

ANALYSIS OF THE RAJASTHAN ADVOCATE PROTECTION ACT OF 2023

Animesh Nagvanshi*

ABSTRACT

The principal organ of the government which is the judiciary is imparted with the power and skills to impart justice to common people if they face any injustice or atrocities by the government or by any other common people. The Judiciary plays a dominant role in the present world in rendering justice to common people who suffer injustice or gruesomeness by any member of society. The judiciary is also responsible for keeping checks and balances on the activities of the legislature and executive so that they do not exercise their power affecting common people. Therefore, the Judiciary is seen as an organ that is seen as a last resort for getting justice if no one listens to their problems or quarrels. Therefore, the presence of the judiciary ensures a stable, secure, and intact society necessary for establishing a developed and progressive society. The legal profession is a vital part of the judiciary as it imparts or delivers justice to the common man and acts as a shield and armor to defend citizens from the brutal rules of these mafias and to keep the rule of law paramount. The increasing number of murders and assaults committed against lawyers has increased the need for legislation that safeguards advocates and their families from outside influence and danger. Such a measure is necessary not only for maintaining the judiciary's independence but also for maintaining our democracy. The need of the hour was first identified by the State Government of Rajasthan when it passed the Rajasthan Advocate Protection Act of 2023. The article will primarily discuss the nationwide need for an Act which can protect the Advocates from any harm and injury, an introduction to the Rajasthan Advocate Protection Act of 2023, the Background of the Rajasthan Advocate Protection Act, the Need of the Act and crucial features of the Act which protects the Advocates from any harm or injury.

Keywords: Protection, Act, Advocate, Justice, Delivering, Safeguarding.

URGENT NEED FOR THE NATIONWIDE ADVOCATE PROTECTION BILL

An Advocate who is a part of the judiciary is an essential element of society and plays a crucial and critical in delivering justice to common men by applying his practical and legal knowledge.

*THIRD YEAR, BA. LLB, THE ICFAI UNIVERSITY, DEHRADUN

However, due to their duties of imparting justice, they face the problem of threat and sometimes they are brutally murdered for defending their parties. Therefore, Advocate needs protection and security for his life and his family to live a healthy and prosperous.¹ To accomplish this goal the Central Government introduced **The Advocate Protection Bill, 2021** which ought to protect advocates and their families against crimes such as assault, abduction, illegal detention, and many more. The Bill is still pending in Parliament to become a full-fledged Act and come into operation for protecting the rights of Advocates.²

RAJASTHAN ADVOCATE PROTECTION ACT, 2023

Rajasthan has made a significant milestone in Indian legal history, even as several lawyers from throughout the country continue to encourage the legislature to recognize the seriousness of the problem and pass the bill. On March 21st, 2023, the Advocate Protection Bill was approved by Rajasthan, making it the first state in the country to provide legal professionals with protection against threats and other actions such as assault, significant bodily harm, criminal force, and criminal intimidation. Now that the Bill has become law, it is known as the Advocates Protection Act of 2023.³

Journal of Legal Research and Juridical Sciences

BACKGROUND OF THE ACT

The series of events that led to the Rajasthan Advocates Protection Bill, 2023 proposed in the state legislative Assembly started on February 18 when Jugraj Chauhan, a 48-year-old lawyer practicing in Jodhpur, was attacked by two men in broad daylight. According to the news, the event was recorded on the neighbouring CCTV cameras. A day later, supporters from several state courts demanded a walkout and an ongoing boycott of judicial operations. A statute was also requested to safeguard activists and their families.⁴ On February 28, the Rajasthan High

¹ Danita Yadav, Rajasthan becomes the first state to pass a bill for the safety of lawyers, all about the Advocates Protection Act (Times Now, 22 March 2023) <<https://www.timesnownews.com/india/rajasthan-becomes-first-state-to-pass-bill-for-safety-of-lawyers-all-about-the-advocates-protection-act-article-98903055>> Last Accessed on 11th June 2023

² Dinesh Bothra, Advocates Protection Bill introduced in Rajasthan Assembly (Hindustan Times, 16th March 2023) <<https://www.hindustantimes.com/cities/jaipur-news/advocates-protection-bill-introduced-in-rajasthan-assembly-101678964868051.html>> Last accessed on 11th June 2023

³ Danita Yadav, Rajasthan becomes the first state to pass a bill for the safety of lawyers, all about the Advocates Protection Act (Times Now, 22 March 2023) <<https://www.timesnownews.com/india/rajasthan-becomes-first-state-to-pass-bill-for-safety-of-lawyers-all-about-the-advocates-protection-act-article-98903055>> Last Accessed on 11th June 2023

⁴ Khadija Khan, Rajasthan Government Tables Bill to Protect Advocates, Why it was introduced, What it says, (The Indian Express, 18th March) <<https://indianexpress.com/article/explained/explained-law/rajasthan-advocates-protection-bill-explained-8504397/>> Last accessed on 11th June 2023

Court took suo-motu notice of the attorneys' strike and reaffirmed that any attempt to prevent a lawyer or litigant from accessing the court or from appearing in court to present their case will be looked at seriously.⁵

NEED FOR THE ADVOCATE PROTECTION ACT OF 2023

According to a proverb, "Every guardian needs a guardian." Demanding passage of this legislation has become urgent and important due to the rise in crimes against Advocates. The Supreme Court underscores that, even though the fact that advocates are judicial officials, society must protect them so that they can perform their duties without fear or intimidation. Lawyers are tasked with the responsibility of opposing the state's unrestrained authority and defending citizens against the misuse of the legal system. They are commonly known to stand up for the weak and defenseless against the strong. Lawyers are not an exception to the rule that strong individuals would attempt to manipulate and destroy others who stand in the way of their interests.

Legislation that governs the profession and offers security to attorneys and their families is thus urgently needed. The necessity for such a regulation, which would guarantee that they may discharge their obligations without fear or danger from powerful players, has been brought to light by the rising violence against advocates and attorneys. Therefore, it is impossible to emphasize the importance of attorneys in enforcing the rules of justice and safeguarding citizens' rights. Therefore, the state must guarantee their security and give them appropriate legal protection. In addition to defending their interests, a strong legal system that provides security for attorneys and their families would reinforce the nation's democratic foundation.⁶

KEY FEATURES OF THE ACT

Key Features of the Advocate Protection Act, of 2023 are-

1- Prohibition of assault- Assault prohibition is defined under the bill as any of the following actions against an advocate: (i) assault; (ii) serious bodily harm; (iii) criminal force; and (iv) criminal intimidation. Such a crime must be related to the advocate's performance of their

⁵ Rajasthan Advocates Protection Bill, 2023 (Jagran Josh, 20th March 2023) <<https://www.gktoday.in/rajasthan-advocates-protection-bill-2023/>> Last accessed on 11th June

⁶ Rajasthan Advocates Protection Act (eStartIndia, 22nd March 2023) <<https://www.estartindia.com/knowledge-hub/blog/rajasthan-advocates-protection-bill>> Last accessed on 11th June 2023

duties on the court grounds. According to the Advocates Act of 1961, an advocate must be registered and licensed to practice in Rajasthan.

2- Penalties- The Bill stipulates a range of penalties for such actions against advocates. For instance, if a lawyer were assaulted, the offender might face up to two years in prison and a fine of Rs 25,000. An advocate may be punished with up to seven years in jail and a fine of up to Rs 50,000 for causing them great harm. The Court may mandate that the advocate get remuneration in the form of a portion of the fine. As established by the Court, the criminal will also be responsible for covering the advocate's medical costs and property damages.

3-Prosecution of an advocate- Only after an inquiry should a report of a cognizable offense committed by the advocate while performing his responsibilities be recorded. Within seven days, such an inquiry must be carried out by at least the Deputy Superintendent of Police. The Rajasthan Bar Council must be notified if such a complaint is filed.

4- Police protection- The police may offer protection to an advocate if he reports an offense committed against him. The Rules will specify how long the protection lasts and for how long.

5- Misuse of the legislation- If an advocate violates this law, uses it maliciously, or files a false complaint, he might face up to three years in prison, a fine, or both.⁷

KEY PROVISION OF THE BILL

Section 2- Unless the context requires otherwise, the following meanings apply to words used in this Act:

(a) " The term "advocate" has the same meaning as in section 2(1)(a) of the Advocates Act, 1961⁸ (Central Act No. 25 of 1961), which covers anybody who practices law in the State of Rajasthan;

(b) client refers to the individual the advocate is defending in court or before any tribunal;

(c) The party that the attorney has defended in another party's case before a court or a tribunal is referred to as the "opposing client"; and

⁷ Rajasthan Assembly Passes Advocate Protection Bill (Live Law, 21st March 2023) < <https://www.livelaw.in/news-updates/rajasthan-assembly-passes-advocates-protection-bill-224383>> Last accessed on 12th June 2023

⁸ Advocates Act 1961, s2(1)(a)

(d) Property refers to any tangible or intangible assets, machinery, or equipment that any advocate owns or has.⁹

Section 3- Interdiction of assault, serious bodily harm, criminal force, and criminal intimidation- Any act of assault, serious bodily harm, criminal force, or criminal intimidation against a lawyer is illegal if it takes place on a court's property.¹⁰

Section 4- Advocate entitled to police protection- If an advocate contacts the police about an offense listed in Section 3 of the Act that was committed against him, the police may, if they feel it necessary, offer him protection for the period and in the way outlined in the guidelines.¹¹

Section 5- Penalties- (1) He will receive a sentence of up to two years in jail, in either type of prison.

(2) He will be punished with any type of jail for a time that might last seven years and a fine that could cost 50,000 rupees.

(3) The penalty for breaking Section 5(2), which forbids purposefully causing grave injury to an advocate, are up to seven years in prison and a fine of up to 50,000.¹²

Section 6- Offence to be cognizable- If a person is found guilty of an offense under this Act the police have the power or authority to arrest without a warrant.¹³

Section 7- Offence to be compoundable- Any offense punished by this Act may be compounded by the injured party with the Court's approval.¹⁴

Section 8- Compensation- When a court sentences someone to pay a fine or another type of fine as part of their sentencing, the court has the authority to mandate that the advocate get compensation in the amount of the money that was recovered.¹⁵

Section 9- Prosecution of an Advocate- If an advocate receives a report of a cognizable offense for an act committed while performing his professional duties from a client or an

⁹ Rajasthan Advocates Protection Act 2023, s2

¹⁰ Rajasthan Advocates Protection Act 2023, s3

¹¹ Rajasthan Advocates Protection Act 2023, s4

¹² Rajasthan Advocates Protection Act 2023, s5

¹³ Rajasthan Advocates Protection Act 2023, s6

¹⁴ Rajasthan Advocates Protection Act 2023, s7

¹⁵ Rajasthan Advocates Protection Act 2023, s8

opposing client, the case may only be filed after a police investigation by a deputy superintendent of police or higher, which must be completed in no more than seven days. If a case is filed, a written report of the incident must be sent to the Rajasthan Bar Council.¹⁶

Section 10- Liability to pay Damages-In addition to Section 5 of the Act, the offender shall additionally be liable for damages for any loss or damage to an advocate's property, as the Court may discover, as well as for any medical expenses incurred by such advocate, as the Court may determine.¹⁷

Section 11- Punishment for violations of this Act's requirements¹⁸- Anyone who, while acting in the capacity of an advocate, abuses the provisions of this Act, exploits them maliciously, or files a false complaint under this Act will be penalized with a fine, a term of imprisonment that may reach three years or a combination of the two.¹⁹

CONCLUSION

A key step toward safeguarding the protection and security of attorneys in India is the Advocate Protection Act of 2023. It strives to give attorneys the necessary protection and assistance they need to properly carry out their professional responsibilities. It acknowledges the crucial role that attorneys play in safeguarding the rule of law. The overall goal of the Advocate Protection Act 2023 is to make it safer and more secure for advocates to practice law in India and to give them the legal protection they require to do so without fear of violence or intimidation.

In conclusion, the Advocate Protection Act 2023 aims to give advocates in India complete legal protection in several areas, including physical safety, legal aid, and grievance redressal. The purpose of the measure is to advance the rule of law and defend citizen rights by establishing a framework that guarantees the protection and security of advocates.

¹⁶ Rajasthan Advocates Protection Act 2023, s9

¹⁷ Rajasthan Advocates Protection Act 2023, s10

¹⁸ Rajasthan Advocates Protection Act 2023, s11

¹⁹ The Rajasthan Advocate Protection Act (PRS Legislative Research, 15th March 2023)

<<https://prsindia.org/bills/states/the-rajasthan-advocates-protection-bill-2023>> Last accessed on 11th June