

Chief Justice's Court

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 15895 of 2015

Petitioner :- In Re :

Respondent :- Zila Adhivakta Sangh Allahabad

Counsel for Petitioner :- *

Hon'ble Dr. Dhananjaya Yeshwant Chandrachud, Chief Justice

Hon'ble Rakesh Tiwari, J.

Hon'ble Rajes Kumar, J.

Hon'ble V.K. Shukla, J.

Hon'ble Arun Tandon, J.

Hon'ble Tarun Agarwala, J.

Hon'ble Dilip Gupta, J.

Control, administration and separation of the district judiciary is a constitutional obligation of the High Courts.

In the recent past, there has been spurt of incidents resulting in the obstruction and derailment of work both in the High Court of Judicature at Allahabad and in the District Courts across the State. These incidents have a direct impact on the functioning of the judiciary and the ability of the institution to efficiently discharge its constitutional obligation of rendering justice to litigants. Apart from the dislocation of work in the District Courts and in the High Court, a series of incidents has come to light where the security of the District Courts has been seriously compromised. Courts across the State are visited each day by thousands of lawyers, litigants and by the members of the public. Officials of the State come to Court in the discharge of their official duties. The safety of all these stakeholders and of the staff and judges of the Court are of paramount concern. In view of the supervening circumstances and having due regard to the gravity of the situation in the state in the past several months, we have considered it

appropriate to take recourse to the *suo motu* jurisdiction of this Court in the public interest so that the entire matter can be considered in a holistic perspective and appropriate directions can be issued.

At the outset, it would be necessary to advert to the decision of the Supreme Court in **Ex-Capt. Harish Uppal vs Union of India and another**¹, decided on 17 December 2002. The law which has been laid down by the Supreme Court is summarized in the following extract from the decision:

“In conclusion it is held that lawyers have no right to go on strike or give a call for boycott, not even on a token strike. The protest, if any is required, can only be by giving press statements, TV interviews, carrying out of Court premises banners and/or placards, wearing black or white or any colour arm bands, peaceful protest marches outside and away from Court premises, going on dharnas or relay fasts etc. It is held that lawyers holding Vakalats on behalf of their clients cannot attend Courts in pursuance to a call for strike or boycott. All lawyers must bodily refuse to abide by any call for strike or boycott. No lawyer can be visited with any adverse consequences by the Association or the Council and no threat or coercion of any nature including that of expulsion can be held out. It is held that no Bar Council or Bar Association can permit calling of a meeting for purposes of considering a call for strike or boycott and requisition, if any, for such meeting must be ignored. It is held that only in the rarest of rare cases where the dignity, integrity and independence of the Bar and/or the Bench are at stake, Courts may ignore (turn a blind eye) to a protest

¹ AIR 2003 SC 739

abstention from work for not more than one day. It is being clarified that it will be for the Court to decide whether or not the issue involves dignity or integrity or independence of the Bar and/or the Bench. Therefore in such cases the President of the Bar must first consult the Chief Justice or the District Judge before Advocate decide to absent themselves from Court. The decision of the Chief Justice or the District Judge would be final and have to be abided by the Bar. It is held that Courts are under no obligation to adjourn matters because lawyers are on strike. On the contrary, it is the duty of all Courts to go on with matters on their boards even in the absence of lawyers. In other words, Courts must not be privy to strikes or calls for boycotts. It is held that if a lawyer, holding a Vakalat of a client, abstains from attending Court due to a strike call, he shall be personally liable to pay costs which shall be in addition to damages which he might have to pay his client for loss suffered by him.”

The judgment of the Supreme Court has been flouted by the associations representing the lawyers. Even the restriction that strikes should not be resorted to, even in an exceptional matter, for a period in excess of one day, is observed in the breach. One day strikes are extended from day to day, almost indefinitely.

In view of the clear statement of the law which has been laid down by the Supreme Court, there can be no doubt about the principle that a strike by the members of the Bar on the call of the office bearers of the Bar Associations is without the authority of law and is illegal. An officer convening a meeting for the purpose would be liable to be held personally

responsible along with others who interfere in the functioning of the Court.

There are several other issues apart from the matter pertaining to strikes by members of the Bar, which are equally a matter of concern. The first issue which needs to be highlighted is the need to provide adequate security within the precincts of the District Courts across the State of Uttar Pradesh. Adequate security requires the installation of CCTV cameras Scanners, and the presence of an adequate security force in the District Courts. The District judiciary functions with little or no security cover and is at the mercy of disruptive elements. In view of the advancement of modern technology, biometric cards should be utilised to protect the security of the members of the Bar, judges, court staff, litigants and all other stakeholders. Biometric cards must be provided in a time bound schedule to court staff, advocates whose names are enlisted on the roll of the Court for the district court concerned, and to advocates' clerks.

Secondly, firearms of every nature whatsoever must be prohibited from the precincts of the Courts save and except for members of the security establishment who are deputed for official duty to the Court. As a matter of fact, this is an issue which need not await the responses of any authority or person since there can be no dispute about the basic principle that introduction of firearms within the premises of the Court would be unlawful and should be prohibited.

The third important issue which would require attention is whether a person who has been convicted of an offence punishable with imprisonment of a certain term, say in excess of seven years has a right to practise. The issue is as to whether such persons should be recognised as having a right to

practice before a court of law. This is an aspect on which we consider that further deliberation would be warranted.

We have, at this stage, only outlined some of the issues which arise for consideration in these proceedings. Before the Court can issue appropriate directions, it would be necessary to hear all the stakeholders involved in the process of dispensing justice.

In the circumstance, notices shall issue to the Secretaries of the recognised Bar Associations in all the 75 districts of the State of Uttar Pradesh. The Registrar General shall duly ensure that these notices are served upon the Secretaries of the District Bar Associations, as noted above, through the District Judges concerned. Notices shall also issue to the Bar Council of India and the Bar Council of Uttar Pradesh, to the Secretaries of the High Court Bar Association, Allahabad and Oudh Bar Association, Lucknow, and to the State Government through the Principal Secretary (Home) and the Chief Secretary and the Director General of Police.

During the pendency of these proceedings, all the District Judges shall submit weekly reports to the Registrar General of this Court about any attempt on the part of a member of the Bar or from any other quarter to interfere in the proceedings of the Court along with the name of the person or persons involved.

This Bench shall assemble once every fortnight or at such earlier intervals as the exigencies of the situation may warrant, to take stock of the situation.

We express serious concern over the disruption which took place yesterday within the premises of this Court. The Court on its administrative

side was informed on 18 March 2015 by the President and Secretary of the High Court Bar Association that the strike which has been called by the members of the Bar over the incident which took place in the District Court at Allahabad was suspended and the lawyers were resuming judicial work. Despite this, a group of lawyers resorted to wanton sloganeering in the corridors of the Court yesterday and disrupted the functioning of the Courts. In certain cases, the doors of the Court were locked from outside to prevent entry into the Court. This, in our view is a flagrant obstruction in the functioning of the court of justice which would warrant suitable action.

We direct the office bearers of the Allahabad High Court Bar Association and of the Advocates' Association to inform the Court, on the next date of listing, of the identity of those who were involved in the incident which took place yesterday ie 23 March 2015. Information may be collected by the Registry from other sources together with the orders passed by the Hon'ble Judges in the Court about the Advocates involved. Even during the course of the morning today, reports have come from several courts about an attempt made by a certain segment of the Bar to disrupt the functioning of the Court and to prevent Judges taking up the criminal jurisdiction from discharging duties. We are inclined to take a serious view of such attempts to obstruct the course of justice since any attempt to do so which causes serious prejudice to the rights of the ordinary litigants must be dealt with firmly.

In addition to the issues raised above, we propose to issue directions on the following aspects after hearing the views of diverse stakeholders in the justice delivery system:

- (i) In order to prevent the entry of unauthorized persons to court premises in the garb of advocates, a roll of advocates in the District Courts should immediately be prepared. Advocates must be given Biometric cards;
- (ii) A similar roll of Clerks of Advocates should be also prepared and they should also be given Biometric cards. Advocate Clerks shall wear a black coat in the court campus without which they shall not be allowed to enter the premises;
- (iii) For the purpose of entry of litigants, on the letters/identification of Advocates on Roll, appearing in concerned case, entry passes may be issued;
- (iv) With regard to Government Officials, entry passes should be issued on similar letters/identification by Government Counsel practicing in the District Courts;
- (v) For Government Officials/employees who regularly come to the Court, monthly passes may be issued, on the recommendation of the District Magistrate/Senior Superintendent of Police or the District Government Counsel, Civil or Criminal, as the case may be;
- (vi) The employees of Courts should also be issued Biometric cards;
- (vii) The entry in Court campuses should be regulated for the litigants, Advocates and others from one or two gates, under close scrutiny by security officials posted there, who shall be responsible for checking of identification cards or entry passes and frisking of suspicious persons;
- (viii) The District Judge should be empowered to take

appropriate action against any person who unauthorizedly enters the premises. He should also be authorized specifically to check and prevent entry of any person causing nuisance or disturbance in the courts or campus;

(ix) In some district Judgeships, for facilitating regular functioning of Advocates, canteens/cafeterias, photostat machine shops etc. have been allowed to operate. Their employees should also be issued similar entry passes by District Judges;

(x) No person, except security personnel deputed for safety of Court premises/Judicial Officers, should be allowed to carry any weapon or other dangerous instrument, which may cause serious harm to anyone present in the Court campus. This should strictly be prohibited;

(xi) Provisions of imposing fine, if anyone violates regulatory measures, are also required to be made. District Judges should be authorized to control entry of anyone in the court campus and to check and restrict entry of any unwarranted persons or antisocial elements who are likely to create nuisance in the Court campus, for such period with certain other conditions as he may deem fit and proper;

(xii) In many of the District Courts, boundary walls are broken or are of inadequate height. Barbed wire fencing is not installed and in many places boundary walls are damaged, permitting unauthorized entry. These boundary walls should immediately be directed to be repaired/ constructed and barbed wire should also be placed wherever it is absent;

(xiii) In the campus as also in the corridors of District

Courts, appropriate numbers of CCTV cameras be installed, under close monitoring by expert police officials; and

(xiv) Scanners and metal detectors should also be installed.

Similar security arrangements would also have to be envisaged for the High Court.

List these proceedings before the Court for further consideration on 7 April 2015 at 2.00 PM.

Order Date :- 24.3.2015
RK

(Dr D Y Chandrachud,CJ)

(Rakesh Tiwari, J)

(Rajes Kumar, J)

(V K Shukla, J)

(Arun Tandon, J)

(Tarun Agarwala, J)

(Dilip Gupta, J)