

2023 LiveLaw (SC) 99

IN THE SUPREME COURT OF INDIA

SANJAY KISHAN KAUL; J., MANOJ MISRA; J.

**MISCELLANEOUS APPLICATION Diary No(s). 33859/2022 IN T.P.(C) No. No. 2419/2019; 06-02-2023
M/S PLR PROJECTS PVT. LTD. versus MAHANADI COALFIELDS LIMITED & ORS.**

Virtual Hearing - Supreme Court asks all courts, tribunals to facilitate virtual hearings too, by utilizing money spent on technical upgradation - in the COVID times, considerable monies have been spent on upgrading the technical infrastructure to facilitate hearing through the virtual mode- Apparently, in the current budget of the Government of India also large allocation has been made for technical upgradation of the judicial institutions. We at times are informed that there is some problems in Tribunals and some High Courts of the technical infrastructure being not used or dismantled. We would like to make it clear that monies spent on these upgradation cannot be put to a loss and we expect all Judicial Forums, Tribunals, District Courts and High Courts to utilize the technical infrastructure which is available to the best extent possible which would facilitate lawyers attending proceedings either physically or virtually depending on their convenience.

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ORDER

At the inception, a request is made to clarify paragraph 15 of our Order dated 14.12.2022, where we had observed that bail applications of the lawyers who have been arrested should be considered as per law, something over which there can be no cavil.

However, the second sentence reads as “In our view, every Court acts as per law and certainly there is no requirement of showing any indulgence to these lawyers.”

Our intent was clear that no special privilege can be shown to such lawyers and they are not entitled to such indulgence in their status as lawyers if they do not behave as lawyers are expected to do. However, it is submitted that the sentence has been interpreted to imply that no indulgence means that they will never be granted bail. That could not have been our intent and we make it clear that their bail applications, depending on their role, will be considered by the Court in accordance with facts and law applicable to the case.

It is sought to be submitted that some of the bail applications are not being considered because the matter is before that Court. We have not prevented the consideration of the bail applications on account of the pendency of the matter.

It is also submitted before us that the advocates and associations have tendered unqualified apology and that should be accepted. In our view, it is too early in the day to do that because of their past conduct in earlier proceedings and this is the second time. We would like to watch if the apology really comes from their heart or is only to get out of the present contempt proceedings. This can only be reflected by their continued conduct which may come to the notice of this Court.

Mr. Arvind Datar, learned senior counsel appearing for the High Court submits that though apologies have been tendered, there is no undertaking not to indulge in any such acts or for that matter resort to strike. Such of the affidavits which do not give this undertaking will give the same.

The status report has been filed pursuant to the Order dated 14.12.2022 by the Bar Council of India. The first grievance made is that the directions contained in the Order dated 14.12.2022 in paragraphs 5 & 6 to provide the requisite security to the Chairman and Vice-Chairman of the Bar Council of India, have not been complied with. The State of Odisha and Union of India shall also look into this aspect. The necessary steps must be taken by the Police Authorities in the States of Delhi, Bihar and Tamil Nadu also due to the location of these members there. The objective is to ensure that the Bar Council members are able to perform their duties from their offices. The information must be communicated to the concerned authorities/States.

It is pointed out to us that there is really no cause left qua access of justice in view of the provision made in each of the ten districts providing access through the virtual mode to even address the High Court. This would be spread to all the districts.

The aforesaid is a salutary effort. In this context, on a larger conspectus, we would like to say that in the COVID times, considerable monies have been spent on upgrading the technical infrastructure to facilitate hearing through the virtual mode whether it be for Odisha or for other States and Tribunals. Apparently, in the current budget of the Government of India also large allocation has been made for technical upgradation of the judicial institutions. We at times are informed that there is some problems in Tribunals and some High Courts of the technical infrastructure being not used or dismantled. We would like to make it clear that monies spent on these upgradation cannot be put to a loss and we expect all Judicial Forums, Tribunals, District Courts and High Courts to utilize the technical infrastructure which is available to the best extent possible which would facilitate lawyers attending proceedings either physically or virtually depending on their convenience.

One of the other issues sought to be flagged is the description of access to the High Courts through the virtual mode by describing it as High Court of Odisha, Virtual High Court Sambalpur (for example). It is submitted that a better phraseology be used as the High Court is one and the use of the word “virtual” along with the High Court may seem to give a different impression. Learned counsel for the High Court submits that they will look into this matter.

At the request of Bar Council of India, we clarify that the pendency of the contempt proceedings before this Court does not imply that the Bar Council is impeded in any manner in proceeding with the disciplinary inquiry against the concerned lawyers.

I.A. No.24082/2023- for intervention

Learned counsel for the applicant, after some arguments, seeks to withdraw the application as the matter pertains to the incidents in the jurisdiction of West Bengal qua the conduct of advocates, but then the Bar Council of India is in seisen of it.

The application stands dismissed as withdrawn with liberty to take such action as may be appropriate in law.

List on 17th April, 2023.

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