



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:4936:2021(Council)

08.11.2021

To,

Chairman
Bar Council of Delhi
2/6, Siri Fort Institutional Area
Khel Gaon Marg, New Delhi-110049

Secretary,
Bar Council of Delhi,
2/6, Siri Fort Institutional Area
Khel Gaon Marg, New Delhi-110049

Sub.: Direction and request to State Bar Council of Delhi to forthwith direct and ensure that the Coordination Committee of All District Court Bar Associations of Delhi immediately withdraw the call for complete abstinence from Judicial work by Lawyers in District Courts across the State on 09.11.2021, as also to issue directions to them to withdraw the call for carrying on indefinite boycott of a Judicial Officer, if the issue being agitated upon by them is not resolved to their satisfaction after meeting with Hon'ble Chief Justice of Delhi High Court.

Sir/s,

It has come to the notice of the Bar Council of India, that the Coordination Committee of All District Court Bar Associations of Delhi on 08.11.2021 have unanimously resolved to go on complete abstinence of work on 09.11.2021 in the District Courts against the recent judgment of Chief Metropolitan Magistrate, Mr. Gajender Singh Nagar, of the Tis Hazari Court, convicting former Delhi High Court Bar Association President Mr. Rajiv Khosla for assaulting a woman lawyer Ms. Sujata Kohli in the year 1994, who had thereupon gone on to become a District and Sessions Judge and had only retired last year.

It has also come to notice, that it has been resolved, that the issue would be discussed by the Co-ordination Committee with the Hon'ble Chief Justice of Delhi, High Court, and in case the matter is not resolved to their satisfaction after the meeting with Chief Justice of Delhi High Court, the committee will observe "complete indefinite boycott of the court of concerned judicial officer."

As per directions of Hon'ble Chairman , Bar Council of India, I am to intimate as under:

The Bar Council of India would like to bring to the notice of the State Bar Council of Delhi and to the concerned members of the legal fraternity, that this course of action being adopted is not the legal recourse available as per law.

Being harbingers of the legal process, practice and procedure, the lawyers fraternity is expected to do the needful not through strike and agitation but by way of providing legal assistance to Mr. Rajiv Khosla to file an appeal against the impugned order and judgment and to avail of all other legal remedies available under the law, as Mr Khosla is aggrieved of the referred order and judgment.

Calling upon all members of the Bar to abstain from judicial work for one day in District Courts across the State and thereafter further resolving to indefinitely boycott the judicial officer, if the discussion with Hon'ble Chief Justice of Delhi, does not go as per their desire, will not go down well with the litigant public, the common masses as well as with the judiciary.

It will be seen as a sign of distress and pressure tactic being resorted to by the most powerful class of citizens in India, who help others in availing justice. This will lead to literally break down of the mindset of the common man, who shall be constrained to feel, that if Lawyers themselves have to resort to such methods to get things done, we shall also resort to the same.

Justice, Judiciary, Law, Lawyers, will all be severely damaged by such an act.

Even in times of distress, it is reminded that abstinence/ strike or boycott will not solve any problem.

Infact, rather frequent strikes further complicate issues and weaken the Advocates fraternity, as strikes are considered illegal by the Hon'ble Supreme Court of India, when it concerns Advocates, who are considered as officers of the court and as a part of the judicial machinery.

Our profession, is considered as a noble profession and the professional work rendered by us is unique and for the benefit of the common man including aggrieved parties who come to Advocates in the hope that Advocates will be able to get them justice when all doors are closed for them.

Representations of any nature, as planned may be handed over. Any legal recourse may be availed too.

However, there should not be interference in the judicial and court work.

It may be reminded that vide order dated 28-02-2020 in S.L.P.(C) No.5440/2020 passed by the Supreme Court of India)in District Bar Association Dehradun through its Secretary Vs. Shri Ishwar Shandilya & Ors it was observed

"7. As, in spite of the decisions of this Court in the cases of Ex-Capt Harish Uppal (supra), Common Cause, A Registered Society (supra) and Krishnakant Namrakar (supra) and despite the warnings by the courts time and again, still, in some of the courts, the lawyers go on strikes/are on strikes. It appears that despite the strong words used by this Court in the aforesaid decisions, criticizing

the conduct on the part of the lawyers to go on strikes, it appears that the message has not reached. Even despite the resolution of the Bar Council of India dated 29.09.2002, thereafter, no further concrete steps are taken even by the Bar Council of India and/or other Bar Councils of the States. A day has now come for the Bar Council of India and the Bar Councils of the States to step in and to take concrete steps. It is the duty of the Bar Councils to ensure that there is no unprofessional and unbecoming conduct by any lawyer. As observed by this Court in the case of Ex-Capt. Harish Uppal (supra), the Bar Council of India is enjoined with a duty of laying down the standards of professional conduct and etiquette for Advocates. It is further observed that this would mean that the Bar Council of India ensures that advocates do not behave in an unprofessional and unbecoming manner. Section 48 of the Advocates Act gives a right to the Bar Council of India to give directions to the State Bar Councils. It is further observed that the Bar Associations may be separate bodies but all advocates who are members of such associations are under disciplinary jurisdiction of the Bar Councils and thus the Bar Councils can always control their conduct. Therefore, taking a serious note of the fact that despite the aforesaid decisions of this Court, still the lawyers/Bar Associations go on strikes, we take suo moto cognizance and issue notices to the Bar Council of India and all the State Bar Councils to suggest the further course of action and to give concrete suggestions to deal with the problem of strikes/abstaining the work by the lawyers.

Therefore, in lieu of entirety of the facts and circumstances of the case, abstaining and resorting to strikes or trying to subvert the judicial machinery by pressurizing to change a judicial decision by way of abstaining from court work/strikes, by boycott of a judicial officer, and/or by trying to procure any other order/decision in any manner which is against the concepts and tenets and procedures of codified law, is not in any way the correct or legal course of action.

Therefore, the State Bar Council of Delhi is directed and requested to forthwith direct and to ensure that the Coordination Committee of All District Court Bar Associations of Delhi immediately withdraw the call for complete abstinence from Judicial work by Lawyers in District Courts across the State on 09.11.2021, as also to issue directions to them to withdraw the call for carrying on indefinite boycott of a Judicial Officer, if the issue being agitated upon by them is not resolved to their satisfaction after meeting with Hon'ble Chief Justice of Delhi High Court

This is for your information and necessary compliance.

Thanking you,

Yours sincerely,



Srimanto Sen
Secretary
Bar Council of India