

LEGISLATIVE DRAFTING DEPARTMENT

NOTIFICATION

Jaipur, April 21, 1987.

No. F. 2 (16) Vidhai/83.—In pursuance of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to authorise the publication in the Rajasthan Gazette of the following translation in the English language of Rajasthan Adhivakta Kalyan Nidhi Adhiniyam, 1987 (Adhiniyam Sankhya 15 San 1987):—

THE RAJASTHAN ADVOCATES WELFARE FUND ACT, 1987

(Act No. 15 of 1987)

[Received the Assent of the Governor on the 20th day of April, 1987.]

An

Act

to provide for the constitution of an Advocates Welfare Fund and utilization thereof for payment of certain death and retirement benefits to the advocates in the State of Rajasthan and for matters connected therewith and incidental thereto.

Be it enacted by the Rajasthan State Legislature in the Thirty-eighth Year of the Republic of India as follows:—

CHAPTER-I

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the Rajasthan Advocates Welfare Fund Act, 1987.

(2) It extends to the whole of the State of Rajasthan.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

- (a) “advocate” means a person whose name has been entered in the State roll of advocates prepared and maintained by the Bar Council of Rajasthan State under Section 17 of the Advocates Act, 1961 (Central Act 25 of 1961) and who is a member of a bar association;
- (b) “Fund” means the Advocates Welfare Fund constituted under section 3;
- (c) “Bar Council” means the Bar Council of Rajasthan State constituted under the Advocates Act, 1961 (Central Act 25 of 1961);
- (d) “cessation of practice” means removal of the name of an advocate from the State roll of advocates maintained by the Bar Council on account of his retirement or death;
- (e) “dependents” mean wife, husband, father, mother and unmarried minor children of a member of the Fund and includes his widowed daughter and major children who suffer from physical disability or insanity and who are maintained by him or such of them who survive on his death;
- (f) “member of the Fund” means an advocate who is admitted to the benefits of the fund under the provisions of this Act and continues to be a member thereof;
- (g) “nominee” means nominee appointed by a member of the Fund to receive the benefits arising from such membership in the event of his death;
- (h) “prescribed” means prescribed by the Bar Council by rules made under this Act;
- (i) “stamp” or “Welfare Fund Fee Stamp” means stamp printed and distributed under section 19;

- (j) "State" means the State of Rajasthan ;
- (k) "suspension of practice" means voluntary suspension of practice as an advocate or suspension by the Bar Council for professional or other misconduct ;
- (l) "Trustee Committee" means the Committee established under section 4; and
- (m) "Vakalatnama" means and includes memorandum of appearance or any other document by which an advocate is empowered to appear or plead before any court, tribunal or other authority legally authorised by any law to take evidence or to adjudicate or decide any dispute.

CHAPTER-II

Constitution of Advocates Welfare Fund

3. *Constitution of Advocates Welfare Fund.*—(1) The State Government shall constitute a Fund to be called the "Advocates Welfare Fund".

- (2) There shall be credited to the Fund,—
 - (a) an initial amount of fifty thousand rupees to be contributed by Bar Council to the Fund at the time of its constitution;
 - (b) any further contribution that may be made by the Bar Council;
 - (c) the amount paid by the Bar Council under section 13;
 - (d) any voluntary donation or contribution made to the Fund by the Bar Council of India, any Bar Association, any other association or institution, any advocate or any other person;
 - (e) any grant which is made by the State Government to the Fund under appropriation duly made in this behalf;
 - (f) any sum borrowed under section 10;
 - (g) all sums received from the Life Insurance Corporation of India on the death of a member of the Fund under any Group Insurance Policy;
 - (h) any profit or dividend received from the Life Insurance Corporation of India in respect of policies of Group Insurance of the members of the fund;

- (i) any interest or dividend or other return on any investment made of any part of the Fund;
- (j) all sums collected under section 16 by way of application fees and annual subscription and interest thereon; and
- (k) all sums collected by way of sale of stamps under section 19.

CHAPTER-III

Establishment of Trustee Committee

4. *Establishment of the Trustee Committee.*—(1) The State Government shall, by notification in the Official Gazette, establish with effect from such date as may be specified therein a committee to be called the “Rajasthan Advocates Welfare Fund Trustee Committee”.

(2) The Trustee Committee shall be a body corporate by the aforesaid name having perpetual succession and a common seal with power to acquire, hold and dispose of property and to enter into contract and shall by the said name sue and be sued.

(3) The Trustee Committee shall consist of—

- (a) the chairman of the bar council of Rajasthan who shall be the Chairman of the Trustee Committee, ex-officio;
- (b) the Advocate General of Rajasthan, ex-officio member;
- (c) the Law Secretary, Government of Rajasthan, ex-officio member;
- (d) the Chairman of the Executive Committee, Bar Council of Rajasthan, ex-officio member;
- (e) three other members of the Bar Council nominated by the Bar Council; and
- (f) the Secretary of the Bar Council who shall also be the Secretary of the Trustee Committee, ex-officio.

(4) A member nominated by the Bar Council under clause (e) of sub-section (3) shall hold office for a term of four years or upto the duration of his membership in the Bar Council whichever is less.

5. *Disqualification and removal of nominated member of Trustee Committee.*—No person shall be nominated and continue to be as a member of Trustee Committee under clause (e) of sub-section (3) of section 4 if he—

- (a) is of unsound mind and stands so declared by a competent court; or
- (b) is, or at any time has been, adjudicated insolvent; or
- (c) is or has been convicted by a criminal court for an offence involving moral turpitude, unless such conviction has been set aside; or
- (d) is a defaulter to the fund;
or
- (e) is debarred from practising on the ground of professional or other misconduct; or
- (f) ceases to be an advocate under the Advocates Act, 1961 (Central Act 25 of 1961).

6. *Resignation and casual vacancy of Nominated Member.—*

(1) Any member nominated under clause (e) of sub-section (3) of section 4 by the Bar Council may resign his office by giving three months, notice in writing to the Chairman of the Trustee Committee and on such resignation being accepted by the Chairman, Trustee Committee, the said member shall be deemed to have vacated his office .

(2) If any member nominated under clause (e) of sub-section (3) of section 4,—

- (a) becomes subject to any of the disqualifications mentioned in section 5; or
- (b) is absent without leave from the Trustee Committee for more than three consecutive meetings of Trustee Committee,

his seat shall thereupon become vacant.

(3) A casual vacancy of a nominated member arising under sub-section (1) and sub-section (2) shall be filled in as soon as possible in the same manner and for the same term or duration as is mentioned in section 4.

7. *Act of Trustee Committee not to be invalidated by vacancy, defect or irregularity.—*No act done or proceedings taken, under this Act or the rules made thereunder, by the Trustee Committee shall be invalidated merely by reason of—

- (a) any vacancy or defect in the constitution of the Trustee Committee; or
- (b) any defect or irregularity in the nomination of any person as a member thereof; or

- (c) any defect or irregularity in such act or proceedings not affecting the merit of the case.

8. *Vesting and application of Fund.*—The fund shall vest in and be held and applied by the Trustee Committee subject to the provisions and for the purposes of this Act.

9. *Functions of Trustee Committee.*—(1) The Trustee Committee shall administer the Fund.

(2) In the administration of the Fund, the Trustee Committee shall, subject to the provisions of this Act and the rules made thereunder,—

- (a) collect, preserve, manage and utilise the Fund;
- (b) hold the amounts and assets belonging to the Fund in trust;
- (c) receive applications for admission or re-admission to the Fund and dispose of such applications within ninety days from the date of receipt thereof;
- (d) receive applications from the members of the Fund, their nominees, dependents or legal representatives, as the case may be, for payment out of the Fund, and conduct such enquiry as it deems necessary for the disposal of such applications and shall dispose of the applications within ninety days from the date of receipt thereof;
- (e) record in the minutes book of the Trustee Committee its decision on the applications received under clauses (c) and (d);
- (f) pay to the applicant amounts at the rates specified in the Schedule;
- (g) send such periodical and annual reports, as may be prescribed, to the State Government and the Bar Council;
- (h) communicate to the applicant by registered post with acknowledgement due its decision on the applications for admission or re-admission to the Fund or claims to the benefit of the Fund;
- (i) appoint such officers and servants as it may think necessary for carrying out the purposes of this Act on such terms and conditions as may be prescribed; and
- (j) do such other acts as are, or may be, required to be done by it under this Act and the rules made thereunder.

10. *Funds, borrowing and investment.*—(1) The Trustee Committee may, with the prior approval of the State Government and the Bar Council, borrow from time to time any sum required for carrying out the purposes of this Act.

(2) The Trustee Committee shall deposit all moneys and receipts forming part of the Fund in any Scheduled Bank or invest the same in

loan to any corporation owned or controlled by the Central Government or the State Government or in loan floated by the Central Government or the State Government or in any other manner as the Trustee Committee may, from time to time, decide with the approval of the State Government.

(3) All amounts due and payable under this Act and all expenditure relating to the management and administration of the Fund shall be paid out of the Fund.

11. *Accounts and Audit.*—(1) The Trustee Committee shall keep and maintain books of accounts and other books in such form and in such manner as may be prescribed.

(2) The accounts of the Trustee Committee shall be audited annually by a Chartered Accountant appointed by the Bar Council.

(3) The accounts of the Trustee Committee as audited by the Chartered Accountant together with his audit report thereon shall be forwarded to the Bar Council by the Trustee Committee and the Bar Council may issue such directions, as it deems fit, to the Trustee Committee in respect thereof.

(4) The Trustee Committee shall comply with the directions issued by the Bar Council under sub-section (3).

(5) The Trustee Committee shall pay from the Fund the charges for the audit.

12. *Powers and duties of Secretary.*—The Secretary of the Trustee Committee shall,—

- (a) be the chief executive authority of the Trustee Committee and responsible for carrying out its decisions;
- (b) represent the Trustee Committee in all suits and proceedings for and against the Trustee Committee;
- (c) authenticate by his signatures all decisions and instructions of the Trustee Committee;
- (d) operate the bank accounts of the Trustee Committee jointly with the Chairman of the Trustee Committee or his nominee;
- (e) convene meetings of the Trustee Committee and record its minutes;
- (f) attend the meetings of the Trustee Committee with all necessary records and information;

- (g) maintain such forms, registers and other record as may be prescribed from time to time and do all correspondence relating to the Trustee Committee;
- (h) prepare an annual statement of business transacted by the Trustee Committee during each financial year; and
- (i) do such other acts as may be directed by the Trustee Committee and the Bar Council.

13. *Transfer of Certain Money to the Fund.*—The Bar Council shall pay to the Fund annually an amount equal to twenty-five percent of the enrolment fees realised by it.

CHAPTER-IV

Recognition and Registration of Bar Associations

14. *Recognition and Registration of Bar Associations.*—(1) All associations of advocates known by any name functioning in any part of the State may, before a date to be notified by the Bar Council in this behalf, apply to the Bar Council in such form as may be prescribed for recognition and registration.

(2) Every application for recognition and registration shall be accompanied by the rules or bye-laws of the association, names and addresses of the office-bearers of the association and upto date list of the members of the association showing the name, address, age, date of enrolment and the ordinary place of practice of each member thereof.

(3) The Bar Council may, after such enquiry as it deems necessary, recognise the association and issue a certificate of registration in such form as may be prescribed.

(4) The decision of the Bar Council regarding the recognition and registration of a Bar Association shall be final.

15. *Duties of Bar Associations.*—(1) Every Bar Association shall, on or before the 15th day of April of each year, furnish to the Bar Council and the Trustee Committee a list of its members as on the 31st March of that year.

- (2) Every Bar Association shall intimate to the Bar Council and Trustee Committee about,—
- (a) any change of the office bearers of the association within fifteen days from such change;
 - (b) any change in the membership including admissions and re-admissions within thirty days of such change;
 - (c) the cessation of practice or voluntary suspension of practice of any of its members within thirty days from the date of such cessation or suspension of practice; and
 - (d) such other matters as may be required by the Bar Council or the Trustee Committee from time to time.

CHAPTER-V

Membership in the Fund and payment therefrom

16. *Membership in the Fund.*—(1) Every advocate practising before any Court, Tribunal or other authority legally authorised by any law to take evidence or to adjudicate or decide any dispute in the State shall apply to the Trustee Committee for admission as a member of the fund in such form as may be prescribed.

(2) On receipt of an application under sub-section (1), the Trustee Committee shall make such enquiry as it deems fit and either admit the applicant to the Fund or, for reasons to be recorded in writing, reject the application :

Provided that no order rejecting an application shall be passed unless the applicant has been given an opportunity of being heard against rejection of his application.

(3) Every applicant shall pay an admission fee of fifty rupees in one lump sum or in the course of one year in four equal instalments, in such manner as may be prescribed the first instalment being payable alongwith the application, to the account of the Trustee Committee.

(4) In the event of rejection of the application, the admission fee paid shall be refunded to the applicant.

(5) Every member shall pay an annual subscription to the Fund on or before the 30th June of every year at the following rates, namely:—

(a) Where the standing of the advocate at the Bar is or becomes five years or more, but less than ten years;	Fifteen Rupees
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(b) Where the standing of the advocate at the Bar is or becomes ten years or more.	Twenty five Rupees.
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(6) Any member who fails to remit the annual subscription on or before the due date mentioned in sub-section (5) shall, upon notice in writing of one month being served upon him by the Trustee Committee, be liable

to be removed by the Trustee Committee from the membership of the Fund.

(7) A person removed from the membership of the Fund under sub-section (6) shall be re-admitted by the Trustee Committee to the fund on payment of the arrears of subscription due against him alongwith interest thereon at the rate of twelve percent per annum within six months from the date of his removal.

(8) A member of the Fund may, at any time after his admission to the membership of the Fund, make a nomination in the prescribed form appointing one or more person to receive the benefits arising from his membership of the Fund in the event of his death.

(9) If a member nominates more than one person under sub-section (8), he shall specify in the nomination the amount or share payable to each of the nominees in such manner as to cover the whole of the amount that may be due to him.

(10) A member may at any time cancel his nomination by sending notice in writing to the Trustee Committee and in that event, he shall be entitled to make a fresh nomination during the continuance of his membership in accordance with sub-section (8).

(11) Every member who voluntarily suspends practice or retires shall, within fifteen days of such suspension or retirement, intimate that fact to the Trustee Committee and if such member fails to do so without sufficient reason, the Trustee Committee may reduce, in accordance with such principles as may be prescribed, the amount due to that member.

17. *Payments from the Fund on cessation of Practice.*—(1) A member of the Fund who completes a period of five years' practice after he becomes member of the Fund shall, subject to the provisions of this Act, be entitled on cessation of practice to receive out of the Fund an amount corresponding to the number of years of his standing at the rate specified in the Schedule.

Explanation.—(i) For the purpose of calculating the number of years of standing of a member of the Fund for the purpose of this sub-section, every four years, practice as an advocate before the admission of a member to the Fund shall be counted as one year's standing and every year of practice over and above four years before such admission shall be counted equivalent to three months' standing and the total number of years of standing so counted shall be added to the number of years of practice after such admission.

(ii) The period during which a member of the Fund remained under suspension shall not be considered

for the purpose of counting the years of standing ;

Provided that where a member of the fund has a standing of more than four years before his admission to the membership, he shall be entitled to receive an additional amount of two hundred fifty rupees for each completed year of practice over and above four years:

Provided further that in case a member of the Fund dies within five years of his admission to the fund, his nominee or dependent or legal heir, as the case may be, shall be entitled to get out of the fund an amount at the rate of Rs. 1000/-per year of practice.

(2) In the event of death of a member of the fund, the amount to which the member was entitled shall be paid to his nominee or where there is no nominee, to his dependents and in absence thereof, to his legal heirs subject to their obtaining a succession certificate from the competent court.

(3) A member of the fund may collect the amount to which he is entitled at any time after five years of his admission as a member of the Fund and he shall be eligible for readmission to the Fund as a new member subject to such conditions as may be prescribed:

Provided that a member suffering from permanent disablement shall be allowed to retire within five years of his admission to the Fund.

(4) An application for payment of the amount from the Fund admissible to a member shall be made by him to the Trustee Committee in such form as may be prescribed. In the case of a member who voluntarily ceases to be in practice (otherwise than on account of his death) within five years of his admission to the Fund, he shall be entitled to the refund of the annual subscription paid by him under sub-section (5) of section 16 on his making an application therefor in such form as may be prescribed.

(5) An application received under sub-section (3) or sub-section (4) shall be disposed of by the Trustee Committee after such enquiry as it deems necessary.

18. *Restriction on benefits from Fund.*—(1) Notwithstanding anything to the contrary contained in this Act, if any advocate after his admission to the Fund joins any employment and thereafter obtains retirement after serving there for a period of not less than twenty years, he shall not be entitled to any amount more than what would be admissible to him for such number of years of standing as he has remained member of the Fund before joining the employment but if he resumes practice after such retirement and furnishes to the Bar Council a declaration in the prescribed form, he will not be required to affix any stamp as required by sub-section (1) of section 20 and shall also not be entitled to any benefit under this Act for any period after such resumption.

(2) Notwithstanding anything contained in section 17 or in any other provision of this Act, a person who gets himself enrolled as an advocate after serving under any employer for a period not less than

twenty years, he shall not be entitled to receive any amount under section 17 and shall also not be liable to affix any stamp as required by sub-section (1) of section 20 subject to his making a declaration to the Bar Council in the prescribed manner.

CHAPTER VI

Printing and distribution of Stamps

19. *Printing and distribution of stamps by Bar Council.*—(1) Bar Council shall cause to be printed and distributed Welfare Fund stamps of the value of two rupees with the Bar Council emblem and its value inscribed thereon.

(2) The stamps shall be of the size 1" × 2" and sold only to members of the Fund.

(3) The custody of the stamps shall be with the Bar Council.

(4) The Bar Council shall control the distribution and sale of the stamps through Bar Associations.

(5) The Bar Council and the Bar Associations shall keep proper accounts of the stamps in such form and in such manner as may be prescribed.

(6) The Bar Associations shall purchase the stamps from the Bar Council after paying the value thereof less ten percent of such value towards incidental expenses.

20. *Vakalatnama to bear stamp.*—(1) Every member of the Fund shall affix one Welfare Fund fee stamp referred to in sub-section (1) of section 19 on every Vakalatnama filed by him and no Vakalatnama shall be filed before or received by any Court, Tribunal or other authority or person referred to in section 16 unless it is so stamped.

(2) The value of the stamp shall neither be the cost in the case nor be received or collected in any event from the client.

(3) In case a member of the Fund receives or collects the value of stamp from his client, he shall be deemed to be guilty of misconduct and the provisions contained in section 35 of the Advocates Act, 1961 (Central Act No. 25 of 1961) shall *mutatis mutandis* apply against such member of the Fund.

21. *Cancellation of stamps.*—Every Stamp affixed on Vakalatnama under sub-section (1) of section 20 filed in any Court or Tribunal or before any other authority shall be cancelled in the manner provided under section 68 of the Rajasthan Court Fees and Suits Valuation Act, 1961 (Rajasthan Act No. 23 of 1961).

CHAPTER VII -

Miscellaneous

22. *Meeting of Trustee Committee.*—The Trustee Committee shall meet, at least once in three calendar months or more often, if found necessary, to transact business under this Act or the rules made thereunder.

23. *Manner of holding Meeting.*—(1) One-fourth members of the Trustee Committee shall form the quorum for the meeting of the committee.

(2) The Chairman or in his absence a member elected by the members of the Trustee Committee present shall preside over a meeting of the Trustee Committee.

(3) The meetings of the Trustee Committee shall ordinarily be held at the office of the Bar Council.

(4) Any matter coming up before the meeting of the Trustee Committee shall be decided by a majority vote of the members present and voting at the meeting and in the case of an equality of votes, the chairman or the member presiding over the meeting shall have a casting vote.

(5) The secretary of the Trustee Committee shall not have a voting right in the meeting.

24. *Travelling and daily allowances to the members of the Trustee Committee.*—The members of the Trustee Committee shall be eligible to get such travelling allowances and daily allowances as are admissible to the members of the Bar Council.

25. *Ex-Gratia grant to a member of the Fund.*—(1) The Trustee Committee, on an application submitted to it, and after being satisfied about the genuineness of the claim, may allow ex-gratia grant to a member from the fund—

- (a) in the case of hospitalisation at least for one month or involving a major surgical operation; or
- (b) if he is suffering from tuberculosis, leprosy, paralysis, cancer, unsoundness of mind or from such other serious diseases or disabilities.

(2) The grant so allowed shall not exceed a sum of two thousand and five hundred rupees during a period of five years.

26. *Group life insurance for members and other benefits.*—The Trustee Committee may, for the welfare of the members of the Fund,—

- (a) obtain from the Life Insurance Corporation of India, policies of Group Insurance for the members of the Fund;

- (b) provide for medical and educational facilities for the members of the Fund and their dependents including an insurance for that purpose; or
- (c) provide for such other benefits and amenities as may be prescribed.

27. *Restriction on alienation, attachment, etc. of interest of member, in the Fund.*—(1) Notwithstanding anything contained in any other law for the time being in force, the interest of any member in the Fund, or the right of a member or his nominee, dependents or legal heirs to receive any amount from the Fund shall not be assigned, alienated or charged and shall not be liable to attachment under any decree or order of any court, tribunal or other authority or person.

(2) No creditor of a member of the fund shall be entitled to proceed against the Fund or the interest therein of such member or his nominee, dependents or legal heirs.

Explanation.—For the purpose of this section, 'creditor' includes the State or an official assignee or receiver appointed under any of the insolvency laws or any other law for the time being in force.

28. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

(2) No suit or other legal proceedings shall lie against the Trustee Committee or the Bar Council for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

29. *Bar of jurisdiction of civil courts.*—No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by Trustee Committee or the Bar Council.

30. *Power to summon witnesses and to take evidence.*—The Trustee Committee and the Bar Council shall, for the purposes of any enquiry under this Act, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act V of 1908) in respect of the following matters, namely :—

- (a) enforcing the attendance of any person or examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on oath by affidavit; and
- (d) issuing commissions for the examination of witnesses.

31. *Appeal against decision of the Trustee Committee.—*

(1) An appeal against any decision of the Trustee Committee shall lie to the Bar Council. The appeal shall be in the prescribed form and shall be accompanied with a copy of the decision appealed against. The appeal shall be filed within thirty days from the date of the receipt of the order appealed against.

(2) The decision of the Bar Council on appeal shall be final.

32. *Power to make rules.—*The Bar Council may, with the previous approval of the State Government by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

SCHEDULE

(See section 17)

5 Years standing	..	Rs. 10000.00
6 Years standing	..	Rs. 11000.00
7 Years standing	..	Rs. 12000.00
8 Years standing	..	Rs. 13000.00
9 Years standing	..	Rs. 14000.00
10 Years standing	..	Rs. 15000.00
11 Years standing	..	Rs. 16000.00
12 Years standing	..	Rs. 17000.00
13 Years standing	..	Rs. 18000.00
14 Years standing	..	Rs. 19000.00
15 Years standing	..	Rs. 20000.00
16 Years standing	..	Rs. 21000.00
17 Years standing	..	Rs. 22000.00
18 Years standing	..	Rs. 23000.00
19 Years standing	..	Rs. 24000.00
20 Years standing	..	Rs. 25000.00
21 Years standing	..	Rs. 26000.00
22 Years standing	..	Rs. 27000.00
23 Years standing	..	Rs. 28000.00
24 Years standing	..	Rs. 29000.00
25 Years standing	..	Rs. 30000.00
26 Years standing	..	Rs. 31000.00
27 Years standing	..	Rs. 32000.00
28 Years standing	..	Rs. 33000.00
29 Years standing	..	Rs. 34000.00
30 Years standing or above	..	Rs. 35000.00

एस. प्रार. भंसाली,

Secretary to the Government.