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EXCLUSION OF ADVOCATES FROM THE AMBIT OF THE CONSUMER PROTECTION ACT: A CRITICAL ANALYSIS OF THE SUPREME COURT'S VERDICT IN BAR OF INDIAN LAWYERS V. D.K. GANDHI

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ABSTRACT

The Supreme Court's decision in Bar of Indian Lawyers v. D.K. Gandhi PS National Institute of Communicable Diseases resolves, at last instance, a question that had divided consumer fora for over three decades: whether an advocate's professional service falls within the protective ambit of the Consumer Protection Act. Reversing the National Consumer Disputes Redressal Commission, a two-judge bench held that legal representation is a contract of personal service excluded from the statutory definition of "service," and that the legal profession's sui generis character places it outside the Act's consumer-facing architecture altogether. This comment situates the ruling within the doctrinal lineage running from Lucknow Development Authority v. M.K. Gupta through Indian Medical Association v. V.P. Shantha, traces the comparative regulatory alternatives adopted in England and Wales and in several regulated schemes in the United States, and argues that the decision, whatever its doctrinal coherence, leaves aggrieved clients dependent on a Bar Council disciplinary mechanism that is structurally vulnerable to the objection that no one should adjudicate a complaint against a member of their own professional body. It concludes that legislative reform of the disciplinary architecture, rather than reopening the Act's scope, offers the more defensible route to reconciling professional autonomy with client accountability.

KEYWORDS: *Consumer Protection Act; Legal Profession; Deficiency of Service; Contract of Personal Service; Natural Justice; Bar Council of India.*

1. INTRODUCTION

For nearly three decades, consumer fora across India grappled inconsistently with a single, recurring question: does an advocate render a "service" within the meaning of the Consumer Protection Act, so that a client dissatisfied with representation may seek redress before a District, State, or National Consumer Disputes Redressal Commission rather than, or in addition to, the disciplinary machinery of the Bar Council? Different fora answered the question differently, producing a body of jurisprudence that oscillated between treating legal representation as an ordinary service contract and treating it as something categorically apart from the commercial transactions the Act was designed to police. The Supreme Court's decision in *Bar of Indian Lawyers Through Its President Jasbir Singh Malik v. D.K. Gandhi PS National Institute of Communicable Diseases and Anr.*, delivered on 14 May 2024 by a bench of Justices Bela M. Trivedi and Pankaj Mithal, resolves that uncertainty, at least for the present, by holding unambiguously that advocates are not amenable to

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complaints of "deficiency in service" under the Consumer Protection Act, 1986 or its 2019 re-enactment.[1]

The ruling arrives at the end of a long litigation chain that began with a modest dispute over an advocate's retention of a client's money and travelled, through reversals at every successive forum, to the apex court. Its holding rests on two connected propositions: first, that the legal profession is sui generis, a category the Court treats as definitionally incapable of comparison with ordinary trade, business, or even other regulated professions; and second, that the relationship between an advocate and a client is a "contract of personal service," a category the 2019 Act expressly excludes from its definition of "service" under Section 2(42).

This comment examines the decision in stages that mirror the structure of the judgment itself before moving beyond it. It first sets out the facts and the procedural history that carried the dispute from the District Commission to the Supreme Court. It then situates the judgment within the statutory architecture of the Consumer Protection Act and the line of precedent on which the Court relied, before turning to the judgment's reasoning and the concurring opinions of both judges. It next places the ruling in comparative perspective, examining how England and Wales and several regulated schemes in the United States handle the analogous question of consumer recourse against lawyers, in order to test whether India's near-total exclusion of advocates from consumer law is an outlier or the norm. It then evaluates the decision's principal doctrinal and practical difficulty, the adequacy of the Bar Council's disciplinary mechanism as a substitute for consumer redress, and argues that the mechanism's structure raises a live, if underexamined, concern under the principles of natural justice, before assessing the judgment's broader significance. The comment concludes that while the Court's construction of the statutory text is defensible on its own terms, the judgment's practical consequence, closing one avenue of redress without strengthening the one it leaves in place, calls for legislative attention rather than judicial or academic resignation.

2. FACTS AND PROCEDURAL HISTORY

The dispute originated in a routine, low-value transaction. The respondent had engaged the appellant, an advocate, to pursue a complaint against one Kamal Sharma under Section 138 of the Negotiable Instruments Act, 1881[2], after a cheque for Rs. 20,000 issued by Sharma in the respondent's favour was dishonoured. During the pendency of that complaint, Sharma agreed to settle by

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1 Bar of Indian Lawyers Through Its President Jasbir Singh Malik v. D.K. Gandhi PS National Institute of Communicable Diseases and Anr., [2024] 6 SCR 484 : 2024 INSC 410.

2 Negotiable Instruments Act, 1881, § 138, No. 26, Acts of Parliament, 1881 (India).

paying the cheque amount together with a further Rs. 5,000 towards the respondent's expenses, and accordingly handed over a demand draft for Rs. 20,000 and a cheque for Rs. 5,000 to the appellant, to be passed on to the respondent.

The appellant did not deliver either instrument to the respondent. Instead, the advocate separately demanded Rs. 5,000 in cash as professional fees and, when this was not paid, filed a civil recovery suit for that amount in the Court of Small Causes, Delhi. Only after the recovery suit was instituted did the advocate hand over the demand draft and the cheque to the respondent, but by then payment on both instruments had been stopped at the advocate's own instance, leaving the respondent with neither the settlement money nor a functioning claim against Sharma.

Aggrieved, the respondent filed a consumer complaint before the District Consumer Disputes Redressal Commission, Delhi, seeking Rs. 15,000 as the outstanding sum still owed, together with compensation of Rs. 10,000 for mental agony and harassment and costs of the proceeding. The advocate resisted the complaint on the threshold objection that legal services fall outside the Consumer Protection Act altogether, an objection the District Commission rejected, holding that it possessed jurisdiction and, on the merits, that the advocate had rendered a deficient service.

The advocate appealed to the State Consumer Disputes Redressal Commission, which took the opposite view, holding that the service rendered by a lawyer does not answer the description of “service” under Section 2(1)(o) of the 1986 Act and that the complaint was accordingly not maintainable. The respondent then carried the matter to the National Consumer Disputes Redressal Commission by way of a revision petition. The NCDRC restored the District Commission's position, holding that a lawyer's professional service does fall within the Act, whether under the 1986 enactment or its 2019 successor, and that the exclusion urged by the advocate found no support in the statutory text.

It was this decision of the National Commission that the Bar of Indian Lawyers, appearing through its President, sought to have set aside before the Supreme Court, framing the appeal not merely as a dispute about one advocate's conduct but as a challenge to the National Commission's jurisdiction over the legal profession as a class. The appeal accordingly proceeded less as an ordinary consumer dispute and more as a representative challenge on behalf of the Bar, a framing that shaped both the arguments the Court heard and the sweep of the answer it eventually gave. The Supreme Court's judgment, comprising a leading opinion by Justice Trivedi and a separate but concurring opinion by Justice Mithal, allowed the appeal, set aside the NCDRC's order, and held that the original complaint itself was not maintainable, thereby resolving in the advocate's favour a question the lower fora had answered in four different ways across four successive stages of the same litigation.

3. ISSUES BEFORE THE COURT

The Supreme Court distilled the appeal into three connected questions. The first was definitional: whether the service rendered by an advocate to a client falls within the meaning of “service” as defined in Section 2(1)(o) of the Consumer Protection Act, 1986, and its corresponding provision, Section 2(42), in the 2019 re-enactment. The second was structural: whether the legal profession's distinctive characteristics, its officer-of-the-court status, its fiduciary obligations running simultaneously to client, court, and opposing counsel, and its regulation under a dedicated statute, take it outside the class of professions to which consumer law was ever meant to apply. The third was contractual: whether the relationship an advocate forms with a client is more accurately described as a “contract of personal service,” which the statutory definition of “service” expressly excludes, or as a “contract for service,” which would ordinarily fall within it.

These three questions were not, in the Court's treatment, independent of one another. The answer to the contractual question depended heavily on the Court's prior conclusion about the profession's sui generis status, and both, in turn, fed into the ultimate finding on maintainability. The Court's method, in other words, moved from the general characterisation of the profession to the particular characterisation of the individual retainer, rather than the reverse, a sequencing that matters for the critique developed in Section 6.

4. THE STATUTORY BACKDROP: “SERVICE” UNDER THE CONSUMER PROTECTION ACT

To assess the Court's conclusion, it is necessary first to recall the statutory terrain it was navigating. The Consumer Protection Act, 1986 defined “service” broadly, as any description of service made available to potential users, and set out an inclusive, non-exhaustive list of illustrations without expressly naming professional services one way or the other. The 2019 Act, which repealed and replaced the earlier enactment, retained a similarly broad definition but preserved, without alteration, the exclusionary phrase already present in the 1986 Act's definition: a “contract of personal service” is not “service” for the Act's purposes.[3] Neither enactment defines that excluded category, leaving courts to develop its content through case law borrowed largely from labour and contract jurisprudence, where the distinction between a “contract of service”, an employment relationship marked by the employer's control over how work is

[3] Consumer Protection Act, 1986, § 2(1)(o), No. 68, Acts of Parliament, 1986 (India); Consumer Protection Act, 2019, § 2(42), No. 35, Acts of Parliament, 2019 (India).

performed, and a "contract for service", an independent engagement marked by the professional's autonomy, had already been elaborated for other purposes.

This borrowed vocabulary produced an awkward fit when applied to professional retainers, and the Supreme Court's own case law on the Act's scope reflects that awkwardness. In *Lucknow Development Authority v. M.K. Gupta*[4], the Court read the Act expansively, holding that statutory housing authorities discharge a "service" when they allot flats to buyers and that the Act was intended to provide a quick, inexpensive remedy against exactly the kind of institutional high-handedness that ordinary civil litigation left unaddressed. In *Indian Medical Association v. V.P. Shantha*[5], extending that expansive reading to another profession, the Court held that services rendered by doctors, other than those rendered free of charge, fall within the Act, rejecting the argument that medicine's professional and ethical character placed it beyond the statute's reach. These decisions, together with *State of Karnataka v. Vishwabharathi House Building Coop. Society*[6], *Common Cause v. Union of India*[7], and *Laxmi Engineering Works v. P.S.G. Industrial Institute*[8], established the interpretive backdrop against which the present case was argued: a jurisprudence that had, until 2024, shown far more willingness to expand the Act's reach into professional and institutional conduct than to carve exceptions out of it.

It is against this backdrop that the National Commission's decision below becomes intelligible. If medical services fall within the Act notwithstanding the profession's ethical obligations and regulatory oversight under a dedicated medical statute, the National Commission reasoned, there was no obvious basis for treating legal services differently merely because advocates, too, are subject to a separate regulatory statute, the Advocates Act, 1961[9]. The Supreme Court's task, in other words, was not to interpret the definition of "service" on a blank slate but to explain why the reasoning that had brought doctors within the Act's scope should not carry advocates with it, a task that required the Court to draw a line between the two professions that the statutory text itself does not draw, and that, as discussed below, it ultimately addressed by referring its own doctor-liability precedent for reconsideration rather than by distinguishing it.

4 Lucknow Development Authority v. M.K. Gupta, [1993] Supp. 3 SCR 615 : (1994) 1 SCC 243 (India).

5 Indian Medical Association v. V.P. Shantha & Others, [1995] Supp. 5 SCR 110 : (1995) 6 SCC 651 (India).

6 State of Karnataka v. Vishwabharathi House Building Coop. Society and Others, [2003] 1 SCR 397 : (2003) 2 SCC 412 (India).

7 Common Cause, A Registered Society v. Union of India and Others, [1993] 1 SCR 10 : (1997) 10 SCC 729 (India).

8 Laxmi Engineering Works v. P.S.G. Industrial Institute, [1995] 3 SCR 174 : (1995) 3 SCC 583 (India).

9 Advocates Act, 1961, No. 25, Acts of Parliament, 1961 (India).

5. JUDGMENT AND RATIONALE

The Supreme Court allowed the appeal and set aside the NCDRC's order, holding that the complaint against the advocate was not maintainable under the Consumer Protection Act. Delivering the leading opinion, Justice Trivedi held that the legislature, in enacting the 1986 Act and re-enacting it in 2019, never intended to bring professions, or the services rendered by professionals, within the statute's reach, and that the legal profession in particular is sui generis, incapable of meaningful comparison to the trades and businesses the Act was drafted to regulate. In the Court's own words:

> *"The Consumer Protection Act of 1986, as re-enacted in 2019, was designed to safeguard consumers from unfair trade and unethical business practices. However, the Legislature never intended to bring professions or the services provided by professionals within the scope of the Act. The legal profession is sui generis, meaning it is unique and cannot be compared to any other profession. Furthermore, the services rendered by an advocate fall under a 'contract of personal service,' which is excluded from the definition of 'service' as per Section 2(42) of the CP Act, 2019. Consequently, any complaint alleging 'deficiency in service' against advocates practicing the legal profession would not be maintainable under the Act."*

The reasoning proceeds in two connected steps. The first characterises the profession as a whole: because advocates owe duties simultaneously to the client, to the court, and to the administration of justice, and because those duties can require an advocate to decline instructions that would compromise candour to the court, the profession cannot be reduced to a simple service-for-fee transaction of the kind the Act contemplates. The second characterises the individual retainer: because a client instructs, and can at any point withdraw instructions from, an advocate, and because the advocate's authority to act, evidenced through a Vakalatnama, flows entirely from and is constrained by those instructions, the relationship exhibits the degree of client control that case law, drawing on *Dharangadhra Chemical Works Ltd. v. State of Saurashtra*[10] and *Himalayan Cooperative Group Housing Society v. Balwan Singh*[11], associates with a "contract of personal service" rather than the greater professional autonomy associated with a "contract for service."

Justice Mithal's concurring opinion supplies a second, independent line of reasoning, resting less on the internal structure of the advocate-client

[10] Dharangadhra Chemical Works Ltd. v. State of Saurashtra and Others, [1957] 1 SCR 152 : AIR 1957 SC 264 (India).

[11] Himalayan Cooperative Group Housing Society v. Balwan Singh and Others, [2015] 4 SCR 616 : (2015) 7 SCC 373 (India).

relationship and more on regulatory architecture and comparative practice. His opinion emphasises that the legal profession in India is already governed by a comprehensive code, the Advocates Act, 1961, and reasons that India's regulatory choices for a professional class subject to a specialised statute should, where feasible, track international practice for equivalently regulated professions. In his own words:

> *"The legal profession in India is a regulated field governed by the Advocates Act, 1961, which serves as a comprehensive code for lawyers' conduct. Given this regulatory framework, India must align the functioning of its regulated professions with international practices. While laws should be applied in the context of a country's prevailing conditions, globalization necessitates a uniform approach, particularly for laws based on a common resolution of the United Nations. Consumer protection laws should universally apply only to consumers, those who purchase goods or hire services for consideration, implicitly excluding professional services, especially those provided by lawyers, whose profession is sui generis."*

Justice Mithal accordingly concurred that the NCDRC's earlier ruling, treating deficiency-in-service complaints against advocates as maintainable, was incorrect and stood overruled. Notably, the Court did not confine its holding to disapproving the National Commission's reasoning; it went further and directed that *Indian Medical Association v. V.P. Shantha*, the very precedent that had extended the Act to doctors, be placed before a larger bench for reconsideration, a signal that the Court's discomfort extends beyond advocates to the broader premise that regulated professionals generally fall within consumer law.

6. ANALYSIS OF THE COURT'S REASONING

Four strands of the Court's reasoning merit closer scrutiny.

Sui generis status. The judgment's starting premise, that the legal profession is sui generis, does real work in the analysis, yet the Court's use of the label is more assertion than argument. Every regulated profession can claim some combination of specialised training, ethical obligation, and public function; medicine, chartered accountancy, and architecture all impose fiduciary-like duties and are all governed by dedicated regulatory statutes. What the judgment identifies as distinctive to advocacy, the duty to the court that can override the duty to the client, is a genuine structural feature, but the Court does not explain why this duty is incompatible with simultaneous consumer accountability for the distinct, and more mundane, forms of deficiency at issue in this case: retaining a client's money, failing to communicate, or missing a filing deadline.

The line between the advocate's judgment-laden professional function and the advocate's ordinary custodial and administrative obligations is not addressed, and the judgment's sui generis characterisation, however rhetorically forceful, substitutes for that finer analysis rather than supplying it.

Contract of personal service. The Court's second finding, that the advocate-client relationship is a contract of personal service, rests on the degree of control a client exercises over an advocate's conduct of a matter. Drawing on *Dharangadhra Chemical Works*, which distinguishes a contract of service from a contract for service according to the degree of control the principal retains, and on *Himalayan Cooperative Group Housing Society*, which describes advocates as agents bound by client instructions who cannot compromise a claim or give an undertaking without express authority, the Court concludes that a client's power to instruct, and to withdraw instructions from, an advocate mirrors the employer's control that defines a contract of service. The analogy is imperfect. An employee ordinarily works exclusively for one employer, under continuous direction as to method and hours; an advocate, by contrast, retains independent professional judgment over how a case is argued, accepts instructions from multiple clients simultaneously, and is bound by ethical duties to the court that can require disregarding a client's wishes. The control a client exercises over an advocate is closer to the control any principal exercises over an independent contractor's objectives, without dictating the professional means of achieving them, a relationship classical contract-of-service doctrine treats as the paradigm case for a contract for service, not against it.

Legislative intent. The Court's third strand looks to the purpose the 1986 and 2019 Acts were designed to serve, reasoning through *Lucknow Development Authority*, *Common Cause*, and *Laxmi Engineering Works* that Parliament's target was commercial and trade-related exploitation, not the rendering of specialised professional judgment, a conclusion the Court buttressed by invoking the profession's non-commercial, service-oriented character as elaborated in *Byram Pestonji Gariwala v. Union Bank of India*[12], *R. Muthukrishnan v. Registrar General, High Court of Judicature at Madras*[13], and *State of U.P. v. U.P. State Law Officers Association*[14]. This reading sits uneasily with *Indian Medical Association v. V.P. Shantha*, which reached the opposite conclusion for an equally specialised, ethically bound, separately regulated profession using the same interpretive materials. The Court's response, to refer *V.P. Shantha* to a larger bench rather than to distinguish it, is

[12] Byram Pestonji Gariwala v. Union Bank of India and Others, [1991] Supp. 1 SCR 187 : (1992) 1 SCC 31 (India).

[13] R. Muthukrishnan v. Registrar General, High Court of Judicature at Madras, [2019] 1 SCR 589 : (2019) 16 SCC 407 (India).

[14] State of U.P. and Others v. U.P. State Law Officers Association and Others, [1994] 1 SCR 348 : (1994) 2 SCC 204 (India).

candid about the tension but does not resolve it; it leaves the Act's application to every other regulated profession, architects, chartered accountants, company secretaries, in an unsettled state pending that reconsideration.

Judicial method. Finally, the judgment's overall method deserves comment. Rather than asking whether the specific conduct alleged, an advocate's retention of a client's settlement money, falls within the Act's protective purpose, the Court answered a categorical question, whether advocacy as such is capable of generating a maintainable consumer complaint, and answered it for the entire profession in a single stroke. A narrower ruling, confined to whether the particular grievance here, essentially one of misappropriation and non-communication rather than a challenge to professional judgment, fell within the Act, would have left room for future courts to distinguish between complaints touching an advocate's exercise of professional skill, which the sui generis reasoning most persuasively protects, and complaints touching an advocate's basic custodial and administrative obligations, which the reasoning protects far less persuasively. By ruling categorically, the Court forecloses that distinction for every future litigant, whatever the character of the underlying grievance, a point the comparative material in the next section throws into sharper relief.

7. COMPARATIVE PERSPECTIVES: REGULATING LEGAL SERVICES BEYOND INDIA

India is not alone in confronting the question of whether ordinary consumer law should reach the legal profession, and the comparative picture suggests that outright exclusion, of the kind the Supreme Court has now adopted, is closer to the exception than the rule among mature common law systems.

England and Wales took the opposite path. Rather than leaving clients to a purely internal disciplinary process or extending general consumer legislation to cover legal services awkwardly, Parliament created a dedicated statutory mechanism for the purpose. The Legal Services Act 2007 established the Office for Legal Complaints and, operating under it, the Legal Ombudsman, an independent scheme that began accepting complaints in October 2010 and that considers service complaints, communication failures, and billing disputes against solicitors, barristers, licensed conveyancers, and other regulated legal service providers[15]. The Ombudsman is deliberately structured to sit outside the profession's own regulators, the Solicitors Regulation Authority and the Bar Standards Board among them, precisely so that a complaint about service quality is not adjudicated by the same body responsible for licensing and disciplining the professional against whom the complaint is made, and it can order redress, including a refund of fees or compensation for distress, without

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15 Legal Services Act 2007, c. 29, pt. 6 (Eng.); Office for Legal Complaints, Legal Ombudsman, operational from 6 October 2010.

the complainant having to frame the grievance as professional misconduct. Where India's Supreme Court has now closed one external avenue without creating another, the English model responds to the same underlying anxiety, that lawyers should not judge complaints against lawyers, by building an ombudsman scheme independent of the regulator, rather than by excluding legal services from consumer protection altogether.

The United States presents a more fragmented but instructive comparison. Because consumer protection there is chiefly a matter of state law, coverage of legal services under the various state Unfair and Deceptive Acts and Practices statutes varies considerably. A number of states exclude attorneys through an explicit "learned professional" exemption, while others examine the specific conduct complained of rather than applying a blanket exemption, and still others distinguish between an attorney's exercise of professional judgment, generally exempt, and the business side of practice, billing, fee collection, and marketing, which several states have held remains subject to consumer protection statutes even where a general professional exemption applies[16]. This conduct-specific approach offers a middle path the Indian judgment does not explore: rather than asking categorically whether advocacy as such can generate a consumer complaint, several American jurisdictions ask whether the specific conduct at issue is an exercise of professional judgment, which is protected, or an ordinary business practice, which is not. Measured against that framework, the underlying facts of the Indian case, an advocate's retention of client funds and a subsequently reversed decision to stop payment on already-issued instruments, would likely fall on the business, rather than the professional-judgment, side of the American line.

What this comparative survey suggests is not that India's Supreme Court reached an indefensible result as a matter of statutory construction, its reading of "contract of personal service" is a plausible, if contestable, application of existing doctrine, but that the result leaves India without either of the two structural safeguards other systems have developed to accompany a limitation on ordinary consumer redress: a conduct-specific carve-out that distinguishes professional judgment from routine business failure, as in much of American practice, or an independent ombudsman positioned outside the profession's own regulator, as in England and Wales. The Indian position, by contrast, routes every complaint, whatever its character, back to the Bar Council, the very body whose independence from the profession it regulates is the subject of the next section's inquiry.

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[16] American Bar Association, Regulation of Licensed Professionals for Unfair, Deceptive, or Abusive Acts, The Brief (Spring 2022–23).

8. NATURAL JUSTICE AND THE ADEQUACY OF THE DISCIPLINARY ALTERNATIVE

The judgment's practical effect is to make the State Bar Council, acting under the Advocates Act, 1961, the sole forum for a client aggrieved by an advocate's conduct, since Section 35 of that Act[17] empowers the Council to receive a complaint, refer it to a disciplinary committee, and, on a finding of professional or other misconduct, dismiss the complaint, reprimand the advocate, suspend the advocate from practice, or, in a serious case, remove the advocate's name from the roll of advocates altogether. An appeal from the State Bar Council's order lies to the Bar Council of India, and a further appeal, under Section 38[18], lies to the Supreme Court itself.

This mechanism must be tested against the principle expressed in the maxim *nemo debet esse judex in propria sua causa*, no one should be a judge in their own cause, one of the two classical pillars of natural justice alongside the right to a fair hearing. The rule against bias does not require proof that a decision-maker was in fact partial; Indian courts, following English authority, have long held that a reasonable apprehension of bias in the mind of a fair-minded observer is sufficient to vitiate a proceeding, because what the doctrine protects is public confidence in the impartiality of adjudication, not merely the correctness of any particular outcome. The Supreme Court applied precisely this reasoning in *A.K. Kraipak v. Union of India*[19], extending natural justice to administrative selection processes where a member of a selection board was himself a candidate, and it was applied again in *Manak Lal v. Dr. Prem Chand Singhvi*[20], where a tribunal member's professional association with one side was held sufficient to vitiate the proceeding notwithstanding an absence of proven actual bias. In *Ranjit Thakur v. Union of India*[21], the Court fixed the governing test as whether a reasonable person, in possession of the relevant facts, would apprehend a likelihood of bias, an objective, institutional inquiry rather than one turning on any individual complainant's subjective discomfort. This is precisely the objection a litigant can raise, without impugning the personal integrity of any individual Bar Council member, against a disciplinary structure in which a body composed of practising advocates, elected by and answerable to the profession, sits in judgment over complaints against its own members.

The objection should not be overstated. Disciplinary self-regulation by professional bodies is neither unusual nor, without more, unlawful; medical councils, chartered accountancy institutes, and bar associations across common law jurisdictions all operate broadly similar peer-adjudication models, and

17 Advocates Act, 1961, § 35, No. 25, Acts of Parliament, 1961 (India).
18 Advocates Act, 1961, § 38, No. 25, Acts of Parliament, 1961 (India).
19 A.K. Kraipak v. Union of India, AIR 1970 SC 150 : (1969) 2 SCC 262 (India).
20 Manak Lal v. Dr. Prem Chand Singhvi, AIR 1957 SC 425 (India).
21 Ranjit Thakur v. Union of India and Others, (1987) 4 SCC 611 (India).

courts have generally upheld them against bias challenges provided the disciplinary committee is appropriately constituted and the process affords a fair hearing. What distinguishes the present concern is not the mere fact of peer adjudication but its exclusivity: before this judgment, a client dissatisfied with the outcome, or the pace, of Bar Council proceedings retained the option of an independent consumer forum as an alternative or parallel avenue of redress. After this judgment, that alternative no longer exists, and the reasonable-apprehension-of-bias concern, always latent in a peer-disciplinary model, is left with no external check short of an eventual appeal to the Supreme Court itself, a remedy realistically available only after a complainant has first exhausted two tiers of proceedings before the very body whose composition prompted the apprehension in the first place.

The comparative material canvassed in Section 7 shows one way this structural gap has been addressed elsewhere: an ombudsman scheme, of the kind the Legal Services Act 2007 created in England and Wales, positioned deliberately outside the regulator, so that service complaints are heard by a body with no institutional stake in protecting the profession's own members. India's Advocates Act, 1961 contains no equivalent, and the Supreme Court's judgment, in closing the consumer forum route, has made the absence of such a body considerably more consequential than it was before.

9. SIGNIFICANCE AND CRITIQUE

The judgment carries significance well beyond the modest sum in dispute. By excluding advocates from the Consumer Protection Act, the Supreme Court has reinforced the profession's institutional autonomy and signalled that the relationship between a lawyer and a client is to be governed by professional norms rather than by consumer-law standards of “deficiency in service,” a standard the Court plainly regarded as ill-suited to the exercise of legal judgment. The Court's concern about frivolous or strategic complaints, filed by disgruntled litigants against opposing counsel or used as leverage in fee disputes, is not fanciful; the low cost and summary procedure of consumer fora make them an attractive forum for exactly this kind of tactical litigation, and the judgment's practical effect of channelling such complaints into a professional disciplinary process, with its own screening mechanisms, has some efficiency justification.

That justification, however, sits uneasily with the case actually before the Court. Whatever the merit of shielding advocates from complaints that second-guess litigation strategy or professional judgment, the underlying grievance here involved no exercise of professional skill at all: an advocate retained client funds, then had payment stopped on instruments already handed over, conduct closer to conversion than to a disputed litigation tactic. Treating this as indistinguishable, for jurisdictional purposes, from a complaint about the quality of legal argument illustrates the cost of the Court's categorical approach identified in Section 6: a genuine concern about protecting professional judgment from consumer-forum second-guessing has been generalised into an immunity that also covers conduct professional judgment does nothing to explain or excuse.

The Court's own acknowledgment that including professional services within the Act's ambit risks overwhelming consumer fora, already burdened by delay, is a legitimate administrative concern, but it is one that argues for strengthening institutional capacity rather than narrowing jurisdiction. A consumer protection regime whose remedy is prized precisely for being inexpensive and quick loses much of its distinctive value if access to that remedy is curtailed whenever the volume of potential claimants grows large; the more defensible response to caseload pressure is investment in the forum's capacity, not exclusion of an entire class of grievance from its reach. Read together with the reference of *V.P. Shantha* to a larger bench, this judgment may prove to be the first step in a broader retrenchment of the Consumer Protection Act's application to regulated professions generally, a possibility that makes the disciplinary-alternative question examined in Section 8 considerably more urgent than the present case, on its own modest facts, might suggest.

10. CONCLUSION

The judgment in *Bar of Indian Lawyers v. D.K. Gandhi* settles, at least until a larger bench revisits the underlying question through the referred *V.P. Shantha* appeal, a jurisdictional uncertainty that had persisted for the better part of three decades, and it does so through a reading of "contract of personal service" that, on its own terms, is a coherent application of existing contract and agency doctrine to the advocate-client relationship. The difficulty lies not in the Court's construction of the statutory text but in what the judgment leaves unaddressed: a categorical exclusion, applied without regard to whether the specific conduct complained of implicates professional judgment at all, and a disciplinary alternative, the State Bar Council process under the Advocates Act, 1961, that has not been examined for the structural bias concern its composition invites.

Three responses to this gap deserve consideration going forward, each drawn from the analysis above. The first, suggested by the American conduct-specific approach discussed in Section 7, would confine any future extension of professional immunity to conduct genuinely involving an exercise of professional skill or judgment, leaving custodial and administrative failures, of the kind at issue in the present case, within the reach of ordinary remedies. The second, suggested by the English ombudsman model discussed in the same section, would supplement, rather than replace, Bar Council disciplinary jurisdiction with an independent, non-profession-affiliated body empowered to award compensation for service failures without the complainant having to establish professional misconduct, addressing directly the bias concern examined in Section 8. The third, more modest but immediately achievable within the existing statutory framework, would strengthen the transparency and timeliness of State Bar Council proceedings themselves, publishing disciplinary outcomes, setting statutory timelines for disposal, and ensuring disciplinary committees include an appropriately independent element, so that the exclusive forum the Supreme Court has now mandated is at least demonstrably fair in its operation, whatever structural doubts attend its composition in principle.

None of these responses lies within judicial reach on the facts of this appeal; each requires legislative or regulatory action that only Parliament or the Bar Council of India can supply. Until that action is taken, the practical consequence of this judgment is that a client who believes an advocate has misappropriated funds, missed a limitation deadline, or simply abandoned a brief without notice has exactly one avenue of redress, a complaint to the very professional body whose members will adjudicate it, a state of affairs the judgment's own reasoning does not defend so much as leave unexamined. It is submitted that reconciling the legitimate professional autonomy the Supreme Court has protected with meaningful client accountability now falls, as it did before this judgment and will continue to after it, to the legislature and to the Bar Council, and that the disciplinary architecture inherited from 1961 is overdue for the kind of independent scrutiny the profession it regulates has, for the moment, been spared.