh rupees depending on the gravity of the offense.

The person so convicted shall also be liable to pay compensation such amount as may be determined by the court for causing any act of violence against any Advocate. In the case of damage of property, the compensation payable shall be twice the amount of fair market value of the damaged property as may be determined by the court. Failure to pay the compensation awarded, such amount shall be recovered as an arrear of land revenue under the "Revenue Recovery Act 1890".

Nature of offense and jurisdiction of the court

In section 5 of the bill describe as notwithstanding anything contained in the Cr.P.C 1973: - An offense punishable under section 3 shall be cognizable and non-bailable. Any case

registered under section 3 shall be investigated by a police officer, not below the rank of deputy superintendent of police. Investigation of a case shall be completed within thirty days from the date of registration of the F.I.R. no court inferior to that of the rank of a district and session judge shall try an offense under section 3.

For every inquiry or trial of a case under section 3 the proceeding shall be held as expeditiously as possible and an endeavour shall be made to ensure that the inquiry or trial is concluded within a period of one year. A person committing an offense punishable under section 3 such offense may with the permission of the court be compounded by the person against whom such act of violence is committed.

Protection from illegal arrest and malicious prosecution of Advocate:

No police officer shall arrest an advocate or investigate a case against an Advocate without the specific order of the chief judicial magistrate. If the chief judicial magistrate finds that F.I.R has been lodged because of some malicious reason then the concerned may grant bail to Advocate. Any person found to have initiated a vexatious or malicious proceeding against an Advocate shall be liable to pay the amount as may be determined by the court which amount shall not be less than rupees two lakh and extended to rupees ten lakh upon the nature of the allegation and extent of damages.

The government shall recognize and respect all communication and consultation between lawyer and their client and be treated as confidential. In any case, the public servants having the power to investigation under chapter XII of Cr.P.C and which can be shown to be obtained from an Advocate it shall be presumed that such privileged communication was obtained by such public servant by coercion.

Social security:

The central government, as well as the state government, may make provisions to provide financial assistance to the needy Advocate during any unforeseen situation like an epidemic, with a minimum of rupees 15,000 every month assistance given to the needy Advocate [4].

This is a huge step taken by the government to provide financial security to lawyers.

Furthermore, besides financial security, social security should also be given to such lawyers whose lives are threatened because of the nature of their cases. sometimes they are blackmailed either to drop their cases or to destroy the evidence. when an advocate faces such problems it is not only a threat to them but also to the 'Justice'.

Conclusion

As there have been an increasing number of violent occurrences against attorneys and their families, the Advocates Protection Bill is both very valuable and urgently required for their protection. Alternatively, there is also the possibility of abuse. If properly implemented, it will encourage attorneys to practice their profession with more freedom.

1. 1997
2. 2003, 2 SCC 45
3. 2021
4. https://www.livelaw.in/pdf_upload/press-release-dated-02072020-regarding-advocate-protection-bill-english-395933.pdf