



SUPREME COURT BAR ASSOCIATION (Regd.)

SUPREME COURT OF INDIA, TILAK MARG, NEW DELHI-110001 (INDIA)

Mr. Dushyant A. Dave (Sr.)
President

SCBA/CJI.9/2020

24th April 2020

Mr. Kailash Vasdev (Sr.)
Vice President

To

Mr. Ashok Arora
Hony. Secretary

Hon'ble the Chief Justice of India and
Other Hon'ble Companion Judges of the
Supreme Court of India, New Delhi

Mr. Rohit Pandey
Joint Secretary

Mr. Meenesh Kumar Dubey
Treasurer

Your Lordships,

Ms. Shamshravish Rein
Joint Treasurer

SENIOR EXECUTIVE MEMBERS :

Ms. Mahalakshmi Pavani (Sr.)
Dr. Adish Chandra Aggarwala (Sr.)
Mr. Chander Uday Singh (Sr.)
Mr. Arijit Prasad (Sr.)
Col. R. Balasubramanian (Sr.)
Mr. Anip Sachthey (Sr.)

EXECUTIVE MEMBERS :

Mr. Amrendra Kumar Singh
Dr. Ritu Bhardwaj
Ms. Anjali Chauhan
Ms. Prerna Kumari
Ms. K.V. Bharathi Upadhyaya
Mr. Upendra Narayan Mishra
Mr. R. Anand Padmanabhan
Mrs. Alka Agrawal
Ms. Reena Rao
Mr. Tanveer Ahmed Khan

RESOLUTION ON OPEN COURT HEARINGS

In *Naresh Shridhar Mirajkar v. State of Maharashtra, (1966) 3 SCR 744 : AIR 1967 SC 1*, a Nine Judges Bench of the Hon'ble Supreme Court held that:

"It is well settled that in general, all cases brought before the courts, whether civil, criminal, or others, must be heard in open court. Public trial in open court is undoubtedly essential for the healthy, objective and fair administration of justice. Trial held subject to the public scrutiny and gaze naturally acts as a check against judicial caprice or vagaries, and serves as a powerful instrument for creating confidence of the public in the fairness, objectivity, and impartiality of the administration of justice. Public confidence in the administration of justice is of such great significance that there can be no two opinions on the broad proposition that in discharging their functions as judicial tribunals, courts must generally hear causes in open and must permit the public admission to the court-room.



SUPREME COURT BAR ASSOCIATION (Regd.)

SUPREME COURT OF INDIA, TILAK MARG, NEW DELHI-110001 (INDIA)

Mr. Dushyant A. Dave (Sr.)
President

Mr. Kailash Vasdev (Sr.)
Vice President

Mr. Ashok Arora
Hony. Secretary

Mr. Rohit Pandey
Joint Secretary

Mr. Meenesh Kumar Dubey
Treasurer

Ms. Shamsravish Rein
Joint Treasurer

SENIOR EXECUTIVE MEMBERS :

Ms. Mahalakshmi Pavani (Sr.)
Dr. Adish Chandra Aggarwala (Sr.)
Mr. Chander Uday Singh (Sr.)
Mr. Arijit Prasad (Sr.)
Col. R. Balasubramanian (Sr.)
Mr. Anip Sachthey (Sr.)

EXECUTIVE MEMBERS :

Mr. Amrendra Kumar Singh
Dr. Ritu Bhardwaj
Ms. Anjali Chauhan
Ms. Prerna Kumari
Ms. K.V. Bharathi Upadhyaya
Mr. Upendra Narayan Mishra
Mr. R. Anand Padmanabhan
Mrs. Alka Agrawal
Ms. Reena Rao
Mr. Tanveer Ahmed Khan

As Bentham has observed:

“In the darkness of secrecy sinister interest, and evil in every shape, have full swing. Only in proportion as publicity has place can any of the checks applicable to judicial injustice operate. Where there is no publicity there is no justice. Publicity is the very soul of justice. It is the keenest spur to exertion, and surest of all guards against improbity. It keeps the Judge himself while trying under trial (in the sense that) the security of securities is publicity.”

Further, in *Swapnil Tripathi v. Supreme Court of India, (2018) 10 SCC 639*, the Hon'ble Supreme Court, relying upon and reiterating the dictum in *Mirajkar (supra)*, went further in holding that Section 327 CrPC and Section 153-B CPC mandated open court hearings in all criminal and civil cases, other than those those classes required to be heard in camera, such as domestic violence, cases against juveniles, or those which the concerned Court itself directs for reasons to be recorded, to be heard in camera. The learned Three Judges Bench in its unanimous judgment held inter alia that:

“The time has come for this Court to take a step further in adopting technology and to enable live streaming of its proceedings. Live streaming of courtroom proceedings is an extension of the principle of open courts.

Live streaming will have the ability to reach a wide number of audiences with the touch of a button. It will enable litigants and members of the public to have a virtual experience of courtroom proceedings even outside the courtroom premises.”



SUPREME COURT BAR ASSOCIATION (Regd.)

SUPREME COURT OF INDIA, TILAK MARG, NEW DELHI-110001 (INDIA)

Mr. Dushyant A. Dave (Sr.)
President

Mr. Kailash Vasdev (Sr.)
Vice President

Mr. Ashok Arora
Hony. Secretary

Mr. Rohit Pandey
Joint Secretary

Mr. Meenesh Kumar Dubey
Treasurer

Ms. Shamsravish Rein
Joint Treasurer

SENIOR EXECUTIVE MEMBERS :

Ms. Mahalakshmi Pavani (Sr.)
Dr. Adish Chandra Aggarwala (Sr.)
Mr. Chander Uday Singh (Sr.)
Mr. Arijit Prasad (Sr.)
Col. R. Balasubramanian (Sr.)
Mr. Anip Sachthey (Sr.)

EXECUTIVE MEMBERS :

Mr. Amrendra Kumar Singh
Dr. Ritu Bhardwaj
Ms. Anjali Chauhan
Ms. Prerna Kumari
Ms. K.V. Bharathi Upadhyaya
Mr. Upendra Narayan Mishra
Mr. R. Anand Padmanabhan
Mrs. Alka Agrawal
Ms. Reena Rao
Mr. Tanveer Ahmed Khan

Further, the supplemental judgment of one of the learned Judges held:

“Live streaming of proceedings is crucial to the dissemination of knowledge about judicial proceedings and granting full access to justice to the litigant. Access to justice can never be complete without the litigant being able to see, hear and understand the course of proceedings first hand. Apart from this, live streaming is an important facet of a responsive judiciary which accepts and acknowledges that it is accountable to the concerns of those who seek justice....”

In view of the aforementioned, settled law, the Supreme Court Bar Association resolves that once the current lockdown is lifted, and the health situation permits it, open court hearings should be restored at the earliest. The Supreme Court proceedings being conducted by video conferencing must be limited to the time period of the present crisis, and video conferencing should not become the “New Normal” and should not replace the “Open Court Hearings”.

The Supreme Court Bar Association further resolves that, even while video conferencing remains in use during the present crisis and lockdown, live streaming of Supreme Court hearings ought to be introduced so that the video-conferenced hearings are conducted, as far as possible, in the spirit of *Mirajkar (supra)* and *Tripathi (supra)*.

Once the Lock down is lifted and once the Ministry of Health permits, the Open Court Hearings should commence with Social Distancing and crowd management measures being made mandatory inside the Court premises, and live streaming as well as daily transcription of court proceedings be continued along

Phones: Off. : 23385903, 23384874 • Library-1 : 23385551, 23385552 • Library-2 : 23384150, 23381762

Library-4 : 23385615 • Ladies Bar : 23070443 • Lounge : 23070449 • Arbitration Room : 23072101 • Meeting Room : 23070264

• Email : scbaec@gmail.com • Website : www.scbaindia.org



SUPREME COURT BAR ASSOCIATION (Regd.)

with Open Court Hearings
SUPREME COURT OF INDIA, TILAK MARG, NEW DELHI-110001 (INDIA)

Mr. Dushyant A. Dave (Sr.)
President

Mr. Kailash Vasdev (Sr.)
Vice President

Mr. Ashok Arora
Hony. Secretary

Mr. Rohit Pandey
Joint Secretary

Mr. Meenesh Kumar Dubey
Treasurer

Ms. Shamsravish Rein
Joint Treasurer

SENIOR EXECUTIVE MEMBERS :

Ms. Mahalakshmi Pavani (Sr.)
Dr. Adish Chandra Aggarwala (Sr.)
Mr. Chander Uday Singh (Sr.)
Mr. Arijit Prasad (Sr.)
Col. R. Balasubramanian (Sr.)
Mr. Anip Sachthey (Sr.)

EXECUTIVE MEMBERS :

Mr. Amrendra Kumar Singh
Dr. Ritu Bhardwaj
Ms. Anjali Chauhan
Ms. Prerna Kumari
Ms. K.V. Bharathi Upadhyaya
Mr. Upendra Narayan Mishra
Mr. R. Anand Padmanabhan
Mrs. Alka Agrawal
Ms. Reena Rao
Mr. Tanveer Ahmed Khan

The SCBA appreciates the need for incorporation of Technological and Scientific advancement in the working of the Judiciary and fully supports utilization of Technology and digitization for proper case management, digitization of the records, digitization of case files, functioning of the Registry, early disposal of cases and also for crowd management in Courts.

The Executive Committee of SCBA authorizes the President and the Honorary Secretary to apprise their Lordships of the instant Resolution.”

With Kind Regards,

Yours sincerely,

Sd/-
Ashok Arora
Hony. Secretary
Supreme Court Bar Association
9810062089