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08.08.2022

The Secretary General
Supreme Court of India
Tilak Marg,
New Delhi

Dear Sir,

Sub:- Letter of Adjournment by Shri K.K. Venugopal, Attorney General for India, in SLP (C) 31288/2011 & connected matters.

In the lead matter SLP (C) 31288/2011, the High Court of Bombay had held that the Maharashtra Wakf Board was illegally constituted, for various reasons. The Wakf Board came up in appeal to this Hon'ble Court in the year 2011.

By this judgment, the transfer of various lands involved in these cases to various beneficiaries by the Charity Commissioner under the Bombay Public Trusts Act, 1950 was permitted notwithstanding the said properties having been declared as *wakfs* under the Wakf Act, 1995.

The matters have been pending from the year 2011 and the transferees were all in peaceful possession of the properties that they had purchased from the various concerned *muttawalis* or trustees. It did not appear that there was any urgency whatsoever as no one's possession was being sought to be disturbed.

On 14.07.2022, 'Bar & Bench' reported that Mr. Harish Salve had mentioned a case for listing with the sole question being – "*Is every case where a charitable trust be set up by Muslim be only a Wakf or can the general law of charity outside wakf be applicable?*" By looking at the issue one would find it difficult to find any urgency and what prompted the matter to be taken up for urgent disposal. Nonetheless, in view of the eminence of the senior counsel mentioning the matter as being urgent, the Court directed the matters to be listed for hearing.

On 18.07.2022, the matter was listed before Court and I had submitted to the Court that there were 57 connected matters, with the main issue relating to the constitution of the Wakf Board. The Court directed that Mr. Harish Salve provide a list of cases which according to him could be segregated. Finally a list of 20 cases was provided by the Advocate on Record, E.C. Aggarwala & Co.

On 25.07.2022 all 57 matters were listed. Mr. Salve asked for an urgent hearing of the cases. However, Mr. Salve and I, had been appearing on opposite sides in an ongoing part heard matter before the Delhi High Court involving Reliance Industries Ltd. where the claim by the Government of India against RIL was in the range of 1.5 billion USD. Mr. Salve had finished his arguments and I was to commence my rejoinder on 2.08.2022, and was likely to argue for a few days. After consulting our diaries, we agreed on 10.08.2022 as the next date for the hearing of the present case.

Meanwhile on 27.07.2022, I tested positive for Covid-19 on the RtPCR. On the same date, an email was received from the Advocate on Record of Mr. Harish Salve, EC Aggarwala & Co. that the matter would be mentioned for advancing the date of hearing from 10.08.2022 to an earlier date.

On 29.07.2022, Mr. Salve mentioned the matter for being advanced to 2.08.2022. Mr. Javed Shaikh who was my instructing counsel and Mr. Gopal Sankaranarayanan who was being led by me in the matters informed the court that the Attorney General was suffering from Covid-19 and was leading them. The Hon'ble Chief Justice of India however stated that that he would see the state of my health on 2.08.2022 and thereafter decide about the hearing of the case.

Thereafter, however, came a series of events which were startling.

On 30.07.2022, on my instructions, my Written Submissions were filed in the matter by my Advocate on Record, Mr. Sudhanshu Choudhary. Shortly thereafter, Mr. Javed Shaikh was orally informed that the State Government has issued a direction under Section 97 of the Wakf Act, 1995 to remove him as special counsel in the Wakf matter, though he received no formal intimation of the same. This was indeed shocking as no reason was given for this sudden change.

On 31.07.2022, Mr. Sudhanshu Choudhary circulated a letter requesting for an adjournment of two weeks on account of my suffering from Covid-19. Sometime during the day, Mr. Sudhanshu Choudhary was asked to give an NOC to Advocate on Record Mr. Shashibhushan P. Adgaonkar, which he did. Mr. Adgaonkar wrote a letter to the Registrar General of the Supreme Court of India stating that he had just filed his vakalatnaman in the matter. The copy was marked to all 19 Advocates on Record in the batch of matters, and stated:

"The earlier Advocate on Record had circulated a letter seeking adjournment of 2 weeks on the count of health of learned Attorney General. Since the matter is of urgent nature, the petitioner wakf board has made an alternate arrangement to go ahead with the matter, hence in view of the specific instructions from petitioner Wakf Board, I am not pressing the earlier letter for adjournment and same may be treated as withdrawn"

On 1.08.2022 Mr Javed Shaikh received a letter which was written by the Maharashtra State Board of Wakfs under instructions from the Dept. of Minority Affairs, Govt. of Maharashtra cancelling his appointment as Special Counsel in the case mentioned. Following his removal he informed Mr. Gopal Sankaranarayanan that he could no longer brief him in the matter.

It would be noted that in the normal course a Senior Advocate would not be able to appear before the Supreme Court of India without an Advocate on Record. No instructions for me to appear in the case were received after the change of Advocate on Record. But it should be mentioned that the Attorney General has a right to appear in any court in the country under Article 76 (3) of the Constitution of India which cannot be superseded by any rules of the Supreme Court of India. In fact, in the commentaries it is mentioned that in the United Kingdom, the Attorney General has the right to intervene in legal proceedings where the Crown or the public are interested, e.g. in proceedings relating to the administration of charities.

Looking at the entirety of what has emerged, it seems that whoever is behind the events that have transpired, whether it is the beneficiaries of the transfer or anyone else, is bent upon ensuring that the Attorney General does not argue this case.

In the evening of 01.08.2022, I sent a letter to the Secretary General, Supreme Court of India, informing him of what had transpired and that this interference with counsel, being officers of the Court, and the attempt to remove the entire team just on the eve of the hearing was in gross contempt of Court. In my letter I also sought action for contempt being taken against the persons responsible whoever they be whether beneficiaries or otherwise for contempt of the Supreme Court of India.

Today I have tested negative on the RtPCR. However, mine is a long Covid with symptoms which are still persisting. I am therefore not in a position to know as to how soon I would be able to appear in Court and defend this very important case. It must be pointed out that not only is the legal question of importance, the transfer of the lands which have been permitted by the Charity Commissioner under the Bombay Public Trusts Act, 1950, in my opinion are wholly void, since Section 112 of the Wakf Act, 1995 provides that any corresponding State law would stand repealed.

In this background if there is contempt involved in this case, which I could myself initiate under Section 15 of the Contempt of Courts Act, 1971, so long as I am Attorney General, the alleged contemnors may have to purge themselves of the contempt before addressing arguments in relation to the legal issues arising in the matter.

K.K. Venugopal

In this background it is requested that this letter may be placed before Hon'ble the Chief Justice of India, so that the present batch of cases could be adjourned till I recover my health and am able to appear in this matter.

Since the aforementioned letter of Mr. Shashibhushan P. Adgaonkar on behalf of the Wakf Board was addressed to all 10 Advocates on Record in these matters, copies of this letter are also being marked to the 10 Advocates on Record.

Yours Sincerely



(K. K. Venugopal)
Attorney General for India

Copy to: 1. Mr. Ejaz Maqbool, 2. Mr. Nirnimesh Dube, 3. Mr. Praveen Kumar, 4. Mr. Sakya Singha Choudhari, 5. Mr. T. Mahipal, 6. Ms. Abha R. Sharma, 7. Mr. Nishant R. Katneshwarkar, 8. Mr. Mohd. Irshad Hanif, 9. Mr. P.N. Puri, 10. Mr. Gagan Gupta, 11. Mr. K. Rajeev, 12. Mr. K.N. Rai, 13. Ms. Sujata Kurdukar, 14. Ms. Bina Gupta, 15. Mr. Shishir Deshpande, 16. Mr. Gaurav Agrawal, 17. Mr. Sudhanshu S. Choudhari, 18. Mr. Shashibhushan P. Adgaonkar.