



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2024

Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

THE CONCEPT OF TOUTS WITH RESPECT TO INDIAN JUDICIAL SYSTEM

Introduction

The term Touts is not very popular among students of Law, and it is only when these budding Advocates reach to the precincts of Courts, that they come to know about the importance of Touts in the Indian Judicial System. And this is also a fact that, after giving some years of their life to practice law in Courts that they realize how touts are harming the Justice delivery system.

The Article discusses the meaning of the term “Tout”, in general and with respect to Indian Judicial System. It also points out the problem being faced and the cure that the legislation has opted for the issue. The Article also emphasizes the importance of touts and discusses whether Touts are relevant in today's scenario.

Legislation concerned with Touts in Indian Judicial System

The term “Tout” was first defined in Section 3, Interpretation Clause of The Legal Practitioners Act, 1879, as,

“tout” means a person—

(a) who procures, in consideration of any remuneration moving from any legal practitioner, the employment of the legal practitioner in any legal business; or who proposes to any legal practitioner or to any person interested in any legal business to procure, in consideration of any remuneration moving from either of them, the employment of the legal practitioner in such business; or

(b) who for the purposes of such procurement frequent the precincts of Civil or Criminal Courts or of revenue-offices, or railway stations, landing stages, lodging places or other places of public resort.¹

¹ Section 3, The Legal Practitioners Act, 1879

But, on 8th December 2023, President's assent was received to The Advocates (Amendment) Act, 2023 and the same was published for general information. The notification adds Section 45A to The Advocates Act, 1961 and repeals Section 1, 3 and 36 of The Legal Practitioners Act, 1879.

Therefore, the term "Tout" is now defined in Section 45A(7)(d) of The Advocates (Amendment) Act, 2023². The same has been produced for ready reference -

'45A. Power to frame and publish lists of touts -

(d) "tout" means a person—

(i) a person who procures, in consideration of any remuneration moving from any legal practitioner, the employment of the legal practitioner in any legal business; or who proposes to any legal practitioner or to any person interested in any legal business to procure, in consideration of any remuneration moving from either of them, the employment of the legal practitioner in such business; or

(ii) who for the purposes of such procurement frequents the precincts of Civil or Criminal Courts or of revenue-offices, or railway stations, landing stages, lodging places or other places of public resort.

So, as of now, the Tout is defined in The Advocates (Amendment) Act, 2023.

What does the term Tout denote?

As such the term Tout denotes a variety of activities and has multifarious meanings, for example The Registration Act, 1908 defines tout as somebody who precincts the premises for employment³, similarly in Parks and Trees Regulations⁴ in Singapore a tout is defined as somebody who seeks request to carry on trade or business.

Therefore, the layman's meaning for Tout narrows to – A middleman. Somebody who acts as an intermediate between the two parties to a transaction. The person as such eases the work for both the parties involved in a transaction and receives a fee for the services provided. The situation is a win-win for everybody, but the problem arises when greed enters the picture.

When these Touts start to demand excessively more money for their services, that they instead of benefitting the system, starts harming the same. It is then that the drawback of the Touting practice is realized. A similar situation acts as a menace upon Indian Judicial System.

Still there are some points in favour of Touting, and the point that there are not very many Advocates that are fit for every case. Therefore, tout acts like a filter to provide the right case to the right Advocate.

² <https://legalaffairs.gov.in/sites/default/files/TheAdvocates%28Amendment%29Act.pdf>

³ https://prsindia.org/files/bills_acts/acts_states/karnataka/1908/1908KR16.pdf

⁴ <https://sso.agc.gov.sg/SL/PTA2005-RG1>; Section 2, Definitions

The Issue of Touts with respect to Indian Judicial System

The system of Touting has been prevalent in Indian Society for time immemorial⁵. It can be understood that in early times of British Raj, the practice of touting had quite a value due to ideological differences and language barriers between the Officers of the Court⁶ and common people. But the time changed, and India got independence from the British Raj. Now as these differences were weeded out, the practice of touting took a new turn, and now the touting was done for scoring of Clients. And the same prevails now as well.

Relevance of Touts in today's Scenario

Nowadays, the practice of touting instead of benefitting the system, harms the same, as the touts now charge a hefty commission for their services, which is making the Indian Justice System costly and out of reach for the poor. The government as such has not brought any dynamic changes to weed out them but instead copy pasted the previous law.

In today's era of social media and internet, and when there are lakhs of Advocates entering the Judicial system every year, the relevance of touts should decline, but the ground reality is something else. Governments initiative of appointing LADCS (Legal Aid Defense Counsels Scheme) is still helpful, but the unawareness among the masses still prevails. It is only when the layman, the client will be aware to not get involved with the practice of touting, the problem can be resolved.

⁵ The mention of the same in an Act of the year 1879, i.e., The Legal Practitioners Act, 1879, denotes that the practice has been prevalent in society for quite some time.

⁶ English and Irish Barristers and advocates of Scotland and British Attorneys and Solicitors; or Vakils, Mukhtars or pleaders etc