

Court No. - 10

Case :- WRIT - A No. - 12972 of 2023

Petitioner :- Dinesh Kumar

Respondent :- District Caste Scrutiny Committee And 4 Others

Counsel for Petitioner :- Adarsh Singh, Indra Raj Singh, Islam Ahmad

Counsel for Respondent :- C.S.C., Sunil Kumar Misra

Hon'ble Kshitij Shailendra, J.

1. Lawyers are abstaining from judicial work today.

2. This Court, through Registrar General, had issued due communications on 11.09.2023 and 12.09.2023 that arguments through Video Conferencing/ Virtual mode would be permissible. Necessary links were also notified in the communication.

3. Neither any learned counsel has physically appeared to argue the matter nor has any request for entertaining the present petition through Video Conferencing mode been sent to this Court.

4. Considering the ongoing strike of lawyers for the last several days despite positive intervention made by this Court on judicial side on the request of Bar Association as well as Bar Council of U.P. itself in Public Interest Litigation (PIL) No.2099 of 2023 (In Re: Bar Council of U.P.) (*Suo Moto*), certain observations are required to be made.

5. Cases are not disposable commodities to be treated as mere statistics. Their purpose is not to provide a livelihood for lawyers or provide monthly disposal quota to Judges. Each case that comes before a Judge or a lawyer, has an element of a human problem concerning the life, liberty, livelihood, family business, profession, work, shelter, safety and security of the citizen. Many of the litigants belong to the downtrodden and weaker sections of society who are defenceless, poor and ignorant. Their silent cry for a civilised human solution to their grievances and problems, and for a level playing field is a call for justice, to be felt and heard not only by the Judges but also by the lawyers, the latter, unfortunately, not hearing this cry, whatever may be the reason which, certainly, cannot have more weight than the weight of tears and pain of litigant(s) who have reposed all faith in our judicial system and the institution of justice.

6. The Hon'ble Supreme Court, in the cases of *Ex. Capt. Harish Uppal vs. Union of India and another*, AIR, 2003 SC 736; *Supreme Court Bar Association v. Union of India* (1998) 4 SCC 409; *Krishnakant Tamrakar vs. State of Madhya Pradesh*, 2018 (17) SCC 27 and *Hussain v. Union of India*, (2017) 5 SCC 702, has already settled that it is unprofessional as well as unbecoming for a lawyer, who has accepted a brief, to refuse to attend the Court even in pursuance of a call for strike or boycott by the Bar Association or the Bar Council. Despite the fact that strike by lawyers has already been held to be illegal by the Apex Court, the High Court Bar Association has not called off the strike.

7. Under the aforesaid circumstances, the Court has **following options:**

(i) to dismiss the present case for want of prosecution;

(ii) to throw it in the ocean of "listed matters" where the hopes of hearing for years would be quite bleak, if not negligible;

(iii) to make observations regarding validity of present strike coupled with power, authority and competence of State Bar Council to issue resolutions contrary to the statute and judgments of Hon'ble Supreme Court;

(iv) to make comments on the stand and act of High Court Bar Association, which is an independent body and a society registered under the Societies Registration Act, 1860, supposed and competent to function as per its own wisdom but, unfortunately, is indulged in continuously imposing upon itself void resolutions having no sanction of law.

8. However, this Court, **exercising judicial restraint**, refrains itself from taking any such step or making any such observation, as it may add to further woes to the litigant(s), who have reposed confidence and faith in the Institution of justice and may also result in further chaos or clash.

9. The Court, with a very heavy heart, adjourns this matter in the interest of justice **with the hope and trust** that the lawyers would understand not only the plight, woes, cry and grievance of the society at large, but also **their own well-being** and would soon turn up to argue the case **honouring the decisions of the Apex Court** of the nation, as cited above.

10. **Put up this case on 13.10.2023 as fresh.**

Order Date :- 13.9.2023

Sazia