



BOMBAY BAR ASSOCIATION

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27th March, 2021

To,

The Hon'ble the Chief Justice Mr. Dipankar Datta

Bombay High Court,

Mumbai 400 032.

Subject: Representation on behalf of the Bombay Bar Association for providing a platform for conducting court proceedings on virtual/hybrid format on account of the recent spike in covid-19 positive cases

Dear Sir,

1. We are making this representation in the background of the exponential rise in the number of covid-19 positive cases in the city of Mumbai and state of Maharashtra. Looking at seriousness of Pandemic the State of Maharashtra has declared night curfew from Sunday night.
2. At the administrative committee meeting held on 19th March 2021 with the members of the Bar, a request was made by us to consider feasibility of hybrid of virtual and physical court since covid cases were on the rise. However, since

the two following weeks had just seven working days, the Committee was of the view that we should monitor the situation for two weeks and then revisit the situation. In the meanwhile, the entry of clients was to be prohibited unless so required by the Hon'ble Court.

3. In the past week, there has been an exponential rise in the number of COVID-19 cases in Maharashtra and particularly in Mumbai. There have been covid positive cases in excess of 5000 everyday in Mumbai. A large number of advocates have tested positive for Covid-19. We have been given to understand that a number of Court staff and some of our Hon'ble Judges have also been infected. In the meanwhile, the crowd in the Courtroom and high density of people attending the Court continues. In some of the Courts, due to very heavy assignment and small court rooms, lawyers virtually stand shoulder to shoulder.
4. We have learnt that about 7-10 days ago, the staff members of the National Company Law Tribunal (NCLT) and DRT were found to be positive leading to a disruption in the normal functioning of the said Tribunals. One of the canteen staff member of the Bombay Bar Association also tested positive for the Covid-19 virus, following which BBA premises were closed for the day and had to be sanitized by the High Court administration. Numerous law firms have informed the members of the BBA that their juniors, staff and office personnel have tested positive in significant numbers. Some of the firm's have closed their offices.
5. Several members of the Bar have contacted the committee members and expressed their concern on the continued physical hearings in Court. The members of the Bar have requested that atleast a hybrid format should be provided where lawyers have an option to attend virtually. This hybrid format has been operating extremely smoothly in some of the Court Rooms where the learned Judge has made this facility available.

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6. The benches of the Hon'ble Bombay High Court at Aurangabad and Nagpur have already switched to virtual hearings. Various other High Courts have been seamlessly operating a virtual/hybrid hearing. The National Company Law Tribunal, Mumbai is currently running a hybrid system. All other Tribunals (RERA Appellate Tribunal, Securities Appellate Tribunal, National Company Law Appellate Tribunal) are functioning on a virtual platform. The hybrid format has also been opted by the Hon'ble Supreme Court on an experimental basis with effect from 15th March 2021 in the following manner –

2. When the matters are listed for hybrid hearing, all the Counsels appearing for one party can appear either through physical presence or through videoconferencing. The preferences for appearing before the Court either physically or through virtual mode will be submitted by the Advocates On Record within 24 hours or at 1:00 PM next day after the publication of the Weekly List of Final Hearing/Regular matters. On failure in opting for either mode i.e. physical or video conferencing mode, it will be presumed that Counsels for the party seek to appear through virtual mode and will be facilitated accordingly. In cases where no party opts for physical hearing, the cases will be heard through virtual mode.

7. We are therefore making this representation in light of these changed circumstances. A significant number of advocates and staff personnel visit the Bombay High Court premises with limited number of the litigating public. From a public health point of view, the congregation of such a large number of people within court premises will inevitably lead to a spread of corona virus amongst innumerable people across the city.

8. In light of the above circumstances and with a view to safeguard and protect the members of our institution and the public at large, we request your good-self to consider affording a platform for conducting court proceedings on virtual and/or hybrid format. The lawyers should at least be given the option to appear virtually. This will reduce the footfall in the Court premises and curb the possible spread of the virus infection. We hope that this request made pursuant to requests received from a large segment of the Bar will receive urgent and favourable consideration.

9. We also request you to give us an appointment when we can explain the situation in person and reiterate our request.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N Thakker', with a horizontal line underneath it.

Nitin Thakker

President Bombay Bar Association