

## PREFACE

The District Bar Association Swat was formally formed in the year 1971, much later the draft of constitution of the Provincial Bar Council was adopted and declared as constitution of the District bar Association Swat in the year 1983.

At initial stage, there was no considerable strength of members in District Bar Association Swat but with the passage of time the strength of members raised and the existing constitution became inadequate, whereas a comprehensive constitution was needed to meet the requirements of the District Bar Association.

Accordingly, I Mr. Shamsheer Ali Khan (Mir Khankhel) Advocate, being the President of District Bar Association Swat took initiative in the year 1999 and brought forward a draft in the shape of amended constitution with the cooperation and assistance of Mr. Rashid Ali Khan advocate & Qazi Hidayatullah Advocate. The said draft of amended constitution could not be passed in the general body meeting due to remaining short tenure as a president that year. Another effort was made in the year 2013, but it also met the same fate as that in the year 1999.

Subsequently, in the year 2015, when for the sixth time I was elected as the President of District Bar Association Swat, I started efforts from the very beginning to give a comprehensive constitution according to the amended rules of Pakistan Bar Council and Khyber Pakhtunkhwa Bar Council to the District Bar Association Swat.

Therefore, apart from me, an advisory committee comprising of Mr. Rashid Ali Khan, Mr. Amanullah Khan and Mr. Fahim Naeem Advocate was constituted to propose amendments in the previous amended draft of constitution 1999. The committee prepared new proposed draft of the constitution.

Copies of such draft were provided for the perusal of the members of District Bar Association Swat and were also furnished to the presidents of all the lawyer's forums to examine the draft for suggestions from their respective forums, wherein president and respective members submitted their suggestions accordingly .

Thereafter, under my presidency, a constitutional committee comprising of the cabinet members Mr. Aman Ullah Vice president, Mr. Nisar Ali Khan (Essa Khel) General Secretary, Mr. Shamsheer Ali Khan (Ex-judge) and other members of the Bar Association; Mr. Naeemudin Khan, Mr. Abdul Haleem Khan (Sani), Mr. Rashid Ali Khan, Mr. Razaullah Khan, Mr. Iftikhar Ahmad (Senior), Mr. Asghar Ali and Mr. Faridullah Advocates, was constituted which examined and discussed the constitutional draft. After exhaustive debate, the committee agreed upon a comprehensive proposed draft which was submitted before lawyer's forums through President and members of District Bar Association Swat who approved it, after including some important proposals. The said final proposed

draft was then submitted and produced in the general body meeting of District Bar Association Swat, especially convened for the approval of the proposed constitutional draft, on Saturday, 20<sup>th</sup>, February of 2016 by the undersigned which was approved and passed unanimously by the House with the blessing of almighty ALLAH (S.W), to whom I an ever thankful.

I am thankful to all the members of the District Bar Association Swat, as well as members of the constitutional committee and Presidents of all the Lawyer's Forums who contributed in this Bar a better and comprehensive Constitution after long period of 33 years.

Regards

**SHAMSHER ALI KHAN (MIR KHAN KHEL)**  
**ADVOCATE HIGH COURT**  
**PRESIDENT DISTRICT BAR ASSOCIATION SWAT.**

## **CONSTITUTION OF THE DISTRICT BAR ASSOCIATION SWAT**

IN THE NAME OF ALMIGHTY ALLAH THE MOST BENEFICIENT, THE MOST MERCIFUL

### **PREAMBLE**

*WHEREAS Constitution of the District Bar Association Swat 1983 already exists but the passage of time, it does not meet the requirements of the association and has become inadequate.*

*WHEREIN the District Bar Association Swat needs a Constitution in consonance with the legal practitioners and Bar Council Act (XXXV of 1973) and Rules framed thereunder.*

*THEREFORE the members of the District Bar Association Swat do hereby unanimously adopt, approve and pass this Constitution on Saturday, 20<sup>th</sup> February 2016, to be known as the Constitution of the District Bar Association Swat.*

## **CHAPTER I**

### **1. SHORT TITLE AND COMMENCEMENT:**

*This constitution shall be called the constitution of District Bar Association Swat and it shall take effect from the date of it's approved by the Association.*

### **2. DEFINITIONS:**

*In this Constitution the following words and expressions are used in the following sense unless a contrary intention appears from the context:-*

- (i)** *Association shall mean the District Bar Association Swat.*
- (ii)** *Advocate means an advocate whose name is enrolled and maintained as advocate by the Khyber Pakhtunkhwa Bar Council in it's official register.*

- (iii) *Bar Council includes Pakistan Bar Council and the Khyber Pakhtunkhwa Bar Council.*
- (iv) *Committee means and includes a committee constituted by the President with consultation of the Cabinet of the association.*
- (v) *Court includes all the superior and lower courts specified in the constitution of the Islamic republic of Pakistan 1973 and constituted under any other law for the time being enforced within territory of Pakistan.*
- (vi) *Election means an annual election of the association held as per rules of the Khyber Pakhtunkhwa Bar Council*
- (vii) *Eligible voter means the advocate whose name is enlisted in the eligible voter list of the Association as well as in that of the Khyber Pakhtunkhwa Bar Council.*
- (viii) *Cabinet shall mean the President, Vice President General Secretary, Joint Secretary, Finance Secretary and Library Secretary elected under the Constitution.*
- (ix) *Election Board means the board as prescribed in the rules of Khyber Pakhtunkhwa Bar Council for conducting the annual general body election of the association.*
- (x) *Member shall mean a practicing lawyer's who is enrolled as a member of the association and is neither in government, semi-government, non-government services nor carries any personal private business and eligible for membership as per Khyber Pakhtunkhwa Bar Council Act and Rules.*
- (a) *Life member means any member of the Bar who has attained the age of sixty (60) years having regular practice of twenty (20) years as an advocate and pays Rs. 5000/- as life membership fee.*
- (b) *Honorary member means a person admitted to the roll of the member of the Association whose profound legal acumen or outstanding academic brilliance or eminent Islamic Knowledge constitutes an honor and his service to the Community and nation is inspiration to the Association and its members and whose does not practice law and designated as Honorary Member by the President with the approval of the Cabinet.*
- (xi) *Assets mean and include all the movable and immovable property of the Association duly entered in the record maintained by the Association.*
- (xii) *Meeting includes a meeting of the cabinet, the house or it's committees.*

### **3. AIMS AND OBJECTIVES:**

*The aims and objectives of the Association shall be:-*

- (i) *To promote the rule of law, administer justice and endeavor to safeguard the fundamental rights of the citizens of Pakistan.*
- (ii) *To work for the welfare, dignity and prestige for the legal profession.*
- (iii) *To root out corruption, tout-ism and any such menace.*
- (iv) *To work effectively for the cordial relation and best courtesy amongst the members of the Association and legal fraternity at large.*
- (v) *To protect and safeguard the legal rights and professional privileges of the Association qua the Bench and the public.*
- (vi) *To coordinate with other Bar Associations in order to promote, protect and safeguard the interest of the Bar Association.*
- (vii) *To establish, maintain and update the library of the Association.*
- (viii) *To arrange meetings, seminars and lawyers conferences.*
- (ix) *To faithfully observe the canons of professional conduct and etiquettes of advocates enunciated in the Legal Practitioners and Bar Council Act, 1973 and the rules framed there under.*

#### **4. OFFICIAL OF THE ASSOCIATION:**

*The principal office of the Association shall be in the premises of the main bar room at Gulkada Swat or wherever the District judicial head-quarter is situated or shifted.*

## **CHAPTER II**

#### **5. MEMBERSHIP:**

- (i) *Any law graduate shall be eligible for the membership of the Association who shall produce the attested copies of the documents enlisted in the Schedule I of the constitution along with enrollment form shall be submitted to the office of the President of the Association.*
- (ii) *The enrollment form so submitted shall be scrutinized by the cabinet and the President shall then finally decide the enrollment.*
- (iii) *In Case of any objection with regard to the enrollment of the applicant, the President shall constitute a committee comprising of five senior members who, after giving reasonable opportunity of hearing to the applicant, will submit their report to the President within fifteen days and the President shall decide the matter after consultation with the Cabinet within next 7 days.*
- (iv) *After enrollment as member of the Association, a code number will be issued to such member which will not be changed though his serial number may be changed with the passage of time.*

**6. ENROLLMENT FEE:**

*The enrollment fee shall be Rs. 2000/- which may be increased as and when the Cabinet deems appropriate.*

**7. MONTHLY FEE:**

*The monthly subscription shall be Rs. 100/0 which may be increased as and when the Cabinet deems appropriate.*

**8. RIGHTS AND OBLIGATIONS OF THE MEMBERS:**

**(A) RIGHTS AND PRIVILEGES:**

*Every member except honorary member of the Association shall have the following rights and privileges:*

- i. Right to vote without any discriminations;*
- ii. To participate in all functions of the Association;*
- iii. -An equal right or opportunity, without any discrimination, to any grant, fund, scholarship, allowance, amenity of the Bar and legal service provided to the Association by any government, semi-government, non-government institutions and organization.*

**(B) OBLIGATIONS OF THE MEMBERS:**

*Every member of the Association shall have the following obligations:*

- i. Shall abide by all the provisions of the Constitution of the Association;*
- ii. Shall avoid and abstain from all acts and omissions likely to impair the honour, reputation, dignity, prestige of the Association and that of the legal fraternity;*
- iii. Shall not employ as clerk, munshi, servant or chaprasi any of the following persons:-*
  - a. Declare by any Bar Association or any competent authority as disrepute person or 'tout'*
  - b. Convicted of an offence/offences involving moral turpitude.*
- iv. Shall not receive cases through touts or dis-reputed persons engaged in such kind of activities.*

**9. SUSPENSION OF MEMBERSHIP:**

**(i)** *The Membership of an enrolled member shall be suspended if a member:-*

- (a)** *Violates any provision of the Constitution;*
- (b)** *Indulges in any act or omission, which is against the interest of legal fraternity, the essence of the Constitution and sanctity of the legal profession;*
- (c)** *Disobeys any order issued by the President under the provisions of the Constitution for the collective interest of the Association;*
- (d)** *Is in government, semi-government, non-government service of carries any private business of his own contrary to the Rules of Khyber Pakhtunkhwa Bar Council.*

*Provided that the president with the prior approval of the Cabinet shall issue show cause notice of fifteen days to such member. If the reply is not satisfactory, his membership shall be suspended.*

- (ii)** *The membership of any enrolled member shall be ipso facto suspended if it's suspended by Pakistan Bar Council or Khyber Pakhtunkhwa Bar Council as the case may be.*
- (iii)** *Any member except life member of the Association, not defaulter, who remains absent for a period of one year shall be deemed to have discontinued his practice until he informs and justifies his absence to the President or General Secretary of the Association before the expiry of two (2) years from his absence.*
- (iv)** *Any member who fails to pay his monthly subscription for twelve consecutive months, his membership shall be deemed suspended at the expiry of the said period unless such member restores his membership through payment of outstanding arrears along with penalty (if any) as determined by the Cabinet.*
- (v)** *In case of non-compliance of Article 9 (iv), the member may apply for removal of his suspension through application which shall be decided by the President within 7 days.*

*Provided that, the outstanding dues and penalty (if any) till the date of removal of suspension is to be paid.*

**10. EXPULSION OF A MEMBER FROM THE ASSOCIATION:**

**(i)** *The Cabinet may expel a member from the Bar Association on the following grounds:*

- a.** *If the license of any member is cancelled by Pakistan Bar Council or Khyber Pakhtunkhwa Bar Council, as the case may be.*
- b.** *If his case falls within the ambit of Article 9 of the Constitution and president is not satisfied with his explanation.*
- c.** *If a member remains defaulter for 24 consecutive months, he ipso facto will be deemed to have expelled.*

*Provided that his membership may be restored by the Cabinet after furnishing satisfactory explanation by such member. Such restoration, subject to the payment of outstanding dues and penalty, if any. However, a member, who remained in Govt., semi-Govt., non-Govt. services or who carried any personal private business will not be entitled to the seniority on restoration. Provided if the period between the such restoration and next election is less than six, months, he will not be entitled to cast vote, in the coming election.*

- (ii)** *In case of dissenting opinion of the Cabinet member about the expulsion or restoration of a member, the decision of the majority shall prevail.*
- (iii)** *The removal or expulsion of any member from the list of member shall carry with it absolute forfeiture of all donations and subscriptions paid to the Association by him and shall not be a bar to the recovery by the Association of any unpaid subscriptions by such member at the time of such removal or expulsion.*
- (iv)** *Any member whose name has at any time ceased to be born of the roll of advocates of the Association, shall cease to be a member from the date of which his name is removed from the said rolls.*

**CHAPTER III**

**11. FUNCIONS FO THE CABINET:**

**(A) PRESIDENT:**

*The president of the Association shall have the following powers and function:*

- (i)** *To ensure due compliance of the constitution by all members of the Association*
- (ii)** *To convene, preside and control all meetings of the Association.*
- (iii)** *To cast a vote in case of tie;*
- (iv)** *To amicably resolve any matter or dispute between members and any functionary of any office, community, organization or person, in consultation with the Cabinet;*
- (v)** *To place before the Cabinet any complaint received against a member within ten days of it's receipt for further proceedings and such member shall appear before the Cabinet as, when and where required.*
- (vi)** *To declare any person as tout within the premises of the Association after consultation with the Cabinet;*
- (vii)** *To convene a meeting of the house on a requisition signed by at-least 50 member of the Association with 7 days after submission of the application;*
- (viii)** *To convene an emergency meeting suo-moto in consultation with available member/members of the Cabinet and arrange meeting with any person or functionary, in the interest of the Association.*
- (ix)** *To operate a bank account with General Secretary jointly.*
- (x)** *To constitute any committee or sub-committee or audit committee in consultation with the Cabinet any issue or inquiry, regarding which the Committee to submit it's report to the President.*