

¹ THE HIGH COURT OF SIKKIM (DESIGNATION OF SENIOR ADVOCATES) RULES, 2019

(As amended upto 28.11.2023)

In exercise of the power conferred by Section 34 (1) read with Section 16 (2) of The Advocate Act, 1961 and in accordance with the guidelines laid down by the Supreme Court of India in its Judgment dated 12th October, 2017 in Writ Petition (C) No. 454 of 2015, Ms. Indira Jaisingh V. Hon'ble Supreme Court of India through Secretary General & Ors., the High Court of Sikkim frames the following Rules for Designation of Senior Advocates and the matters incidental thereto.

[1] Short title and commencement

- (i) These Rules shall be called the "**High Court of Sikkim (Designation of Senior Advocates) Rules, 2019.**"
- (ii) These Rules shall come into force from the date of publication in the Government Gazette.

[2] Definitions- In these Rules, unless the context otherwise requires:-

- (a) "The Act" means the Advocates Act, 1961.
- (b) "Advocate" means an Advocate entered in the roll under the provisions of the Act, residing in Sikkim and practicing before the High Court of Sikkim and/or its Subordinate Courts.
- (c) "Advocate General" means the Advocate General of the State of Sikkim.
- (d) "Chief Justice" means the Chief Justice of the High Court of Sikkim.
- (e) "Judge" means a Judge of the High Court of Sikkim.
- (f) "Permanent Committee" means a Committee constituted for Designation of Senior Advocates.
- (g) "Registrar General" means the Registrar General of the High Court of Sikkim.

1. Notified vide Notification No. 10/HCS, dated 15.06.2019 (Gazette No. 279 of 2019). Come into force on 9th July, 2019.

- (h) "Registry" means the Registry of the High Court of Sikkim.
- (i) "State" means the State of Sikkim.
- (j) "The said rule" means "**High Court of Sikkim (Designation of Senior Advocates) Rules, 2019.**"

[3] Eligibility Conditions: No person shall be eligible for being designated as Senior Advocate unless he/she:

- (i) has practiced as an Advocate at the Bar for not less than 10 years;
- (ii) is enrolled with a Bar Council constituted under the Advocates Act, 1961;
- (iii) has been practicing in the High Court of Sikkim and/or the Courts Subordinate to it; and
- (iv) has also appeared and argued cases or provided legal services pro-bono.

Explanation: The eligibility condition with regard to minimum standing as a practicing Advocate shall not apply to retired Judicial Officers of Sikkim or those who have resigned, having service and/or practice of 10 years at their credit and retired High Court Judges.

[4] Procedure for Designation

- (i) All matters relating to designation of Senior Advocates shall be dealt with by a Permanent Committee to be known as "Committee for Designation of Senior Advocate";
- (ii) The Permanent Committee will be headed by Hon'ble the Chief Justice of Sikkim and shall consist of two Puisne Judges or one Puisne Judge, in case there is only one Judge in the High Court. The Advocate General of the State will be an ex-officio Member of the Permanent Committee. The above three/four Members of the Permanent Committee will nominate a Member of the Bar to be the fourth/fifth Member of the Permanent Committee;
- (iii) The said Committee shall have a permanent Secretariat, the composition of which will be decided by the Chief Justice of Sikkim;
- (iv) If the Chief Justice or any other Judge is of the opinion that an Advocate residing in Sikkim and practicing before the High Court of Sikkim or its Subordinate Courts ¹ [or any specialized tribunals

such as National Company Law Tribunal, Appellate Tribunal for Electricity, Appellate Tribunal under the Prevention of Money Laundering Act, 2002, Telecom Disputes Settlement and Appellate Tribunal, Consumer Dispute Redressal Commission et cetera] by virtue of his ability, standing at the Bar or special knowledge or experience in law is deserving of such distinction so as to be designated as Senior Advocate, the Chief Justice/the Judge may, in writing, propose the name of such Advocate for being considered for designation as Senior Advocate. Such proposal will be submitted to the Secretariat; or an Advocate seeking conferment of distinction as Senior Advocate may submit an application in the prescribed format to the Secretariat;

- (v) The applications shall be in the prescribed format appended to these Rules;
- (vi) On receipt of such applications or proposals from the Judges, the Secretariat will compile the relevant data and information with regard to the reputation, conduct, integrity or the Advocate/s concerned including his/her participation in pro-bona works; his/her appearance before the judge, reported/unreported judgments in which the concerned Advocate(s) had appeared;
- (vii) The Secretariat will publish the proposal for designation of particular Advocate/Advocates in the official website of this Court, inviting the suggestions/views of the members of the Bar and other stakeholders in the proposed designation within 15 days from the date of publication. The suggestions/views shall be in writing and shall bear the name and full address of the sender. It shall be addressed to the Registrar General of the High Court;
- (viii) After the data-base in terms of the above is compiled and all such information as may be specifically directed by the Permanent Committee to be obtained in respect of any particular candidate is collected, the Secretariat shall put up the proposal/application before the Permanent Committee for scrutiny;

- (ix) The Permanent Committee will examine proposal/application in the light of the data provided by the Secretariat of the Permanent Committee; interview the concerned Advocates; and make its overall assessment on the basis of a point-based format indicated below:

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Sl. No.	Matter	Points						
1.	<p>Number of years practice of the applicant advocate from the date of enrollment;</p> <table><tr><td>For 10 years of practice</td><td>10 points</td></tr><tr><td>For 10 to 20 years of practice</td><td>One point each shall be added for every year of practice</td></tr><tr><td>More than 20 years</td><td>20 points</td></tr></table>	For 10 years of practice	10 points	For 10 to 20 years of practice	One point each shall be added for every year of practice	More than 20 years	20 points	20 points
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2.	<p>Judgments (reported and unreported) dealing significant and contested legal issues which also indicate the role and legal formulations advanced by the concerned Advocate in the course of the proceedings of the case, and the quality of the synopses filed in the Court; pro bono work done by the concerned Advocate; Domain Expertise of the Applicant Advocate in various branches of law, such as Constitutional law, Inter State Water Disputes, Criminal law, Arbitration law, Corporate law, Family law, Human Rights, Public Interest Litigation, International law, law relating to women and other laws.</p> <p>Note:-</p> <p>1. Merely looking into the number of appearances would not suffice.</p> <p>2. Candidates should be permitted to submit at least five of their best synopses for evaluation with their applications.</p> <p>3. Specialized lawyers with domain expertise should be permitted to concentrate on their field and not be deprived of the opportunity of being designated as Senior Advocates. Thus in the case of such Advocates, a concession is required to be given with regards to the number of appearances.</p>	50 points						

1. Substituted vide Notification No. 46/HCS/Confdl, dated 28.11.2023.

3.	Publications by the Applicant Advocate. Determination under this criteria must also include teaching assignments or guest courses delivered by Advocate at law schools. Further, quality of writing by an Advocate should be an important factor in allocating points under this category. Note: The Permanent Committee may also seek external assistance such as from Senior Advocates or academics, to gauge the quality of publications.	05 points
4.	Test of Personality & Suitability on the basis of interview/interaction. Due consideration should be given in the interest of diversity, particularly with respect to gender and first generation lawyers, which would encourage meritorious Advocates to come into the field knowing that there is scope to rise to the top. Newcomers must be encouraged.	25 points

²[(ix) Where more than one interview session is considered necessary, it shall be
(a) restricted to the appropriate number as may be deemed feasible by the Permanent Committee, keeping in mind the number of Senior Advocates to be designated at a given time].

(x) All the names that are listed before the Permanent Committee and cleared by the Permanent Committee shall be placed before the Full Court for approval;

(xi) Voting by secret ballot will not normally be resorted to by the Full Court except when it is unavoidable ³[and for reasons to be recorded. It shall not be the rule but clearly an exception]. In the event of resort to secret ballot decisions will be carried by a majority of the Judges who have chosen to exercise their choice;

(xii) All cases that may not be favorably considered by the Full Court may be reviewed/ reconsidered after expiry of a period of two years following the manner indicated above as if the proposal is being considered afresh;

(xiii) All those cases which are deferred by the Committee for being designated as Senior Advocate shall be considered after completion of one year from the date of deferment;

1&2. Inserted vide Notification No. 46/HCS/Confdl, dated 28.11.2023.

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¹[(xiii)(a) Permanent Secretariat shall meet at least once in a calendar year].

(xiv) In the event a Senior Advocate is guilty of conduct which according to the Full Court disentitles the Senior Advocate concerned to continue to be worthy of the designation, the Full Court may review its decision to designate the concerned person and recall the same.

Provided that the Full Court shall give an opportunity of hearing the person concerned before any action is taken against him/her.

[5] Interpretation

All questions relating to the interpretation of these Rules shall be referred to the Chief Justice, whose decision thereon shall be final.

[6] Repeal and Savings

All previous rules namely, High Court of Sikkim designation of Senior Advocates Rules, 2009 hereby stands repealed. However, this repeal shall not, by itself, invalidate the action taken under the repealed Rules/guidelines.

1. Inserted vide Notification No. 46/HCS/Confdl, dated 28.11.2023.