

CHAPTER-IV

General Rules for Applications and Affidavits

¹[A-] Applications

²[1. **Application in Bangla/ English.**-Applications to the High Court Division shall be in [Bangla/English.]

³[1A. **List of applications with Tk.20 court-fee.**-The following Schedule specifies the list of applications, verified or unverified, on which court-fee of Tk.20 shall be affixed. The other conditions specified in the schedule shall be followed.]

SCHEDULE

⁴[***]

Subject.	Details.	Under what ⁵ [law].	Whether affidavit necessary
Court- fees	1.Refund of Court- fees paid in excess.	Section 13, Court- fees Act, rule 2(IV). Chapter II of these Rules.	Affidavit not necessary.
	2.Time to put in requisite Court-fees and refiling of Memorandum of Appeal after period of limitation.	⁶ [Sub-rules] (3), (4) and (5) of rule 18, Chapter V of these Rules.	Affidavit necessary.

Subject.	Details.	Under what law	Whether affidavit necessary

¹ The expression "A-" was inserted by Notification No. 181-G dt. 22-10-2012.

² Rule 1 was substituted for the original rule 1 by Notification *ibid*.

³ Rule 1A was inserted by Notification *ibid*.

⁴ The expression "Applications relating to the following matters should bear a Court- fee stamp of Rs. 3-" was omitted by Notification *ibid*.

⁵ The word "law" was substituted for the word "Rule" by Notification *ibid*.

⁶ The word "Sub-rules" was substituted for the word "Clauses" by Notification *ibid*.

Subject.	Details.	Under what law	Whether affidavit necessary
¹ [Substitution]	3. Substitution of parties (including minors).	Order XXII, rules 3(1) and 4(1), Civil Procedure Code, and rule 2(V), Chapter II of these Rules.	Ditto.
² [Minor and other disabled persons]	4. Appointment of guardian <i>ad-litem</i> .	Order XXXII, rule 3(2), Civil Procedure Code, and rule 2(VI) Chapter II of these Rules.	Ditto.
	5. Amendment of Memorandum of Appeal on a minor attaining majority.	Rules 28 and 30, Chapter V of these Rules.	Affidavit necessary, except in case of appellant, when ³ [amendment is] based on an affidavit already filed by respondent.
	6. Cancellation of Deputy Registrar's appointment as guardian <i>ad-litem</i>	Order XXXII, rule 11, Civil Procedure Code and rule 2(VI), Chapter II, read with rule 31, Chapter V of these Rules.	Affidavit necessary.

¹ The word "Substitution" was substituted for the word "Minors" by Notification No. 181-G dt. 22-10-2012.

² The words "Minor and other disabled persons" were inserted by Notification *ibid*.

³ The words "amendment is" were inserted by Notification *ibid*.

Subject.	Details.	Under what law	Whether affidavit necessary
Notice	7. Substituted service	Order V, rule 20, Civil Procedure Code and rule 2(IV), Chapter II of these Rules.	Affidavit necessary.
	7A. Application for ¹ [extension] of time.	Rule 13(2) of Chapter IV of these Rules.	Ditto.
	7B. Application of appeal against the order of the Registrar.	Rule ² [2C] of Chapter II of these Rules	Affidavit not necessary.
Paper-book	8. ³ [Exemption from preparation]	Rule 8, Chapter IX of these Rules	Affidavit necessary.
	9.[Omitted by Notification No.181-G dt. 22-10-2012]		
⁴ [Appellate Division] matters	10. Transmission of Orders of ⁵ [Appellate Division to subordinate courts] for execution and for preparation of certificates of costs.	Rule 13c Chapter VI of these Rules, read with Article I of Schedule II of the Court-Fees Act.	Ditto
	11. Acceptance of securities other than cash or Government securities.	Rule 41, Chapter VI of these Rules.	⁶ [Ditto]

¹ The word "extension" was substituted for the word "enlargement" by Notification No. 181-G dt. 22-10-2012.

² The expression "2C" was substituted for the expression "2(c)" by Notification *ibid*.

³ The words "Exemption from preparation" were substituted for the expression "Relaxation of rule 51(a), Chapter IX of these Rules" by Notification *ibid*.

⁴ The words "Appellate Division" were substituted for the words "Supreme Court" by Notification *ibid*.

⁵ The words "Appellate Division to subordinate courts" were substituted for the words "Supreme Court to lower courts" by Notification *ibid*.

⁶ The word "Ditto" was substituted for the words "Affidavit necessary" by Notification *ibid*.

Subject.	Details.	Under what law	Whether affidavit necessary
	12. Refund of securities.	Article I of Schedule II of the Court-fees Act	Affidavit not necessary.
	13. Conversion of securities from one form to another.	¹ [Rule 41(2)], Chapter VI of these Rules	² [Ditto.]
	14. Exclusion from or inclusion ³ [of paper in the paper-book for Appellate Division.]	Rules ⁴ [31(4)], Chapter VI of these Rules.	Ditto.
	15. Printing of part of the record.	Rule 5, Order XIV of the ⁵ [Supreme Court of Bangladesh (Appellate Division) Rules, 1988.]	Ditto.
	16. Reviver or substitution or addition of parties.	Rules ⁶ [6.] 7 and 8 of Order XVI of the ⁷ [Supreme Court of Bangladesh (Appellate Division) Rules, 1988.]	Affidavit necessary.

¹ The expression "Rule 41(2)" was substituted for the expression "Note to Rule 41" by Notification No. 181-G dt. 22-10-2012.

² The word "Ditto" was substituted for the words "Affidavit not necessary" by Notification *ibid*.

³ The words "of paper in the paper-book for Appellate Division" were substituted for the words "in transcript record to Supreme Court of paper" by Notification *ibid*.

⁴ The expression "31(4)" was substituted for the expression "31(III)(b)" by Notification *ibid*.

⁵ The expression "Supreme Court of Bangladesh (Appellate Division) Rules, 1988" was substituted for the expression "Supreme Court Rules, 1956" by Notification *ibid*.

⁶ The expression "6." was inserted by Notification *ibid*.

⁷ The expression "Supreme Court of Bangladesh (Appellate Division) Rules, 1988" was substituted for the expression "Supreme Court Rules, 1956" by Notification *ibid*.

Subject.	Details.	Under what law	Whether affidavit necessary
Record	17. Return of documents during pendency of appeal.	Rule 2(X), Chapter II of these Rules, Order XIII, rule 9, Civil Procedure Code.	Affidavit not necessary.
	18. Requisition for records from ¹ [subordinate] courts relating to cases other than the appeals pending in this Court.	Rules 20 and 21, Chapter IV of these Rules.	Ditto.
	19. Return of ² [exhibits/annexure] to affidavits or verified petition.	Rule 34(1), Chapter IV of these Rules.	Ditto (if document to be returned is original document).

¹ The word "subordinate" was substituted for the word "lower" by Notification No. 181-G dt. 22-10-2012.

² The expression "exhibits/annexure" was substituted for the word "exhibits" by Notification *ibid*.

Subject.	Details.	Under what law	Whether affidavit necessary
General	20. ¹ [Exemption from production of more than one copy of the Judgement in analogous appeals.]	Order XXI, rule 1 (1), Civil Procedure Code, ² [rule] 4, Chapter V, rule 2 (XVIII), Chapter II and rule 19, Chapter VI of these Rules	Affidavit not necessary.
	21. Cancellation of ³ [Wokalatnama.]	Rule 74, Chapter V of these Rules.	Affidavit necessary unless advocate who accepted the ⁴ [Wokalatnama] signifies his willingness to retire from case.
	22. Amendment of Memorandum of Appeal consequent on the death of a party including a party whose heirs are already on record.	Order XXII, Rules 3 and 4, Civil Procedure Code, and rule 26, Chapter V, read with rule 2(VII), Chapter II, of these Rules.	Affidavit necessary.
	23. Amendment of cause title of ⁵ [an application] arising from an Appeal or a Revision ⁶ [or Review] on the death of a party including a party whose heirs are already on the record.	Ditto	Affidavit necessary but, if in ⁷ [a] connected Appeal or Revision ⁸ [or Review] an affidavit has been filed, no further affidavit is necessary.

¹ Entry against serial No. 20 in 2nd column was substituted for the original entry by Notification No. 181-G dt. 22-10-2012.

² The word "rule" was substituted for the word "Rule" by Notification *ibid*.

³ The word "Wokalatnama" was substituted for the word "Vakalatnama" by Notification *ibid*.

⁴ The word "Wokalatnama" was substituted for the word "Vakalatnama" by Notification *ibid*.

⁵ The words "an application" were substituted for the words "a rule" by Notification *ibid*.

⁶ The words "or Review" were inserted by Notification *ibid*.

⁷ The letter "a" was inserted by Notification *ibid*.

⁸ The words "or Review" were inserted by Notification *ibid*.

1[2. Cause title of application, reference to law, etc.-

In every application presented to the High Court Division there should be stated, immediately after the cause title, the concerned provision and short title of the statute under which the application is made, the date of the order complained of, the value of the suit or proceedings out of which the application arises.]

3. Application to be produced before Commissioner of Affidavit and Stamp Reporter.-

Every application for ²[which affidavit is necessary] shall be produced before the Commissioner of Affidavits at the time ³[when] an affidavit in support of it is made, and that officer shall satisfy himself that the application is sufficiently stamped and shall certify accordingly; ⁴[even,] in case of an application in which no affidavit is necessary ⁵[a certificate of the Stamp Reporter shall be necessary with regard to sufficiency of court-fee].

⁶[3(a). [Omitted by Notification No. 181-G dt. 22-10-2012.]

⁷[3(b). [Omitted by Notification No. 181-G dt. 22-10-2012.]

4. Time and place for filing application.-Every application to the ⁸[High Court Division relating to an appeal, Review, Revision or other matter] pending before the Court shall be filed with the ⁹[Bench Officer] concerned at least 24 hours

¹ Rule 2 was substituted for the original rule 2 by Notification No. 181 G dt. 22-10-2012.

² The words "which affidavit is necessary" were substituted for the word "revision" by Notification *ibid*.

³ The word "when" was inserted by Notification *ibid*.

⁴ The expression "even," was substituted for the word "but" by Notification *ibid*.

⁵ The words "a certificate of the Stamp Reporter shall be necessary with regard to sufficiency of court-fee" were substituted for the words "the Bench Clerk concerned shall satisfy himself that the application is sufficiently stamped" by Notification *ibid*.

⁶ Similar provision added as rule 12B, Chapter V by Notification *ibid*.

⁷ Similar provision added as rule 12C, Chapter V by Notification *ibid*.

⁸ The expression "High Court Division relating to an Appeal, Review, Revision or other matter" was substituted for the expression "High Court Relating to an Appeal, a Rule or a Revision Case" by Notification *ibid*.

⁹ The words "Bench Officer" were substituted for the words "Bench Clerk" by Notification *ibid*.

before the sitting of the Court before which it is ¹[intended to be moved], or of the Registrar if the application is entertainable by him. Such application shall be ²[posted in the Cause List] for hearing on the next day or on any other day to which the Court directs. ³[An application not posted in the Cause List shall not be] entertained by the Court or the Registrar, unless in the special circumstances of the case, the Court or the Registrar otherwise directs.

All such applications shall be filed after notice to the appearing parties or their Advocates, if any.

5. Statement of facts etc. in application.-Every application to the ⁴[High Court Division], if founded on any statement of fact, shall set out the material facts, matters and circumstances on which the applicant relies.

6. Statement relating to previous application /order.-When an application is made to the Court or to the Registrar in any matter in which any previous application was made to the Court or to the Registrar to the same effect, or with the same object, or with a similar object, the fact of such application having been made and the order passed thereon shall be clearly stated in the application.

⁵[**7. Specification of typing/printing.**- Every such application shall be neatly and legibly typed/printed on stout paper of foolscap size with a margin of two inches and shall contain about 20 lines in each full page and the application shall

¹ The words "intended to be moved" were substituted for the words "proposed to move the application" by Notification No. 181 G dt. 22-10-2012.

² The words "posted in the Cause List" were substituted for the word "listed" by Notification *ibid*.

³ The words "An application not posted in the Cause List shall not be" were substituted for the words "No such application which has not been duly listed will" by Notification *ibid*.

⁴ The words "High Court Division" were substituted for the words "High Court" by Notification *ibid*.

⁵ Rule 7 was substituted for the original rule 7 by Notification *ibid*.

be divided into paragraphs and numbered consecutively; and unless otherwise directed in these Rules, all such applications may be typed/printed only on one side of the paper:

Provided that more than one copy of such application shall be necessary, if the Bench consists of more than one Judge and such extra copy or copies shall be neatly and legibly typed/printed on white paper in the above manner and shall conform to rule 9 below.]

8. Affidavit/affirmation about contents.- The facts stated in such application shall be verified by the solemn affirmation of the applicant or by an affidavit to be annexed to the application.

Note.-The affidavit may be ¹[sworn in] by any person having ²[knowledge] of the facts stated. Several persons may join in an affidavit, each deposing separately to those facts which are within his own knowledge.

9. Who can sign on application.-Every application shall be signed and dated either by the applicant or declarant or his Advocate ³], on the first page and the copy thereof shall contain on the first page an endorsement signed by him with words "True Copy"].

10. Document already in Court may not be annexed.- It will not be necessary to ⁴[annex to the application or to] the affidavit any document which is part of a record in the ⁵[High Court Division]; nor will it be necessary to produce any affidavit of

¹ The words "sworn in" were inserted by Notification No. 181-G dt. 22-10-2012.

² The word "knowledge" was substituted for the word "cognizance" by Notification *ibid*.

³ The expression ", on the first page and the copy thereof shall contain on the first page an endorsement signed by him with words "True Copy" " was inserted by Notification *ibid*.

⁴ The words "annex to the application or to" were substituted for the words "set out in the application or in" by Notification *ibid*.

⁵ The words "High Court Division" were substituted for the words "High Court" by Notification *ibid*.

any facts found by the ¹[High Court Division] or any of the ²[Subordinate Courts] in the course of the suit or proceeding out of which the appeal ³[,revision, review or application arises, if] such finding has not been reversed on appeal ⁴[or revision or review]; but the application shall state shortly all facts upon which it is intended to rely, and shall give the number, letter, title or other description of all documents on the record in the ⁵[High Court Division], to which it is intended to refer.

⁶[11. Production of relevant file at hearing.- (1) Where an application relates to a matter which is or has been before the High Court Division, the file of the High Court Division together with the application shall be placed before the Court or the Registrar at the time of the hearing of the application.

(2) When the applicant desires in a particular case that any document available in any other case record of the High Court Division is necessary to be produced at the hearing in order that they may be referred to by the Court, he shall, at the time of filing the application, give notice to the Bench Officer concerned to produce that document.

(3) Except by a special order of the Court or the Registrar, documents will not be produced from the record-room or the office during the sitting of the Court.]

¹ The words "High Court Division" were substituted for the words "High Court" by Notification No. 181-G dt. 22-10-2012.

² The words "Subordinate Court" were substituted for the words "Lower Court" by Notification *ibid*.

³ The expression ", revision, review or application arises, if" was substituted for the expression "arises: provided that" by Notification *ibid*.

⁴ The words "or revision or review" were inserted by Notification *ibid*.

⁵ The words "High Court Division" were substituted for the words "High Court" by Notification *ibid*.

⁶ Rule 11 was substituted for the original rule 11 by Notification *ibid*.

12. Notice to other side on hearing of application.

-In all cases in which service of notice on the opposite party is necessary ¹[but] has not been duly served, the hearing of the application (except in cases of urgency) shall be postponed unless the parties entitled to notice are present and willing to proceed at once. In all cases the parties opposing the application shall be at liberty to ²[pray for an adjournment] in order to answer the ³[affidavit(s)] or for any other good and special cause in the presence of the other side or the latter's Advocate.

⁴[13. Requisites before getting copies of rule issuing order etc.]

-(1) Where a notice is required to be served upon the opposite party/respondent pursuant to a Rule/*Rule nisi* issued or any other judicial order passed by the Court about admission of appeal, revision or review, the following procedure shall be followed.

(2) The fee for service of notice of a Rule/*Rule nisi* or of other judicial order on the concerned party shall be paid in cash/court fee stamp within a period of 3 (three) working days from the date of issuance of a Rule/*Rule nisi* or passing of the judicial order, unless the Court directs otherwise, whether *suo moto* or on the prayer of the party for extension of the time.

(3) The party, at whose instance a Rule/*Rule nisi* is issued or the said judicial order is passed, shall file as many legible true copies of the entire application for service of notice of the Rule/*Rule nisi* or of the said judicial order as there are opposite parties/respondents, upon whom the Rule/*Rule nisi* is issued or to whom the said judicial order relates. In Writ matters copies of all annexure shall also be annexed to each copy of such application.

¹ The word "but" was substituted for the expression "if such notice" by Notification No. 181-G dt. 22-10-2012.

² The words "pray for an adjournment" were substituted for the words "apply for a postponement" by Notification *ibid*.

³ The expression "affidavit(s)" was substituted for the word "affidavit" by Notification *ibid*.

⁴ Rule 13 was substituted for the original rule 13 by Notification *ibid*.

(4) In addition to the true copies mentioned in sub-rule (3) above, the said party shall also file, for each opposite party/respondent, a copy of the notice along with a pre-paid registered acknowledgement due with a cover/envelope sufficient in size to contain the notice and the said true copy and annexure with the complete and correct address of the opposite party/respondent. Such notice, application and annexure shall be served by registered post simultaneously with the notice served in normal course.

(5) Unless the requirements of sub-rules (2), (3) and (4) are fulfilled, no copy of the judicial order containing the Rule/*Rule nisi* or the order about admission of the appeal, revision or review, and no consequential order e.g. order of stay, or *status quo* or other order shall be issued, supplied or communicated to any court or person.

(6) When an acknowledgement purporting to be signed by the respondent or opposite party or his agent is received by the Registry, or the postal article containing the notice is received back by the Registry with an endorsement purporting to have been made by a postal employee to the effect that the respondent or opposite party or his agent has refused to take delivery of the postal article containing the notice when tendered to him, the Registry shall record a declaration to the effect that the notice has been duly served on the respondent or opposite party, as the case may be:

Provided that where the notice was properly addressed, pre-paid and duly sent by registered post with acknowledgement due, the declaration referred to in this sub-rule may be made notwithstanding the fact that the acknowledgement having been lost or misplaced or for any other reason has not been received by the Registry within thirty days from the date of sending of the notice by registered post.

(7) In writ matters, the court may dispense with any of the mode of the service of notice.]

14. Affidavit opposing rule/application/affidavit etc.

Any party opposing the grant of an application or showing cause against a Rule ¹[or *Rule nisi*], who may desire to bring before the Court any facts not contained in, or admitted by, the application or affidavit of the opposite party, shall do so by an affidavit containing, in the form of a narrative, the material facts on which he relies.

15. [Omitted by Notification No. 181-G dt. 22-10-2012.]

16. Copy of Affidavit etc. to be served 24 hours before.- No affidavit ²[by whatever name called in practice] shall ordinarily be read at the hearing of any appeal, application or other proceeding unless a copy thereof has been served upon the other party or his Advocate 24 hours before such hearing:

Provided that this rule shall not apply to urgent motions or applications or to motions or applications made *ex parte*.

³**17. Application for stay under Order 41, rule 5, C.P.C.-**Every application for stay of a proceeding under Order XLI, rule 5, Civil Procedure Code, shall specifically state-

- (a) that it is made under that rule;
- (b) the facts upon which the application is based;
- (c) the date of the decree or order or the number of execution case or other proceeding which is sought to be stayed;
- (d) the date of the order, if any, for execution or sale;
- (e) the date, if any, fixed for the sale;
- (f) the facts necessary to enable the Court to be satisfied about the matters mentioned in Order XLI, rule 5, sub-rule (3) of the Code.]

¹ The words "or *Rule nisi*" were inserted by Notification No. 181-G dt. 22-10-2012,

² The words "by whatever name called in practice" were inserted by Notification *ibid*.

³ Rule 17 was substituted for the original rule 17 by Notification *ibid*.

18. Application for security under Order 41, rule 6/10, C.P.C.-Every application for security under Order XXI, rule 6 or 10 ¹[of the Civil Procedure Code], shall state specifically under which rule it is made and shall be accompanied by an affidavit stating specifically the facts upon which the application is based.

19. Application for re-admission/restoration.- Every application for the ²[re-admission of an appeal or restoration of an application], dismissed for default of appearance shall be accompanied by an affidavit stating the circumstances in which such default was made, and whether or not the party whose appeal or application was dismissed had, previous to such dismissal, engaged an Advocate to conduct the appeal or application.

20. Application for calling Subordinate Court record/document etc.-Every application for an order to a Subordinate Court to forward any record, document or paper shall state-

- (a) the Court in which such record, document or paper is ³[lying];
- (b) the record in which such document or paper is ⁴[available];
- (c) the date of the document or paper; and
- (d) such other information as may be necessary for the purpose of identifying such record, document or paper.

¹ The words "of the Civil Procedure Code" were inserted by Notification No. 181-G dt. 22-10-2012.

² The words "re-admission of an appeal or restoration of an application" were substituted for the words "re-admission or restoration of an appeal or application" by Notification *ibid.*

³ The word "lying" was inserted by Notification *ibid.*

⁴ The word "available" was inserted by Notification *ibid.*

21. Certification of application under rule 20.- Every such application shall bear the Court-fee stamps leviable under [Article 1(d) (i)] of Schedule II to the Court-fees Act, 1870, ২[***] and shall be accompanied by a certificate signed by an Advocate that, in his opinion such record, the document or paper is requisite and material for supporting or opposing the appeal or other proceeding:

Provided that an application for calling for a record or what was already made a part of record of the case which has given rise to the proceedings in this Court in which the application is made need not bear a stamp.

³[B-] Affidavits

4[22. Title etc. of affidavits.- Every affidavit to be used in the Court shall contain a title with the words "In the Supreme Court of Bangladesh, High Court Division" and a reference to the case number, if any, and a brief reference to the cause title of the application/petition/appeal memo and the word(s) Affidavit, Counter Affidavit, Affidavit in opposition, Supplementary Affidavit etc.]

23 and 24. [Omitted by Notification No. 181-G dt. 22-10-2012.]

25. Paragraphing in affidavits.- Every affidavit containing any statement of fact shall be divided into paragraphs, and every paragraph shall be numbered consecutively and, as nearly as may be, shall be confined to a distinct portion of the subject.

¹ The expression "Article 1(d) (i)" was substituted for the expression "Article 1(d) (ii)" by Notification No. 181-G dt. 22-10-2012.

² The expression "as amended by Act XIII of 1950 (East Bengal Amendment)" was omitted by Notification *ibid*.

³ The expression "B-" was inserted by Notification *ibid*.

⁴ Rule 22 was substituted for the original rule 22 by Notification *ibid*.

1[26. Deponent's identity to be disclosed in affidavit.-

Every person swearing in an affidavit, i.e. the deponent shall describe himself by clearly stating his full name, parent's name(s), profession or trade, age, the place of his residence, nationality and every affidavit shall be subscribed either with the signature or with the finger impression of that person.]

27. Mode of affirmation in affidavit.-When the ²[deponent states in an affidavit] any fact within his own knowledge, he shall do so directly and positively using the words "I affirm (or 'make oath') and say."

³**28. Mode of expression of information obtained.-**(1) When the particular fact is not within the deponent's own knowledge, but is stated from information obtained from other person or source, he shall use the expression "I am informed," and must also state the source from which he received such information.

(2) When the statement rests on facts disclosed in documents or copies of documents procured from any court or tribunal or other source, the deponent shall state the source from which they were procured, and his information or belief as to the truth of the facts disclosed in such documents.

(3) Copies of documents (other than those on the record of the case), to which reference is desired at the time of hearing, shall be annexed to the affidavit and shall be marked as an Annexure and shall bear the certificate of the Commissioner before whom the affidavit is made.

(4) The affidavit must conform to rule 3, Order XIX of the Civil Procedure Code.]

¹ Rule 26 was substituted for the original rule 26 by Notification No. 181-G dt. 22-10-2012.

² The words "deponent states in an affidavit" were substituted for the words "declarant in any affidavit speaks to" by Notification *ibid*.

³ Rule 28 was substituted for the original rule 28 by Notification *ibid*.

1[29. Mode of identifying deponent before commissioner.-

(1) Except in a case stated in sub-rule (4), every deponent shall be identified to the Commissioner by an Advocate having membership of the Supreme Court Bar Association.

(2) The Commissioner shall ensure that the following information are legibly mentioned at the foot of the affidavit:

- (a) the name, address and reference number of the National Identity Card or other identity document issued by the Chairman of the concerned Union Parishad or the concerned Commissioner/Councillor of the Ward of a Pouroshova or City Corporation or Passport of the deponent;
- (b) the name, address and phone number of the said advocate; and also his membership number, if any, in the Supreme Court Bar Association;
- (c) the time and place of the identification and the making of the affidavit.

(3) For the purposes of sub-rules (1) and (2), the Commissioner may ask the Advocate to produce his documents of identity as advocate and if so asked the Advocate shall produce such document, failing which the Commissioner shall not accept the identification made by the Advocate.

(4) Where a deponent intends to appear in person in Court, he shall produce before the Commissioner the National Identity Card or Passport, or other document containing photograph and indicating his identity issued by the Chairman of the concerned Union Parishad or the concerned Commissioner/ Councillor of the Ward of a Pouroshova or City Corporation.

(5) Where a deponent signs an application or affidavit in his capacity as an employee of the Government or of a statutory public authority, the identity card containing a photograph issued by his superior authority shall be accepted.]

¹ Rule 29 was substituted for the original rule 29 by Notification No. 181-G dt. 22-10-2012.

1[30. Reading/explaining affidavit to deponent unable to understand.- (1) If the deponent is ignorant of the language in which it is written or if it appears to the Commissioner that the deponent is illiterate or does not understand the contents of the affidavit, the Commissioner shall cause the affidavit to be read and explained to him in a language which both he and the Commissioner understand, either doing so himself, or causing another person to do so in his presence.

(2) When any affidavit is read and explained as provided in sub-rule (1), the Commissioner shall certify in writing at the foot of the affidavit that it has been so read or explained, and that the deponent seemed perfectly to understand the same at the time of making the affidavit.]

31. Administering oath/affirmation to deponent.- In administering oaths and affirmation to ²[a deponent] the Commissioner shall be guided by the provisions of the ³[Oaths Act, 1873 (X of 1873)], and shall ensure that the oath or affirmation conforms to the following forms:]

OATHS

I swear that this my declaration is true, that it conceals nothing, and that no part of it is false.

AFFIRMATION

I solemnly declare that this my declaration is true, that it conceals nothing, and that no part of it is false.

4[32. Commissioner to sign after oath etc. The Commissioner administering oaths or affirmations under this Chapter, shall sign the certificate in the following form:

¹ Rule 30 was substituted for the original rule 30 by Notification No. 181-G dt. 22-10-2012.

² The words "a deponent" were substituted for the word "declarants" by Notification *ibid*.

³ The expression "Oaths Act, 1873 (X of 1873), and shall ensure that the oath or affirmation conforms to the following forms:" was substituted for the expression "Oath Act, X of 1873. The following forms are to be used-" by Notification *ibid*.

⁴ Rule 32 was substituted for the original rule 32 by Notification *ibid*.

"Solemnly affirmed before me this day. I certify that I read over and explained the contents to the deponent and that the deponent seemed perfectly to understand them."

33. Fees for affidavit etc. taken outside Court.- ¹[***] No fee is allowed for taking affidavits or affirmations in the Court house, but fees are allowed to ²[a Commissioner] for taking such affidavits or affirmations elsewhere ³[, as provided in Chapter II, rule 2 (IXA)].

4[34. **Process of giving back exhibit/annexure.**- (1) No document being an exhibit/annexure to an affidavit or verified petition or forming the materials for any application shall be given back unless the document is an original document, in which case it may be given back on an order of the Registrar, a certified copy of the original document or a photocopy of the original document duly attested by the applicant or his Advocate being retained in the file.

(2) When any such document is itself a certified copy it may be returned on the application of the party who filed it, but a photocopy thereof, attested by the said party or his Advocate must be filed and such attested copy shall be retained.

(3) In giving any document back under this rule, the Registrar shall satisfy himself about the identity of the concerned party or his Advocate.]

¹ The expression "Fees—" was omitted by Notification No. 181-G dt. 22-10-2012.

² The words "a Commissioner" were substituted for the word "Commissioners" by Notification *ibid*.

³ The expression ", as provided in Chapter II, rule 2 (IXA)" was inserted by Notification *ibid*.

⁴ Rule 34 was substituted for the original rule 34 by Notification *ibid*.

¹[Chapter-IVA Motion and Mention

1. Description of Motion: In this Chapter, the term 'Motion' means presenting/moving before a Bench an application/petition which does not fall in the category of an appeal and which, before its registration as a case, requires a judicial order for the purpose of its acceptance and registration thereof.

2. Matters ordinarily assigned to Motion and other Benches:

(1) Unless otherwise directed by the Chief Justice-

(a) all matters arising from a case after its registration shall be dealt with by a Motion Bench;

(b) after a case is ready for hearing and fixed by a Bench for hearing, all matters arising out of or relating to that case so fixed shall be dealt with by that Bench.

(2) An application/petition not registered as a case shall ordinarily be presented before a Motion Bench for hearing for the purpose of issuance of a Rule or for its registration otherwise.

3. General provision for Motion:

(1) Filing of civil/criminal Motion: In case of civil and criminal matters, every application/ petition for Motion shall be filed with the Bench Officer of the appropriate Motion Bench on the first day of the week. In case of urgency such application/petition may be filed on any other working day with the leave of the concerned Bench.

(2) Serial Number: The Bench Officer, on receipt of an application/petition for Motion, shall put thereon a serial number and his initial with date and shall also fix a seal and shall verbally inform the concerned Advocate or his law clerk of the serial

¹ Chapter IVA was inserted by Notification No. 181-G dt. 22-10-2012.

number. For the purposes of this sub-rule, the Registrar shall ensure that similar seal is used by all Bench Officers of Motion Benches.

(3) Filing Writ Motion application: In case of Writ matters, every application/petition for Motion shall be filed with the concerned Section, which shall-

- (a) examine the application/petition and, if satisfied that it is in order, record the same as a Writ Petition with a number and year and shall send to the Affidavit Commissioner for swearing in affidavit by the deponent;
- (b) deliver a slip indicating the number of the Writ application/petition, to the filing Advocate or his Law Clerk or the Writ Petitioner or his authorized agent, so that the matter may be mentioned before an appropriate Bench as prescribed below;
- (c) on the first working day of the week, send the application/petition to the Bench before which a mention slip has been filed by the petitioner, Advocate or the authorized agent:

Provided that in case of urgency the concerned Bench may accept a mention slip for the purpose of hearing an application/petition as Motion on any other working day.

(4) Issuing Rule/Rule Nisi & return date: When a Motion Bench decides to accept an application/ petition for adjudication, it will pass an order for issuing a notice calling upon the respondent(s)/opposite parties to show cause on such matters and within such period as specified in the order. An order passed on a Writ application/petition under this sub-rule may be called a *Rule Nisi*. In other cases, such order may be called a *Rule*. In every such order (*Rule Nisi* or *Rule*) the specific date of return of service shall be mentioned along with a direction to the petitioner/applicant to put in requisites within a specified time.

(5) Where a Bench does not issue *Rule Nisi* or Rule, whether on merit or because the application is not pressed or for any other reason, an order shall be recorded by the Bench accordingly.

(6) **No copy of Rule/Rule Nisi before requisites:** Until the requisites are furnished for service of notice of a *Rule Nisi* or a Rule, neither the concerned Section nor any other department shall deliver any copy of the order or part thereof in any form.

(7) **No take back etc:** Where any Motion application/petition is-

- (a) moved before a Bench, the application/petition cannot be taken back, except in case of lack of jurisdiction of the Bench, which shall pass necessary order on the application, on its being so moved;
- (b) summarily rejected on merit or is rejected for its being not pressed or for any other reason, a fresh application/petition on the same ground/cause shall not be made;
- (c) rejected as mentioned in clause (b) above and a fresh application is made on a new/different ground, it must contain a specific reference to the previous Motion application(s)/petition(s) and the rejection order(s).

(8) Where an order is passed under sub-rule (4) or (5), the Bench Officer shall, after getting the order signed by the Judge(s) of the concerned Bench, immediately send the application/petition to the concerned Section, which shall, in case of civil or criminal matter, record the same as a case in the relevant Register with a number and year.

(9) **Section to place file on or before return date:** Irrespective of the receipt of a report on the service of notice of the *Rule Nisi*/Rule within the date specified by the Court, the concerned Section shall place the matter in the following manner

- (a) in case of Civil Motion, in the cause list of the Bench dealing with Lawazima matter;

(b) in case of other matters, in the cause list of the Bench which issued the Rule, if functioning, or if not functioning, in the cause list of the Bench dealing with such matters, and if there are more than one Bench having similar jurisdiction on the matter, the case shall be placed in the cause list of the Bench presided over by a senior Judge;

(c) the Section shall, within 15 days after the date so specified, record a note on the service of the Rule and shall place it for necessary order by the said Bench.

(10) In Re matter: Where it is not possible for a Bench to hear all the Motion applications/petitions received on the same day, the applications/petitions not so heard shall be included in the list of that Bench on the following day as 'In Re' items with a brief reference to the names of the parties along with the name of the filing Advocate (for example, X & Others Vs Y & Others).

(11) In Re register: Where, due to a change in the constitution or any other reason, it is not possible for a Bench to hear or to record its order on the Motion applications/petitions presented before that Bench, the Bench Officer shall send the application/petition to the concerned Section, which shall, within 15 days, register the applications in a Register prepared in Form No. 1A, Appendix I to be known as 'In Re' Register (Writ/Civil/Criminal/Miscellaneous).

(12) After the applications/petitions referred to in sub-rule (11) are registered as 'In Re' matter, the concerned Section shall, within 10 days place the matters before the Chief Justice for necessary order for hearing of the applications/ petitions.

(13) An "In Re" matter shall get priority over a newly filed Motion and shall be included in the Cause List in the manner provided in sub-rule (9).

4. Additional provision for Motion in Writ matters:

(1) **Affidavit necessary:** An application under article 102 of the Constitution, in short Writ Petition, shall be supported by an affidavit.

(2) **Who can swear affidavit:** An affidavit in support of a writ petition shall be sworn in by the petitioner himself or, if permitted by the Court, by his representative duly authorized in writing. Such affidavit forms part of the writ petition.

(3) The provisions of Chapter IV relating to application and affidavit shall be applicable to a writ petition *mutatis mutandis*.

(4) **Validity period of affidavit:** A Writ Petition shall be mentioned before an appropriate Bench within 30 days after the affidavit is sworn in. After the said 30 days the validity of the affidavit for the purpose of hearing on the Writ Petition shall expire, and the section shall place the Writ Petition before the appropriate Motion Bench for order.

(5) **Documents:** When an application is made for an order or direction under clause (1) or (2) (a) of article 102 of the Constitution, the application shall be accompanied by the original document or, if available, the certified copy thereof, so that the function, act or proceeding complained of can be considered by the Court for issuance of such order or direction.

(6) Where the petitioner relies upon a document, he shall annex the original, or if available, the certified copy thereof. But if the certified copy is not available, a legible photocopy of the original duly attested by the petitioner or his authorized representative or petitioner's advocate, may be annexed with the leave of the court. To ensure legibility of annexed documents, typed/printed copies should be filed.

(7) Provisions of rule 13 of Chapter IV shall apply *mutatis mutandis* to putting in requisites for service of notice of a Rule issued in Writ matters.

(8) Section to place Writ matter before Bench if requisites not filed: Where requisites are not put in accordance with rule 13, Chapter IV and also sub-rule (9) below, the Writ Section shall, within one week after the expiry of the period for putting in requisites, place the case record before the Bench that issued *Rule Nisi*, if functioning, or if not functioning, before the appropriate Motion Bench presided over by the senior most Judge for order.

(9) Requisites in Writ matters: For the purpose of service of notice of the *Rule Nisi*, the writ petitioner must supply to the Section, as many copies of the documents mentioned below as there are number of respondents upon whom Rule is issued:

- (a) legible copy of the entire Writ petition;
- (b) legible photocopy of all the documents annexed to the Writ petition.

(10) No copy of Rule Nisi etc. before requisites: Until the requisites along with the documents mentioned in sub-rule (9) above are furnished, the Writ Section must not issue the notice of the *Rule Nisi* nor shall it deliver any certified copy, photocopy or other form of copy of the Rule issuing order or part thereof.

5. Additional provision for Motion in Civil cases:

(1) Affidavit: An application under section 24, 115, Order 47, rule 1 of the Code of Civil Procedure or any other provision of law presented as a Motion, shall be supported by an affidavit.

(2) Who can swear affidavit: An affidavit in support of an application/petition for Motion in civil cases shall be sworn in by the applicant/petitioner himself or by his Tadbirkar.

(3) The provisions of Chapter IV relating to application and affidavit shall *mutatis mutandis* apply to a Motion under this rule.

(4) Documents: Every application/petition for Motion in civil cases shall be accompanied by the following-

- (a) certified copy of the judgment or order, and the decree, if any, of the concerned subordinate court, if any, which is under challenge;
- (b) if the applicant/petitioner refers to any other judgment/order/decree of subordinate court in support of the statement made in the application/ petition, certified copy thereof;
- (c) if the applicant/petitioner relies upon other documents, he shall annex the original, or if available, the certified copy thereof;
- (d) if the certified copy of that other document is not available, legible photocopy of the original duly attested by the petitioner/applicant or his authorised agent or petitioner's Advocate, may be annexed with the leave of the Court.

(5) To ensure legibility of the annexed documents, typed/printed copies shall be attached.

(6) Validity period of affidavit: An application/petition for Motion in civil cases shall be filed with the Bench Officer of an appropriate Bench within 45 days after the affidavit is sworn in and on the expiry of the said 45 days validity of the affidavit shall expire.

Explanation: The period of 45 days shall not be construed as an extension of the period of limitation, if any.

6. Motion in Criminal cases:

(1) Affidavit: An application under section 439,491,498,526 or 561A of the Criminal Procedure Code or any other provision of law presented as a Motion shall be supported by an affidavit.

(2) **Who can swear affidavit:** An affidavit in support of an application/petition for Motion in criminal cases shall be sworn in by the applicant/petitioner himself or by his Tadbirkar.

(3) **Documents:** The provisions of Chapter IV relating to application and affidavit shall *mutatis mutandis* apply to the application/ petition for Motion under this rule.

(4) Every application/petition for Motion in criminal cases shall be accompanied by the following--

(a) certified copy of the judgment or order of the concerned subordinate court, if any, which is under challenge;

(b) if the applicant/petitioner refers to any other judgment /order of a subordinate court in support of the statement made in the application/petition, certified copy thereof;

(c) if the applicant/petitioner relies upon other documents he shall annex the original, or if available, the certified copy thereof;

(d) if the certified copy of that other document is not available, legible photocopy of the original duly attested by the petitioner/applicant or his Advocate, may be annexed with the leave of the Court.

(5) To ensure legibility of the annexed documents, typed/printed copies shall be attached.

(6) **Validity period of affidavit:** An application/petition for Motion in criminal cases shall be filed with the Bench Officer of an appropriate Bench within 45 days after the affidavit is sworn in and on the expiry of the said 45 days validity of the affidavit shall expire.

Explanation: The period of 45 days shall not be construed as an extension of the period of limitation, if any.

7. Motion before Single Bench during vacation:

(1) Unless otherwise specified by the Chief Justice about the constitution/jurisdiction of a Vacation Bench consisting of a single Judge, order passed by such a Bench shall extend to the date of expiry of the vacation.

(2) On the first working day after the vacation, the concerned Section shall place the matter before an appropriate Bench(es) for necessary order.

8. Mention Slip:

(1) Where a party to a case or an applicant intends to get a case included in the Daily Cause List for obtaining an order of an appropriate Bench, that party or applicant shall, during the mention hour followed by that Bench, file a Mention Slip in the form prescribed at the end of this rule.

(2) On receipt of the Mention Slip, the Bench Officer shall-

(a) put a serial number with his signature and date on the slip;

(b) send a requisition for the concerned file from the concerned Section before 3 p.m.;

(c) make arrangement for inclusion of the case mentioned in the slip under the heading "উল্লেখিত হইবে".

(3) The mention slips shall ordinarily be destroyed by the Bench Officer after 15 days. However, where necessary order is passed in respect of a case referred to in the mention slip, such slip may be destroyed immediately.

(1) Unless otherwise specified by the Chief Justice about the constitution/jurisdiction of a Vacation Bench consisting of a single Judge, order passed by the Bench shall extend to the date of expiry of the vacation period.

Mention Slip

Date of Filing of Slip: District:

Case No...../.....
(Number of the case with year)

Name of Parties}.....and Other(s)

Vs.

.....and Other(s)

Purpose (in brief)

Name of Advocate (having power)/Person intending to mention.....

.....
Signature of Advocate
having power/Person intending
to mention.

9. Forms to be used in contempt matters: Form Nos.1 and 2 as prescribed in Appendix III may be used in matters relating to Contempt of Court. In a particular situation the concerned Bench may direct the office to communicate its order in any manner as it deems fit.]