

Advocate Act, 1961

Section 42 - Powers of Disciplinary Committee

(1) The disciplinary committee of a Bar Council shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, (5 of 1908) in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring discovery and production for any documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) any other matter which may be prescribed:

Provided that no such disciplinary committee shall have the right to require the attendance of----

- (a) any presiding officer of a court except with the previous sanction of the High Court to which such court is subordinate;
- (b) any officer of a revenue court except with the previous sanction of the State Government.

(2) All proceedings before a disciplinary committee of a Bar Council shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860), and every such disciplinary committee shall be deemed to be a civil court for the purposes of sections 480, 482 and 485 of the Code of Criminal Procedure, 1898 (5 of 1898).

(3) For the purposes of exercising any of the powers conferred by sub-section (1), a disciplinary committee may send to any civil court in the territories to which this Act extends, any summons or other process, for the attendance of a witness or the production of a document required by the committee or any commission which it desires to issue, and the civil court shall cause such process to be served or such commission to be issued, as the case may be, and may enforce any such process as if it were a process for attendance or production before itself.

1 (4) Notwithstanding the absence of the Chairman of any member of a disciplinary committee on a date fixed for the hearing of a case before it, the disciplinary committee may, if it so thinks fit, hold or continue the proceedings on the date so fixed and no such proceedings and no order made by the disciplinary committee in any such proceedings shall be invalid merely by reason of the absence of the Chairman or member thereof on any such date:

Provided that no final orders of the nature referred to in sub-section (3) of Section 35 can be made in any proceedings unless the Chairman and other members of the disciplinary committee are present.

(5) Where no final order of the nature referred to in sub-section (3) of section 35 can be made in any proceedings in accordance with the opinion of the Chairman and the members of a disciplinary committee either for want of majority opinion amongst themselves or otherwise, the case, with their opinion thereon,

shall be laid before the Chairman of the Bar Council concerned or if the Chairman of the Bar Council is acting as the Chairman or a member of the disciplinary committee, before the Vice-Chairman of the Bar Council, and the said Chairman or the Vice-Chairman of the Bar Council, as the case may be after such hearing as he think fit, shall deliver his opinion and the final order of the disciplinary committee shall follow such opinion.]

1. Sub-sections (4) and (5) inserted by Act 60 of 1973, section 32.

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