

# THE HIGH COURT OF MEGHALAYA AT SHILLONG

## NOTIFICATION

Dated, Shillong 21<sup>st</sup> November, 2017.

### HIGH COURT OF MEGHALAYA (DESIGNATION OF SENIOR ADVOCATE) RULES, 2017

**No. HCM/II/430/2013-Estt/4327.** IN EXERCISE OF POWERS CONFERRED BY SECTION 34(1) READ WITH SECTION 16(2) OF THE ADVOCATES ACT, 1961 AND IN ACCORDANCE WITH THE GUIDELINES LAID DOWN BY THE SUPREME COURT OF INDIA IN ITS JUDGMENT DATED 12.10.2017 IN WRIT PETITION (C) No. 454 of 2015, THE HIGH COURT OF MEGHALAYA FRAMES THE FOLLOWING RULES FOR DESIGNATION OF SENIOR ADVOCATE AND THE MATTERS INCIDENTAL THERETO.

#### **1. Short title, extent and commencement -**

(1) These Rules shall be called 'High Court of Meghalaya (Designation of Senior Advocate) Rules, 2017'.

(2) These Rules shall extend to the whole jurisdiction of the High Court of Meghalaya.

(3) These Rules shall come into force immediately.

#### **2. Definitions.- In these Rules, unless the context otherwise requires -**

(a) "Advocate" means an Advocate entered in any roll under the provisions of the Advocates Act, 1961;

(b) "Committee" means the Permanent Committee for Designation of Senior Advocates as constituted under sub-rule (1) of Rule 5 of these Rules.

(c) "Court" includes the District Council Court and any other authority exercising judicial powers in the district where separation of judiciary from the executive is yet to take place in the State of Meghalaya.

(d) "High Court" means the High Court defined in Section 2(g) of the Advocates Act, 1961;

(e) "Roll" means the roll of Advocates prepared and maintained under the Advocates Act, 1961;

(f) "Secretariat" means the Secretariat established by the Chief Justice of the High Court of Meghalaya under sub-rule (2) of Rule 5 of these Rules.

**3. Designation of an Advocate as Senior Advocate.- (1)** The High Court of Meghalaya may designate an Advocate as Senior Advocate, if in its opinion, by virtue of his ability and standing at the Bar, the said Advocate is deserving of such distinction.

**Explanation:** The term “standing at the Bar” means the position of eminence attained by an Advocate at the Bar by virtue of his seniority, legal acumen and high ethical standards maintained by him, both inside and outside the Court.

(2) No person shall be eligible to be designated as Senior Advocate unless he:

(i) has a minimum of ten years of practice as an Advocate in the High Court of Meghalaya (or in the erstwhile Shillong Bench of the Gauhati High Court) or in the Court subordinate to the High Court of Meghalaya; or \*Specialized Tribunals.

<sup>1\*</sup> [ Provided, a sitting Advocate General of the State of Meghalaya, shall not be considered ineligible merely because he/she has not put in a minimum of 10 (ten) years of practice as an Advocate in the High Court of Meghalaya or (in the erstwhile Shillong Bench of the Gauhati High Court) or in the Court subordinate to the High Court of Meghalaya, in the event, he/she otherwise fulfils all eligible criteria as specified in **Ms. Indira Jaising’s** case read alongwith these Rules. ]

(ii) has appeared and actually argued in some reported cases.

<sup>2\*</sup> [ Provided, if the Advocate seeking to be designated as a Senior Advocate is practicing primarily in any Court subordinate to the High Court of Meghalaya, the requirement as specified in this sub-clause may be relaxed. ]

#### **4. Motion for designation as Senior Advocate.-**

(1) Designation of an Advocate as Senior Advocate by the High Court of Meghalaya may be considered on the written application of the Advocate concerned that shall be made, as far as possible, in Form No.1 of Appendix-A appended to these Rules. \*Candidates are permitted to submit five of their best synopses for evaluation with their application.

(2) Along with the proposal or application, as the case may be, the Advocate concerned shall append his certificate that he has not applied to any other High Court for being designated as Senior Advocate and that his application has not been rejected by the High Court within a period of two years prior to the date of the proposal or application.

(3) The Full Court may exercise *suo motu* designation of Senior Advocate in case(s) of exceptional and eminent advocates through a consensus by the Full Court.

**5. Permanent Committee for Designation of Senior Advocates.-** (1) All the matters relating to designation of Senior Advocate in the High Court of Meghalaya shall be dealt with by a Permanent Committee (to be known as “Committee for Designation of Senior Advocates”) which will be headed by the Chief Justice and consist of: (i) two senior-most sitting Judges of the High Court of Meghalaya; (ii) the Advocate General of the State of Meghalaya; and (iii) a member of the Meghalaya High Court Bar, to be nominated by other members in the first meeting of the Committee.

(2) The Committee constituted under sub-rule (1) above shall have a Secretariat, the composition of which will be decided by the Chief Justice of the High Court of Meghalaya in consultation with the other members of the Committee.

(3) The Committee may issue such directions from time to time as deemed necessary as regards functioning of the Secretariat, including the manner in which, and the source/s from which, the necessary data and information are to be collected, compiled and presented.

**6. Procedure for designation.-** (1) All the applications for designation of an Advocate as Senior Advocate shall be submitted to the Secretariat.

(2) On receipt of any application for designation of an Advocate as Senior Advocate, the Secretariat shall compile the relevant data and information with regard to the reputation, conduct, integrity of the Advocate concerned including his participation in pro-bono work; reported judgements for the last five years in which the concerned Advocate has appeared and actually argued.

(3) The Secretariat will publish the application for designation of a particular Advocate as Senior Advocate in the official website of the High Court of Meghalaya, inviting the suggestions/views of other stakeholders in the proposed designation within such time as may be directed by the Committee.

(4) After the data-base in terms of the above is compiled and all such information as may be specifically directed by the Committee to be obtained in respect of any particular candidate is collected; and the suggestions/views of the other stakeholders have been received, the Secretariat shall put up the case before the Committee for scrutiny.

(5) \*(i) Upon submission of the case by the Secretariat, the Committee shall examine the same in the light of the data provided and shall interview the concerned Advocate.

\*(ii) The number of candidates shortlisted for interviews will be in appropriate amount as deemed feasible by the Permanent Committee, keeping in mind the number of Senior Advocates to be designated at a given time.

(6) After the overall assessment by the Committee, all the names listed before it will be submitted to the Full Court.

(7) Voting by secret ballot will not be normally resorted to in the Full Court except when unavoidable. In the event of resort to secret ballot, decisions will be carried by a majority of the Judges who have chosen to exercise their preference/ choice. \*In such case the reason for the same shall be recorded.

(8) On the approval of the Full Court, an Advocate shall be designated as Senior Advocate.

(9) The cases that have not been favourably considered by the Full Court may be reviewed/reconsidered after expiry of a period of two years following in the manner indicated above, as if the proposal/application is being considered afresh.

**7. Restrictions on the designated Senior Advocate.-** An Advocate on being designated as Senior Advocate shall be subject to such restrictions as the High Court of Meghalaya, the Bar Council of India, or the Bar Council of the State of Meghalaya may prescribe.

**8. Canvassing.-** Canvassing in any manner by an applicant for designation as Senior Advocate shall disqualify him for being designated.

**9. Review and recall.-** In the event of a Senior Advocate being guilty of any such conduct which according to the Full Court disentitles him to be worthy of designation as Senior Advocate, the Full Court may review and recall its decision to designate the concerned person as Senior Advocate after such notice as may be directed by the Chief Justice.

**10. Notification of designation/recall.-** In the event of designation of an Advocate as a Senior Advocate, or on recalling of any such designation, the notification to that effect shall be issued and published in such manner as may be directed by the Chief Justice.

**11. Interpretation.-** All the questions relating to the interpretation of these rules shall be referred to the Chief Justice whose decision thereon shall be final.

**12. Repeal and Saving.-** All the previous Rules in respect to the subject matter covered by these Rules, including the Guidelines for Designating an Advocate as Senior Advocate, as made by the High Court of Meghalaya on 17.12.2013 with all its amendments/modifications, are hereby repealed. However, this repeal shall not, by itself, invalidate the actions taken under the repealed Rules/Guidelines.

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**FORM No.1**

[Rule 4 (1)]

**FORM OF APPLICATION FOR DESIGNATION AS SENIOR ADVOCATE**

I, the undersigned Advocate, practicing in the State of Meghalaya, submit my application for being designated as Senior Advocate and state my consent to be so designated by the High Court of Meghalaya:

1. Name of the Applicant :
2. Permanent Residential Address  
and mobile number of the Applicant :
3. Email Address :
4. Educational Qualification :
5. Date of Birth :
6. Date of enrolment as an Advocate  
and where enrolled :
7. Enrolment Number :
8. Submission of five best synopses  
by the Advocate :
9. Other information, if any,  
including reported cases,  
legal aid work/ publication/  
participation in Seminar or Conference/  
association with any Faculty of Law etc :

**Declaration**

I hereby express and give consent to be designated as Senior Advocate by the High Court of Meghalaya.

Dated:

**SIGNATURE OF THE APPLICANT**