

अस्पष्ट और निरर्थक और यह व्यक्तिगत प्रतिशोध पर आधारित नहीं होना चाहिए। प्रस्ताव के लिए आधार का समर्थन करने वाली दस्तावेजों द्वारा अपेक्षित होने की आवश्यकता होगी किसी भी अंतिम प्रस्ताव को पारित करने और/या अंतिम निणय लेने से पहले परिषद को अपने निर्णय के कारणों के बताना आवश्यक होगा।

यदि पहली बैठक में, भारतीय विधिज्ञ परिषद को प्रस्ताव के पक्ष में एक प्रथम दृष्टया मामला लगता है, तो सही मायने में जांच और संबंध की जांच करेगा;

भारत के सर्वोच्च न्यायालय या उच्च न्यायालय के पूर्व माननीय न्यायाधिश द्वारा जांच आयोजित कि जाएगी। जांच समिति के माननीय न्यायाधिश द्वारा पदाधिकारी या सदस्य को सुनवाई का अवसर दिया जायेगा। जिसके खिलाफ अविश्वास प्रस्ताव प्रस्तावित है।

एक सदस्य जांच समिति के रिपोर्ट परिषद के सामान्य सभा के समक्ष रखी जाएगी और परिषद रिपोर्ट पर विचार करने के बाद आवश्यक संकल्प लेगी।

अविश्वास प्रस्ताव, एक बार असफल हो जाने पर, उसी पदाधिकारी/सदस्य भारतीय विधिज्ञ परिषद के खिलाफ अगले 12 महीनों तक नहीं लाया जा सकता है। यह नियम भारतीय विधिज्ञ परिषद और सभी राज्य विधिज्ञ परिषद पर लागू होगा। हालांकि, अपने अध्यक्ष या उपाध्यक्ष के खिलाफ अविश्वास प्रस्ताव लाने के लिए, कोई भी राज्य विधिज्ञ परिषद भारतीय विधिज्ञ परिषद के पूर्व स्वीकृति के साथ अपना नियम बना सकती हैं। हालांकि, सभी राज्य विधिज्ञ परिषद को इन नियमों में निर्धारित मुख्य सिद्धांत का पालन करना आवश्यक होगा।

भारतीय विधिज्ञ परिषद या राज्य विधिज्ञ परिषद के सदस्यों के विरुद्ध अविश्वास प्रस्ताव के संबंध में भारतीय विधिज्ञ परिषद के सभी पिछले संकल्प निरस्त हो जायेगा और या इस अनुसार संशोधन किया गया।

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[विज्ञापन -III / 4 / असा. / 197 / 2020-21]

## BAR COUNCIL OF INDIA

### NOTIFICATION

New Delhi, the 14th August, 2020

**BCI:D 1898/2020.—BACKGROUND:—**Due to increased groupism in the Bar Councils, on many occasions this Council has been receiving complaints and a very anomalous situation arises some times. Because of some impractical rule of some states, the situation in some of the State Bar Council leads to unwanted groupism, resulting in unhealthy atmosphere and inefficient functioning of the State Bar Councils. Only in the recent past, Bar Council of India has found that in Odisha, there was abstention from Court work by Advocates for about 2 months due to some petty issue. This was the result of group politics in State Bar Council. We have received the complaints of manhandling of Chairman of one State Bar Council and he was compelled to resign. During last elections of State Bar Councils and Bar Council of India, the reports of corrupt practices for removal of some honest members and office-bearers (who did not succumb to undue pressure of members of State Bar Councils or member of Bar Council of India), has also been noticed. There are reports of attempt to resort to blackmailing also by some Members if the Office-Bearers or Members of Bar Council of India do not succumb to some selfish/greedy illegal demands of Members of State Bar Councils. Due to these reasons, in some of the State Bar Councils, the Office-Bearers were changed frequently and they were compelled to resign without completing their tenure (*as per the Rules of Bar Councils*) only on account of unwarranted and malicious fear of “No-Confidence Motions”. The Advocates of Tamil Nadu have even reported a tradition of large scale horse-trading in the elections and removal of the office-bearers/members.

This Council, therefore, deemed it proper to frame uniform mandatory Rules in this regard for the fair, smooth and fearless functioning of Bar Councils and Bar Council of India. These Rules are mandatory for Bar Council of India and all the State Bar Councils.

Bar Council of India is to provide for the elections of its members, as contained in Section-7 of the Advocates’ Act, 1961. Therefore, it has the sole authority to frame rules for removal of its members by bringing “No-Confidence Motion” against its Members, if required under these rules.

The Hon’ble Members have felt the need to frame a rule providing for uniformity in all the State Bar Councils as regards passing of No Confidence Motion against their office bearers. After thorough consideration, the Council is passing the following resolution for all the State Bar Councils with respect to

passing of a No-Confidence Motion against their office bearers. These guidelines are mandatory in nature and the State Bar Councils are directed to follow and if required, amend their Rules in compliance of these Rules/Resolution.

#### CHAPTER-I-A (PART-II)

##### **RESOLUTION: -**

Rules for “No Confidence” against the Office Bearers of the Bar Council of India, the Members of the Bar Council of India and the Officer Bearers of the State Bar Councils.

The Motion of No Confidence against any office-bearer or member of Bar Council of India can be brought by a requisition submitted by 2/3rd Members of the Bar Council of India. If the proposed motion is to be brought against the Chairman, the same will be addressed to the Vice-Chairman of the Council and in all other cases, it will be addressed to the Chairman. The Chairman or Vice-Chairman (as the case may be) shall notify the meeting of the General Council within a period of 30 days from the date of receipt of the application. The Secretary shall place the notice before the Chairman or the Vice-Chairman, as the case may be, within a period of two days from the date of receipt of this in the office.

The motion of no confidence can be brought only on the ground of some proved misconduct of the office bearers or the Member of the Bar Council of India.

The No Confidence Motion can also be brought against any Office Bearer or the Member, if he is found guilty of an offence concerning Moral turpitude and is convicted and/or sentenced to undergo imprisonment for any period. Or if any member has been found to be guilty of any Disciplinary Proceeding by Bar Council.

In case of any conviction or sentence, 3/4 of the Members of the State Bar council can also recommend to Bar Council of India a proceeding for “No-Confidence Motion” against their Member-Representative in Bar Council of India. The Bar Council of India shall consider such recommendation of State Bar Council, and after giving the concerned Member, Bar Council of India, an opportunity of hearing, will pass necessary resolution. However, No Confidence Motion cannot be brought or passed by the State Bar Council against its Member-Representative in Bar Council of India in any event.

The requisition for No Confidence Motion against a Member, Bar Council of India or an Office Bearer of the Bar Council of India if required to be brought by Members of Bar Council of India, then it shall be required to be signed by at least 2/3rd Members of the Council and it must include at least one Ex-Office Member of the Bar Council of India. The “No Confidence Motion” can be passed (in a meeting convened for this) by a minimum of 3/4th Members of the Council present and voting in favour of the motion.

A prior Notice of at least 30 days shall be required to be given to the concerned office bearers or the Member, Bar Council of India against whom such No Confidence Motion is proposed to be moved.

For bringing of requisition for passing a “No Confidence Motion” against any Office-Bearers of any State Bar council (where there is no Rule for No Confidence Motion), the requisition shall be required to be signed by at least 2/3rd Members of the State Bar Council and it could be passed only by at least 3/4th Members of the Council present and voting in favour of the No Confidence Motion. Office-bearers means Chairman and Vice-Chairman only.

In all the cases requisition for passing of No Confidence Motion shall be required to contain and specify the reasons and ground on the basis of which the motion is proposed to be moved. The reasons and grounds should not be vague, nonspecific and it should not be based on the personal vendetta. The requisition shall be required to be supported by the materials supporting the grounds for the motion. The Council, before passing any final resolution and/or taking final decision, shall be required to assign reasons for its decision.

If in the first meeting, the Bar Council of India finds a prima-facie case in favour of the motion, it shall hold an enquiry into the genuineness and bonifides of the; The enquiry will be conducted by a former Hon’ble Judge either of Supreme Court of India or of High Court. An opportunity of hearing shall be given

by the Hon'ble Inquiring Judge to the Office Bearer or Member against whom the No Confidence Motion is proposed.

The Report of the one man Enquiry Committee shall be placed before the General House of the Council and the Council will take the necessary resolutions after considering the report.

The No Confidence Motion, once failed, cannot be brought against the same Office Bearer/the Member, Bar Council of India for next 12 months.

This Rule shall apply to the Bar Council of India and to all the State Bar Councils. However, for bringing No-Confidence Motion against its Chairman or Vice-Chairman, any State Bar Council can frame its own Rule with the prior approval of Bar Council of India. However, all the State Bar Councils would be required to follow the main principle laid down in these Rules.

All the previous Resolutions of the Bar Council of India with regard to the "No Confidence Motion" against its Office Bearers or of any State Bar Council against the Member, Bar Council of India stand repealed and/or modified accordingly.

NALIN RAJ CHATURVEDI, Asstt. Secy.

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