



भारतीय विधिज्ञ परिषद् BAR COUNCIL OF INDIA

(Statutory Body Constituted under the Advocates Act, 1961)

21, Rouse Avenue Institutional Area, Near Bal Bhawan, New Delhi - 110002

BCI:D:1383/2020

Date: 11.05.2020

To,

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Sub.: Certified True Copy of the extract of the resolution passed by the General Council of the Bar Council of India on 10.05.2020.

Sir(s)/Ma'am(s),

Kindly find attached the Certified True Copy of the extract of the resolution passed by the General Council of the Bar Council of India in its meeting held on 10.05.2020 through the means of Video-Conferencing.

This is for your kind information and necessary compliance.

Thanking you

Yours sincerely

(Srimanto Sen)
Secretary
Bar Council of India

Encl.: As Above



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Extract of the Minutes of the Meeting of the General Council of the Bar Council of India held on 10.05.2020 through Video-Conferencing

RESOLUTION:-

The Council took up for consideration a representation received from Mr. Ashok Arora, Secretary, Supreme Court Bar Association against the resolution dated 08.05.2020 passed by the Executive Committee of Supreme Court Bar Association thereby suspending him as the Honorary. Secretary of Supreme Court Bar Association and divesting him of his powers as Secretary with immediate effect and entrusting Mr. Rohit Pandey, Joint Secretary, all functions of the Secretary to be discharged in consultation with the President of the Supreme Court Bar Association.

Copy of the resolution of the Executive Committee dated 08.05.2020 signed by Sh Kailash Vasdev, Vice President of Supreme Court Bar Association is also annexed to the representation sent by Mr. Ashok Arora.

Normally this Council avoids to interfere in the affairs of any Bar Association. But, here is an extreme case, where the Council has realized to take notice, but, even then it does not think it proper to enter into the merits of the matter or to interfere into the affairs of Supreme Court Bar Association. But, the issue has a far-reaching effect on the workings of Bar Associations of the country.

However, it is not out of place to mention that Members are deeply dismayed and distressed at the turn of events in the Supreme Court Bar Association, now for quite some time, and are of the considered view that the dignity, prestige and honour of the Bar of the Apex Court of the country has been eroded and damaged by unsavory tussle and infighting among Members of the Executive Committee which is elected by General Body of Members.

Supreme Court Bar Association is not only an Association of Members of the Bar of the Supreme Court, but, an institution by itself, having been led by celebrated legal luminaries and jurists in the past who made salutary contribution in the justice delivery system of the country to keep the flag of the Indian Bar flying high. No wonder, not only we at the Bar Council of India, but the Members of entire Bar and Legal Fraternity including Judges of the apex and other courts of the country feel anguished and pained at such happenings involving the President and Honorary Secretary of the Apex Bar Association on issues that can be sorted out among Members of Executive Committee or by intervention of senior members of the bar or at best by the general body of members who elected them to their respective elected position.

Under Section-7 of the Advocates Act, 1961, it is the duty of this Council to lay down the standards of etiquette for the Advocates and to safeguard the rights, privileges and interests of Advocates. This matter is directly covered under the aforementioned functions of the Council.

This is not for the first time that Members of the Bar have witnessed such undesirable and avoidable happenings involving the President, Honorary Secretary and Members of Executive Committee of Supreme Court Bar Association. In the past also, there have been developments leading to removal of elected office bearers of the Bar Association by the Executive Committee. We are at a loss to understand as to how the Executive Committee, which is elected by the same general body of Members as the Honorary Secretary or other Executive Committee Members, can remove or suspend the Honorary Secretary or for that matter, any other elected member from their respective position. The President, Secretary and all the office bearers are elected through direct election by the General Body of the Supreme Court Bar Association and not by the Executive Committee.

Mr Ashok Arora has raised several issues in his representation thereby calling in question various acts of Mr. Dushyant Dave, President, Supreme Court Bar Association and some Members of the Executive Committee. We would not like to make any comment or observation on any of those allegations as most of them fall essentially in the domain of the general body of Supreme Court Bar Association. We would, however, mention the chain of events that took place between 6th and 8th of May, 2020.

The Supreme Court Bar Association was to hold a programme to bid farewell to Hon'ble Mr. Justice Deepak Gupta on the 6th of May, 2020. As per established tradition in Supreme Court Bar Association, it is the Honorary Secretary of Supreme Court Bar Association who conducts the proceedings of the programme. Mr. Ashok Arora, Honorary Secretary, was, however kept out of this programme by the President and some other Members of Executive Committee.

On 6th May, 2020 itself, Mr. Ashok Arora sent an email message to the Executive Committee Members informing that he had received requisition signed by 400 Members of Supreme Court Bar Association asking for removal of Mr. Dushyant Dave from the post of President and primary membership of Supreme Court Bar Association. He sought suggestions of Executive Committee Members before fixing any date of General Body Meeting. This was responded by the President by saying that, being an interested party, he did not want to say anything and it was for other Members to consider the message of the Secretary.

On 7th May, 2020, Mr. Ashok Arora, Honorary Secretary, sent a email message to Members of Supreme Court Bar Association thereby informing that an "Emergent General Meeting" is convened for 11th May, 2020 to discuss an agenda including removal of Mr. Dushyant Dave from the post of President.

We are unable to reconcile with and cannot appreciate the idea of calling a General Body Meeting with such an important agenda with far reaching consequences, particularly, in the present lockdown situation even if the meeting was to be held by video conferencing. Mr. Dushyant Dave responded to this notice by sending an email to Members of Supreme Court Bar Association, inter-alia, informing them that he was a lawfully elected President of Supreme Court Bar Association and would continue to serve throughout his tenure.

On 8th May, 2020 the Honorary Secretary Mr. Ashok Arora instructed his office to inform the Members of Supreme Court Bar Association through bulk messages and email that in view of suggestions received from many Members, it's time to unite and the General Body Meeting proposed for 11th May, 2020 is, therefore, adjourned sine die. We believe, it was quite a sensible and mature way of handling the situation, which was taking an ugly turn and such a General Body Meeting should not have taken place given the pandemic situation the whole nation is grappling with.

We feel extremely sorry and are baffled by the developments that followed.

On 8th May, 2020, the President went ahead with an Executive Committee Meeting at 12.30 PM which was called by him by sending a notice at 10.30 AM in the morning. The meeting of Executive Committee, which was held by video conferencing, by a majority passed several resolutions including suspending Mr. Ashok Arora from discharging the duties of Honorary Secretary and vesting the same upon the Joint Secretary. The Executive Committee also resolved to appoint a one man Enquiry Committee to investigate the purported acts of omissions and commission allegedly resorted to by Mr. Ashok Arora.

We are of the unanimous view that the resolution passed by the Executive Committee on 8th May, 2020 suspending Mr. Ashok Arora is beyond the powers of Executive Committee and is, therefore, illegal, cavalier, undemocratic and autocratic in nature. It is vindictive on the face of it. Mr. Arora was elected as Honorary Secretary by the whole general body of Members of Supreme Court Bar Association and by no stretch of any legal imagination the Executive Committee which consists of similarly elected members can assume powers to suspend him. It is mind-boggling misuse and abuse of its position by the Executive Committee. Ordinarily, even a body which is conferred with power to take such an action would issue a show cause notice to the person concerned. Therefore, the action/impugned Resolution of Executive Committee is not only illegal and arbitrary but also against the principles of natural justice.

Members are firmly of the view that Bar Council of India must intervene in this matter where all cannons of rules and procedure and democratic values of Apex Bar (which is supposed to be an ideal Bar Association also for the entire nation) have been disregarded and set at naught. The illegal resolution passed by the Executive Committee, if allowed to remain in force, will result in irretrievable injustice to a lawfully elected office bearer of Supreme Court Bar Association, who as per its constitution is CEO of the association.

From 8th May, 2020, itself, the Members are also closely watching the reactions of the Hon'ble Senior and other regular Hon'ble Members of the Supreme Court Bar Association and also of the other Bar Associations on social media. The majority of Members of the Bar are not all happy, rather are shocked to see this act of a few Members of Executive Committee of Supreme Court Bar Association. There was absolutely no grounds to take such extreme step except than to satisfy the whims of a few members of Executive Committee and the few office-bearers.

Mr. Dave and Mr. Kailash Vasudev, both are senior Advocates and are seasoned leaders of the Bar and we are sure that they will respect the feelings of the General Body and rectify the mistake of 8th May, 2020.

It is, therefore, unanimously resolved that the operation of the resolution dated 08.05.2020 passed by the Executive Committee of Supreme Court Bar Association, inter-alia, suspending Mr. Ashok Arora from his position as Honorary Secretary, is hereby stayed with immediate effect. Mr. Ashok Arora shall continue to hold his elected position as Honorary Secretary of Supreme Court Bar Association and discharge all functions and powers as such. We also direct Mr. Ashok Arora to convene a General Body Meeting of Supreme Court Bar Association within two weeks after the lockdown is over and normal functioning of the Supreme Court starts. The agenda shall be circulated in advance as per rules of Supreme Court Bar Association. All pending issues including the contentious issues among President, Honorary Secretary and Executive Committee Members shall be part of the agenda for General Body Meeting. The Honorary Secretary may take help of Senior Members of the Bar for an orderly conduct of the General Body Meeting.

It is made clear that this Council is of the firm opinion that Supreme Court Bar Association belongs to all the Members of the Association, and not only to a few Members of Executive Committee. This Council is referring the matter to the General Body of Supreme Court Bar Association because the Council has full respect for Supreme Court Bar Association and its Members (of Apex Court). The General Body will take a decision in accordance with Law and Rules, which will be binding on everyone. We hope and trust that the Supreme Court Bar Association shall also settle this matter once for all and will set a definite norm for the future.

Mr. Manan Kumar Mishra, the Chairman of the Council did not participate in the discussion of this agenda as he is a Member and voter of Supreme Court Bar Association, therefore, he did not think it proper to take part in this meeting. This agenda was presided over by Mr. Satish A. Deshmukh, the Vice-Chairman of the Council.

It is a direction aimed at maintain the dignity and decorum of the Institution. We are not thinking it fit and proper for the present to enter into the matter whether the action of Members of the Executive Committee should be treated to be a misconduct under Section 35 or 36 of the Advocates Act, 1961 and Bar Council of India Rules. This question is kept open to be decided in future, if need arises.

Resolved Accordingly.

Certified to be a True Copy



(Srimanto Sen)

Secretary

Bar Council of India