

In Chamber

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 569 of 2020

Petitioner :- In Re - Assistance To The Needy Advocates And Registered Advocate Clerks

Respondent :- State of U.P.

Counsel for Petitioner :- Suo Motu

Counsel for Respondent :- C.S.C.

Hon'ble Govind Mathur,Chief Justice

Hon'ble Siddhartha Varma,J.

A virus infection that originated from the Republic of China in the month of December, 2019 has taken the entire globe in its grip in last four months. People around the world are frightened because of it. The wheel of human civilization is in serious combat with the pandemic caused by the Novel Corona Virus (COVID-19). The havoc wrought by this virus has compelled Governments all over the world to take necessary steps as a strategy to meet the challenge posed by it. Strict lockdown is the most accepted mode to prevent the spread of the virus. In India, Hon'ble Prime Minister on 24th March, 2020 announced a 21 days lockdown to contain the virus spread. Since then, judicial working in the entire country has reduced its pace and is taking up matters of utmost urgency alone. The slow down has adversely affected livelihood of lakhs of people, whose survival depends upon working of the judiciary. An enormous effect is apparently visible on the profession of Advocates and the Registered Advocate Clerks working with them.

The Chief Justice and Registry of this Court has received several representations as well as digital messages to do the needful for sustaining their livelihood. Several Lawyers and the registered Advocate Clerks have mentioned that they are at the verge of starvation. This Court is not having any funds to allocate for survival of needy Advocates and registered Advocate Clerks and the Court at the moment is also not in a position to restore its complete functioning.

Looking to the existing circumstances, the Courts in the State of Uttar Pradesh are supposed to work with all caution with a view to support the efforts of the Government to contain the spread of Corona Virus (COVID-19).

Essentially, under the Advocates Act, 1961 it is the responsibility of the Bar Council of India as well as the State Bar Councils to ensure welfare of Advocates fraternity and also to assist the needy Advocates. In every Court, the Associations of Advocates are also operational and such court attached Bar Associations are also necessarily required to take care of their members.

As per Section 5 of the Advocates Act, 1961, the Bar Council of India as well as the State Bar Councils are the body corporate with functions statutorily prescribed.

As per Section 7 of the Act of 1961, the Bar Council of India is having following functions:-

“7. Functions of Bar Council of India.— 1[(1)] *The functions of the Bar Council of India shall be—*

*(a) [****]*

(b) to lay down standards of professional conduct and etiquette for advocates;

(c) to lay down the procedure to be followed by its disciplinary committee and the disciplinary committee of each State Bar Council;

*(d) to safeguard the rights, privileges and interests of **advocates**;*

(e) to promote and support law reform;

(f) to deal with and dispose of any matter arising under this Act, which may be referred to it by a State Bar Council;

(g) to exercise general supervision and control over State Bar Councils;

(h) to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils;

(i) to recognise Universities whose degree in law shall be a

qualification for enrolment as an advocate and for that purpose to visit and inspect Universities 3[or cause the State Bar Councils to visit and inspect Universities in accordance with such directions as it may give in this behalf];

[(ia) to conduct seminars and organise talks on legal topics by eminent jurists and publish journals and papers of legal interest;

(ib) to organise legal aid to the poor in the prescribed manner;

(ic) to recognise on a reciprocal basis foreign qualifications in law obtained outside India for the purpose of admission as an advocate under this Act;]

(j) to manage and invest the funds of the Bar Council;

(k) to provide for the election of its members;

(l) to perform all other functions conferred on it by or under this Act;

(m) to do all other things necessary for discharging the aforesaid functions.

[(2) The Bar Council of India may constitute one or more funds in the prescribed manner for the purpose of—

*(a) giving financial assistance to organise welfare schemes for indigent, disabled or **other** advocates;*

(b) giving legal aid or advice in accordance with the rules made in this behalf;

(c) establishing law libraries.

(3) The Bar Council of India may receive any grants, donations, gifts or benefactions for all or any of the purposes specified in sub-section (2) which shall be credited to the appropriate fund or funds constituted under that sub-section.”

Section 6 of the Act of 1961 provides functions of State Bar Councils and those are as follows:-

“6. Functions of State Bar Councils.—*(1) The functions of a State Bar Council shall be—*

(a) to admit persons as advocates on its roll;

(b) to prepare and maintain such roll;

(c) to entertain and determine cases of misconduct against

advocates on its roll;

*(d) to safeguard the rights, privileges and interests of **advocates** on its roll;*

[(dd) to promote the growth of Bar Associations for the purposes of effective implementation of the welfare schemes referred to in clause (a) of sub-section (2) of this section and clause (a) of sub-section (2) of section 7;]

(e) to promote and support law reform;

[(ee) to conduct seminars and organise talks on legal topics by eminent jurists and publish journals and papers of legal interest;

(eee) to organise legal aid to the poor in the prescribed manner;]

(f) to manage and invest the funds of the Bar Council;

(g) to provide for the election of its members;

[(gg) to visit and inspect Universities in accordance with the directions given under clause (i) of sub-section (1) of section 7;]

(h) to perform all other functions conferred on it by or under this Act;

(i) to do all other things necessary for discharging the aforesaid functions.

[(2) A State Bar Council may constitute one or more funds in the prescribed manner for the purpose of—

*(a) giving financial assistance to organise welfare schemes for the indigent, disabled or **other** advocates;*

(b) giving legal aid or advice in accordance with the rules made in this behalf;

[(c) establishing law libraries.]

(3) A State Bar Council may receive any grants, donations, gifts or benefactions for all or any of the purposes specified in sub-section (2) which shall be credited to the appropriate fund or funds constituted under that sub-section.”

Section 6 of the Act of 1961 in quite unambiguous terms provides to safeguard rights, privileges and interests of **Advocates** and its roll; and also to extend financial assistance to organize welfare schemes for the

indigent, disabled or **other** Advocates. The Bar Council of India too has statutory functions of the same nature.

To provide for the establishment and operation of a fund for promotion and welfare of Advocates in the State of Uttar Pradesh, the Uttar Pradesh State Legislature enacted an Act in the name of “The Uttar Pradesh Advocates Welfare Fund Act, 1974”.

Section 3 of the Act aforesaid, prescribes object of the fund and that too prescribes to have schemes for the welfare of needy Advocates.

The Trustees Committee under the Act of 1974 is also having broad powers to frame schemes to assist the needy Advocates enrolled on the roll of the State Bar Council.

Prima facie, we are of considered opinion that it is for the Bar Council of India, Bar Council of the State of Uttar Pradesh and Trustees Committee under the Act of 1974 to have necessary schemes to assist the needy Advocates in this harsh period.

We are not aware with any steps taken so far by any of the bodies aforesaid to assist the needy Advocates and the people attached with their office. We would also like to state that in every Court attached Bar Associations there are several Lawyers having lucrative practice and they too can assist financially or otherwise to the Bar Councils as well as Bar Associations for having some definite plan to assist the needy Advocates and their Clerks, who are registered with High Court or other courts in accordance with the applicable Rules.

In light of whatever stated above, by taking judicial cognizance of the issue, we deem it appropriate to call upon the Bar Council of India, New Delhi through its Secretary, Bar Council of Uttar Pradesh through its Secretary, the Principal Secretary, Department of Law, Government of Uttar Pradesh, Lucknow, Allahabad High Court Bar Association, Allahabad through its General Secretary, Allahabad High Court Advocate's Association, Allahabad through its General Secretary, Awadh Bar Association, Lucknow through its General Secretary by a notice

returnable on 15th April, 2020.

Suffice to state at the moment the authorities called upon are required to explain the steps taken by them or to be taken by them to assist the needy Advocates and the registered Advocate Clerks. The scope of the writ petition however, shall be with regard to adequate programmes adopted and enforced by the Bar Councils to achieve the statutory objects and also the programmes undertaken by the court attached Bar Associations for the welfare of their members.

The authorities called upon may file their counters through e-mail and may assist the Court through video conferencing available at its official website.

Let this petition for writ be listed on 15th April, 2020 as fresh.

Order Date :-9.4.2020
Bhaskar

(Siddhartha Varma, J.)

(Govind Mathur, C.J.)