



LAW MANTRA THINK BEYOND OTHERS

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ROLE OF LEGAL PRACTITIONER IN GREAT GOVERNANCE ADMINISTRATION*

ABSTRACT

“Do not settle for good. Demand great”. The idea of governance is as old as human progress and civilization. Great governance administration is connected with efficient, productive and effective organization in a democratic structure. It is regarded as citizen friendly caring, responsive organization and administration. As a rule, great governance administration is seen as a regularizing rule of administrative law, which obliges the state to play out its capacities in a way that advances the estimations of proficiency, non-corruptibility, and responsiveness to common society.

The United Nations High Commissioner for Human Rights (UHCHR) perceives five key qualities attributes of Great governance administration a.k.a good governance that is Transparency, Responsibility alias Obligation, Accountability, Participation / Cooperation and Responsiveness.

A legal practitioner is a person who guards and defends an individual or corporate entity in different legal proceedings. The legal procedures may fall into an assortment of various classes yet most are either viewed as criminal litigation or civil litigation. The legal practitioner is a person who follows up for the benefit of another and voices the feeling of their litigant in a way which is to their greatest advantage.

A legal practitioner has different obligations duties towards the Court, Clients, Colleagues and his adversary opponent and so forth. A legal practitioner has every one of these obligations and additionally he or she has some ethical duties towards the society. The vocation of law is noteworthy, honorable and its individual members are required to act in a fair and upright way and any deviation from these basic moral standards is at risk to be dealt extremely.

In great governance administration, the role of a legal practitioner is very pivotal in light of the fact that a Lawyer has the ability to change the terrible norms and pathetic standards of the society legitimately.

The strategy of the analysis was basically descriptive and analytical. Sincere efforts were made to utilize the available information on article topic. This article involved immense library research. Besides, various Acts and their amendments and concerned judgments of the Supreme Court of India are additionally analyzed.

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ORIGIN OF GOVERNANCE

The idea of governance is as old as human advancement and development. The utilization of the expression "good governance" also known as great administration was at first enunciated in a 1989 World Bank publication. The idea of great administration in international law has likewise been generally welcomed under the rubric of human rights. Progressively, in global advancement writing, the idea of great administration parallels a standardizing (principle setting) plan, which mirrors the extent to which it proclaims the all inclusiveness of common, social, monetary, political and social rights.

Administer or Governance implies rule or control with power, conduct the policy and issues of government and associations, be a standard or guideline for constitute a law including "viable or great" improves them.

Administration implies management of a business, public affairs, institution, a government agency, government including the administration of justice and so on.

Basically, Great governance administration of India = Effective Administration plus Governance.

GREAT GOVERNANCE ADMINISTRATION AND FUNDAMENTAL RIGHTS

The Lokayukta (ombudsman) for Karnataka (2006 to 2011) Hon'ble Justice Nitte Santosh Hegde in the first Centre for Innovations in Public Systems Foundation Day Lecture said that great governance administration is a fundamental right of a citizen and democracy. Such governance includes factors such as transparency and accountability. It also includes values such as justice and equity. It must ensure that the citizens', especially the poorest, basic needs are met and they have a life with dignity. Great governance administration implies an administration that is sensitive and responsive to the needs of the people and is effective in coping with emerging challenges in society by framing and implementing appropriate laws and measures. It includes strict rules of accountability.

Great governance administration must be made an essential right and justiciable there was extension for debasement inside the protected structure and additionally outside it. Consequently, great governance administration must be made a principal directly under the Constitution. The Directive Principles of State Policy (DPSP) have been utilized as major standards of governance tempered by the Fundamental Rights. From Article 37 of Constitution of India, 1949 time to time, alterations have been made in the Fundamental Rights through authoritative measures, official activity or legal Pronouncements in order to promote the item tried to be accomplished by the Directive Principles. All things considered, the motivation behind the Fundamental Rights from one viewpoint and the Directive Principles on the other is basic; viz., to accommodate a situation that can guarantee stately development and improvement of every person as a valuable individual.

PIVOTAL ROLE OF INDIAN JUDICIARY

There is no zone where the judgments of Supreme Court have not played a critical commitment in the governance - great governance administration - whether it is - environment, human rights, sexual orientation equity, instruction, minorities, police changes, decisions and points of confinement on constituent forces of Parliament to correct the Constitution.

In Prem Shankar Shukla Case, the Supreme Court found the practice of using handcuffs and fetters on prisoners violating the guarantee of basic human dignity, which is part of the constitutional culture in India and thus not standing the test of equality before law (Article 14

of Constitution of India), fundamental freedoms (Article 19 of Constitution of India) and the right to life and personal liberty (Article 21 of Constitution of India).¹

In Nilabati Behera case, the Supreme Court asserted the jurisdiction of the judiciary as "protector of civil liberties" under the obligation "to repair damage caused by officers of the State to fundamental rights of the citizens", holding the State responsible to pay compensation to the near and dear ones of a person who has been deprived of life by their wrongful action, reading into Article 21 of Constitution of India the "duty of care" which could not be denied to anyone.²

In Vishaka & Others case Supreme Court said that "gender equality includes protection from sexual harassment and right to work with dignity, which is a universally recognized basic human right. The common minimum requirement of this right has received global acceptance."³

ESSENTIAL CHARACTERISTICS OF GREAT GOVERNANCE ADMINISTRATION

- Cooperation - All men and women ought to have a voice in basic leadership, either straightforwardly or through real moderate establishments that speak to their interests. Such wide support is based on flexibility of affiliation and discourse, and additionally abilities to take part valuable.
- Rule of law - Legal systems ought to be reasonable and implemented fair-mindedly, especially the laws on human rights
- Transparency - Transparency is based on the free stream of data. Procedures, foundations and data are straightforwardly available to those worried with them, and enough data is given to comprehend and screen them
- Responsiveness - Institutions and procedures attempt to serve all partners
- Consensus orientation - Good governance intervenes varying interests to achieve a wide accord on what is to the greatest advantage of the gathering and, where conceivable, on strategies and methodology
- Value and Equity - All men and women have chances to enhance or keep up their prosperity
- Effectiveness Adequacy and proficiency - Processes and organizations produce comes about that address issues while making the best utilization of assets
- Accountability - Decision-producers in government, the private division and common society associations are responsible to the general population, and also to institutional partners. This responsibility contrasts relying upon the association and whether the choice is inner or outside to an association.
- Strategic vision - Leaders and people in general have a wide and long haul point of view on great governance and human advancement, alongside a feeling of what is required for such improvement. There is additionally a comprehension of the chronicled, social and social complexities in which that point of view is grounded.

ROLE OF LEGAL PRACTITIONER IN GREAT GOVERNANCE ADMINISTRATION

At the point when individuals hear the word legal practitioner being talked, they generally think about a person who goes to court ordinary and stands under the watchful eye of a judge guarding the opportunity of another person. This is valid sometimes; be that as it may, there are a wide range of sorts of legal practitioners with an assortment of occupation obligations and obligations. Regardless of what sort of legal advisor one might be they at last have a critical part in the lives of others.

¹ *Prem Shankar Shukla v. Delhi Administration*, AIR 1980 SC 1535: (1980) 3 SCC 526.

² *Nilabati Behera versus State of Orissa* AIR 1993 S.C. 1993 S.C. 1960.

³ *Vishaka and others v. State of Rajasthan and others*. AIR 1997 SUPREME COURT 3011.

LEGAL PRACTITIONER?

A legal practitioner is a person who guards and defends an individual or corporate entity in different legal proceedings. The legal procedures may fall into an assortment of various classes yet most are either viewed as criminal litigation or civil litigation. The legal practitioner is a person who follows up for the benefit of another and voices the feeling of their litigant in a way which is to their greatest advantage.

GENERAL RESPONSIBILITIES OF LAWYERS?

A legal practitioner has different obligations duties towards the Court, Clients, Colleagues and his adversary opponent and so forth. A legal practitioner has every one of these obligations and additionally he or she has some ethical duties towards the society. The vocation of law is noteworthy, honorable and its individual members are required to act in a fair and upright way and any deviation from these basic moral standards is at risk to be dealt extremely.

SPECIFIC DUTIES OF LAWYERS?

A legal advisor has numerous obligations significant to their occupation. One essential obligation that the legal counselor must perform in their calling is keeping up customer contact. Legal advisors dependably speak to somebody, whether it be an individual or substance, and hence it is imperative that the attorney report all advancement and correlated data to their customer with a specific end goal to keep them all around educated.

Another particular obligation of legal advisors is to give in-individual representation at court hearings and other legitimate procedures. Whether the attorney is included with criminal suit or common prosecution, there is undoubtedly going to be some type of legitimate continuing that they should go to in the interest of their customer. The legal counselor in this obligation will talk for the benefit of the customer.

As expressed before, the part of a legal counselor is not just to show up in court and contend energetically in the interest of the customer. There is a huge number of foundation work which legal counselors must do with a specific end goal to enough set up a case or seek after a legitimate matter. There are numerous authoritative records that should be drafted and in spite of the fact that paralegals and legitimate secretaries can draft some of these archives, there are still numerous legal advisors who do as such themselves.

Contact with customers is not by any means the only sort of discussion which attorneys must have with people. Legal counselors invest a great arrangement of energy chatting on the telephone, arranging, sending email and mail correspondence and faxing germane reports to and from included gatherings. Once more, paralegals and lawful secretaries can help with this voluminous undertaking yet legal advisors ought to attempt to do as much as they can themselves at whatever point conceivable and make certain to audit all archives before they leave their office. There are sure obligations which must be performed by the legal advisors themselves, for example, arranging with restricting gatherings.

Another vital obligation which attorneys take part in on an incessant premise is exploration. There are a wide range of types of examination which legal advisors can do, for example, looking into statutes, procedural principles, proof, relevant documentation and that's just the beginning. An expansive part of a legal advisor's chance is spent checking on and arranging exploration to help them in the representation of a customer.

PROFESSIONAL ETHICS AS PER THE ADVOCATES ACT, 1961 (INDIA)

The calling of law is respectable, and its individuals are relied upon to act in a fair and upright way, and any deviation from these rudimentary standards is obligated to be managed seriously.

TRIPLE OBLIGATION OF PRACTICING LEGAL PRACTITIONER

A commitment to his customers to be unwavering to them till the last, a commitment to the calling not to besmirch its name by anything done by him, and a commitment to the court to be and to remain a tried and true part of the apparatus through which equity is controlled. It is past the extent of treatise on lawful morals to portray the points and employments of examinations of witnesses or to express the guidelines with respect to how prove might be recorded. In looking at witnesses the promoter ought not to overlook that he is not only the insight of customer but rather additionally an officer of the Court to advance the closures of equity. Thus, the promoter ought to keep up towards his adversary most extreme cheerfulness. Customers and not direction are defendants. The evil emotions between customers ought not to be permitted to impact the behavior of their insight.

Legal profession is not is not a business but rather a calling. It has been made by the state for the general population great. Thus, the substance of the calling lies in the three things-

1. Association of its individuals for the execution of their capacity;
2. Support of specific measures, scholarly and moral for the pride of the calling;
3. Subordination of financial increases to effective administrations.

PROFESSIONAL ETHICS FOR LEGAL PRACTITIONER

Section 49(1) (c) of The Advocates Act of 1961, empowers the Bar council of India to make rules so as to prescribe the standards of professional conduct and etiquette to be observed by the advocates. It has been made clear that such rules shall have effect only when they are approved by the Chief Justice of India. It has also been made clear that any rules made in relation to the standard of professional conduct and etiquette to be observed by the advocates and in force before the commencement of the Advocates (Amendment) Act, 1973, shall continue in force, until altered or repealed or amended in accordance with the provision of the Act.

LEGAL PRACTITIONER DUTY TOWARDS COURT

Advocate is an officer of justice and friend of the Court (*amicus curiae*) - The cardinal rule which decides the benefits and duties of supporter in connection to the court is that he is an officer to equity and companion of the court. This is the essential position. A behavior in this way which is unworthy of him as an officer of equity can't be legitimized by expressing that he did it as the operator of his customer. His status as an officer of equity does not mean he is subordinate to the judge. It just implies that he is an indispensable part of the apparatus for the administration of justice.

It is difficult to lay down any hard and fast rule as to what expressions a lawyer can use, with impunity, while addressing a court and what should ordinarily be tolerated by the court. Where an advocate receive an application or petition for correction or for removing objections, it is the duty of the advocate to return it and he has no authority to retain it. It is misconduct on his part if he retains it⁴.

The reality of the matter is that legal counselor ought to dependably act legitimately in official courtroom, and apply his best at all times to keep up nobility of the court, however court has additionally a proportional obligation to perform and ought be inconsiderate to the legal advisor as well as attempt to keep up his admiration according to his customers and the overall population with whom he needs to bargain in expert limit. By tolerating the brief of his customer, the promoter does not stop to be an officer of equity. In the event that that were in this way, the high and good office of direction would be debased to that of hired soldier. It is the capacity of backer not only to represent the customer, whom he speaks to additionally to

⁴ *Punjab National Bank v. FM Gold Head Ltd.* AIR 1993 HP 79.

act officer of equity and companion of the court. As companion or amicus curiae he has a benefit to offer proposal to the court, with its assent, as helps to equity in a contention that he doesn't show up for either side.

Supporter ought to be strong, daring and autonomous in the court in the meantime he should not be impolite to the court and the judge. If a backer can't be available by and by to get the judgment when it is being maintained, he should at any rate organize his delegate in the court. A lawful specialist ought to go to the knowing about the case all through. He ought not to leave the court without the authorization of the court to do as such. A backer must not overlook that his primary obligation to help the court in the right course and to help it to go to a right finding. Legal counselor ought to win the certainty of the court and be trusted by the judge. A legal advisor ought to never lose his temper inside or outside the court. It is legal counselor obligation not to interfere with the judge unless it gets to be important to hinder in light of a legitimate concern for equity. It is awful of a legal advisor to say to his customer that the judge is his companion and he will offer weight to his contention. Such acts convey ruin to the legal advisor, as well as disable the pride and absence of bias of the judge. It is his obligation not to incorporate a false arguing and record an affirmation which he knows not false. It is his obligation not to impact the choice of the court by any illicit or uncalled for means. A backer might utilize his best push to control and keep his customer from falling back on sharp or uncalled for practices or from doing anything in connection to the court, restricting gathering or gatherings which the promoter himself should not do. A backer might show up in the court at all times just in the endorsed dress, and his appearance should dependably be satisfactory. A backer should not wear groups openly or outfit in people in general spots other than in court aside from on such stately events. A backer ought not act or argue in any matter in which he was monetary intrigued.

A promoter should keep up towards the court a conscious demeanor remembering the respect of the legal officer is crucial for the survival of free group.

CO-OPERATION BETWEEN THE BENCH AND THE BAR

The main obligation which supporters and judges owe to each other is of co-operation. Co-operation between the seat and the Bar is not an insignificant traditional articulation. It is a crucial need. Without it, there can be no precise administration of equity. The Advocate:

"Nothing is more figured to advance the smooth and acceptably administration of equity than complete certainty and sensitivity amongst Bench and the Bar".

Smart information of their separate positions ought to make both supporters and judges understand that however their capacities might be distinctive, their points are indistinguishable. Both are hardware of the same apparatus outlines for administration of equity. Both are similarly fundamental in a free nation.

WHAT THE COUNSEL OWES TO THE COURT

The primary obligation which the advice owes to the court is to keep up its honor and nobility—this is the cardinal guideline deciding the promoter connection in court.

An Advocate ought to observe the rules in a way befitting his status as an officer of the court, a favored individual from the group, a Hon'ble individual from a lifted up calling and a fine man of his word. It is in acknowledgment of this advancement in expert and moral standard inside the legitimate group that the Bar Council of India wishes to set out the present arrangement of moral standard of the Indian Bar.

ADVOCATE'S DUTY TO HIS CLIENTS

An exceptional duty lies on the individuals from the Bar to see that the gatherings don't delude the courts by false and neglectful explanations on material matters. As was seen in that a backer stands as a loco parentis towards defendants. An individual from a Bar without a doubt owes an obligation to his customers and must place under the steady gaze of a court all that can be decently and sensibly be submitted in the interest of his customers. Promoter is not a unimportant a mouthpiece of customer but rather he is an officer of the court. It is the obligation of the court to help cutting down unfulfilled obligations and to keep the misuse of the procedure of the misuse of the court. Their obligation to customer ought to induce them to prompt their customers not to go in useless suit.

It is normal that a backer for a gathering would direct a case with all its awareness of other's expectations which he is required to have in release of his obligation to his customer. It is the obligation of each backer who acknowledges the brief in a criminal case to go to the trial from everyday. He would submit the break of his expert obligation on the off chance that he neglects to go to.

A customer is qualified for be shielded from a promoter who is liable to deceive them; the calling can't bear to have a part who comes up short in keeping to the required standard of behavior. It is the obligation of a promoter who has acknowledged the Vakalatanama and recorded it in the court to go to court on the day settled for the becoming aware of the case regardless of the possibility that he has not got his expenses unless the customer ends the agreement. Also, the installment of commission to get customer is amateurish. The primary commitment which the backer owes to his customer is to set up his brief with consideration, expertise and painstaking quality,

In India, introduces his customer's case in court, as well as sets it up. For this reason he ought to make a careful handle of truths of the case. Keeping in mind the end goal to get colleague with realities, he ought to completely listen to the customer's story. It is the obligation of supporter to analyze him to get all important and material truths. An intensive round of questioning of witnesses is important, to empower the advice to get at all genuine certainties and to chalk out his line of guard. In the event that after examination, the advice feels that his customer's case is powerless and untenable, he ought to let him know so. One of the unique risks which debilitate the expert goals in the present life is the propensity to absorb the act of law to the behavior of business and business guidelines. Once the backer has acknowledged the brief, the decorum requires that he ought to be resentment no time or work, however great, needful to the careful secret of his case in its actualities and legitimate principles regardless of the measure of charges paid to him.

It has been held by the High Courts of India that a pleader is liable of unfortunate behavior if after receipt of full expenses he fails to show up and lead the case. Besides, in offering guidance to his customer for or against case, he ought to give his real to life assessment.

ADVOCATES DUTY TOWARD HIS COLLEAGUES

Rule 36, 37, 38, and 39 framed by the Bar council of India deal with the duties of an advocate to the colleagues. Rule 36 provides that an advocate shall not solicit work of advertise (either directly or indirectly) whether by circulars, advertisements, touts, personal communications interview not unwarranted by personal relations, furnishing or inspiring newspaper, comments or producing his photograph to be published in connection with case in which he has been engaged or concerned. The sign-board or name plate should be of reasonable size. The sign-board or stationary should not indicate that he is the President or member of the Bar council or of any Association.

The advertising is prohibited because it may lead to unhealthy competition among the advocates. Advertisement can be allowed only for proper guidance so that it may not lead to unhealthy competition and may not result in lowering dignity of the legal profession.

Rule 37 provides that an advocate shall not permit his name to be used in aid of or to make possible the unauthorized practice of law by any agency.

Rule 38 makes it clear that an advocate shall not accept a fee less than the fee taxable under the rules when the client is able to pay the same.

According to rule 39 an advocate shall not enter appearance in any case in which there is already a Vakalatnama or memo of appearance filed by an advocate engaged for a party except with his consent; in the case such consent is not produced he shall apply to the court stating the reasons why the consent should not be produced and he shall appear only after obtaining the permission of the court. The object of this rule is to secure goodwill among the advocates. It prevents the temptation of seducing client from counsel who has already been engaged. Besides, it is one of the professional obligations, of an advocate to dissuade client from charging his counsel unless he has a strong reason for it and to satisfy himself that the reason is proper and adequate. The ill feeling of client should not affect their cordial relations. All lawyers are brothers at the bar. An advocate should be courteous to the other advocates.

CONCLUSION – THE WAY FORWARD

To conclude my article on the role of legal practitioner in great governance administration, one can reasonably outline that essentially the obligations which a supporter needs to take after is of good character, what he owes to his customers or rival or associates or towards court is not just dictated by the principles surrounded by the Bar board of India for this benefit yet all the more, it likewise relies on upon one decorum conduct. How and in what way a promoter needs to act is dictated by his unwaveringness towards his calling. The calling of law is noteworthy and its individuals are required to act in a fair and upright way. Also, any deviation from these rudimentary standards is at risk to be managed seriously. A promoter rehearsing a law is under numerous fold commitments like certain commitment towards court, customer, witnesses, rival, partners and general obligations as a part lawful calling. At the point when backer doesn't take after any of such commitment forced on him by law, then he can be blameworthy of expert unfortunate behavior. Unfortunate behavior can be characterized as desolation of or abandonment from obligation. A promoter is responsible for abandonment of obligation. With a specific end goal to stay away from unfortunate behavior each lawful professional ought to comprehend his obligations. At the point when legal counselor is blameworthy of any expert offense, then just any move can be made.

The key point of lawful morals and ethics is to keep up the honor and respect of the law profession, to secure a soul of neighborly co-operation, to build up good and reasonable dealings of the guidance with his customer, adversary and observers, to set up the soul of fraternity in the Bar itself; and to secure that legal advisors release their duties to the group for the most part.

Legal Profession is fundamentally the cornerstone of the curve of government. Legal Profession is not a business but a vocation. It has been made by the state for the society good.