

To,

Date:- 07.04.2020

1. The Hon'ble Chief Justice of India,

Supreme Court of India,

Tilak Marg, Mandi House,

New Delhi-110001.

2. The Bar Council of India

Through President,

21, Rouse avenue, Mandi House,

New Delhi-110001.

3. The President of the SCBA,

(Supreme Court Bar Association)

Supreme Court of India,

New Delhi-110001.

4. The President of DHCBA

(Delhi High court Bar Association)

Delhi High Court

New Delhi-110001.

Subject: - Regarding Creation of Financial Aid Emergency Fund for Young Practising Advocates across India who are in dire need of Financial Help during COVID-19 pandemic situation.

Most Respectfully Showeth;

1. That Covid-19 is an extraordinary situation which mankind has ever witnessed, moreover the rapid spread of the virus poses unprecedented challenges throughout the world. Fortunately there is also new epidemiologic data emerging from W.H.O indicating that it is possible to bring this epidemic under control with draconic measures which is being responsibly adopted by our government to contain the same.
2. That till date there has been more than 4000 positive cases which are reported in India along with an approximate count of 114 deaths.
3. That nearly 162 countries are steadily going under lockdown and businesses across the globe are operating in fear of an impending collapse of global financial markets. This situation, clubbed with sluggish economic growth in the previous year, especially in a developing country like India, is leading to extremely volatile market conditions. With rising unemployment, interest rates, and fiscal deficit, the economy in India has taken a huge dip.
4. That Rating agencies, both global and domestic, are unanimous that the Covid-19 pandemic will be an economic tsunami for India and currently in the midst of

a 21-day lockdown which will possibly extend further as well.

5. That on March 26, our Finance Minister Hon'ble Smt. Nirmala Sitharaman had announced a \$23 billion package aimed at cushioning the economic disruption. India's central bank joined the fight a day later with sharp interest rate cuts and a slew of unconventional measures aimed at making credit available to beleaguered businesses.
6. That in India, GDP growth is already at a decadal low and any further dent in economic output will bring more pain to workers who have seen their wages erode in recent times. The pandemic is a threat bigger in scale than the global financial crisis of 2008 as it not only slams the brakes on economic activity but also jeopardises the country's financial stability along with bringing enormous human sufferings which has not been seen in decades.
7. That On 25<sup>th</sup> March, the Hon'ble Prime Minister Mr. Narendra Modi started his address to the nation and in the wake of the rapid spread of Corona virus, the Hon'ble PM announced a lockdown for the entire nation except for some essential services for 21 days. Thus, 1.3 billion people were decreed to stay home to break the chain of transmission which is presenting as a severe challenge to working people, precarious labourers, daily wage

labourers, beggars, nomads, the disabled and homeless in carrying out their daily livelihood for survival.

8. That there are number of Emergency Financial Provisions available whereby the Govt. may invoke as well as implement the above-mentioned in order to secure the socio-economic rights of the citizens, however at the same time there are other fields which needs critical attention & planning by the government. That the current health situation should not be viewed as some unique or unexpected exogenous crisis, on the contrary, it is very much endogenous to the protracted structural crisis of capitalism along with the huge persistent income inequality, unemployment, inaccessibility to proper health care by the working class, inaccessible quality education and other essential services.

9. That it is no doubt that the Govt. of India is taking every possible step to take care of the above possible situation and we extend our support to the govt and really appreciate the efforts of our govt. However, the officers of the Court i.e. Advocates are also hit by this lockdown and facing financial crunch and if the lockdown further extend then this pose a serious threat to the life and liberty of the Advocates who have litigation as there only source of income. It's time that the protector of fundamental & legal rights take care of this responsibility as a one class (Bar & Bench), rather than

waiting for state or union relief fund as they have to take care of other professions and citizens at large.

10. That the Young Independent Advocates who are practising in different Courts & Tribunals across India whose source of income is only limited till the extent of litigation are facing a tough time and speaking for ourselves, we are practising Independently since last 01 year in Delhi and hail from different parts of the country. It is of pertinence that during the current pandemic we are lockded-down here in Delhi with limited resources at our disposal and circumventing the current situation, the lockdown will further extend and the Courts will be working with a limited load of work, followed by summer vacation break which will further deteriorate the situation of the Independent practising advocates.

11. That the situation is getting worse day by day and we have limited supplies in hand with additional burden of paying for our Rented Accommodation, Food & Medical bills. It is humbly submitted that we are not advocating for the “financial aid” as our “fundamental right” during the current pandemic. Through the instant letter we are only sharing the plight of Young Independent Advocates who are facing the wrath of time.

12. That it is important to mention here that the various State Bar Associations across the country are coming up with ‘Financial Aid’ scheme for Advocates, however,

there is no uniformity or equality in those policies, also there is a grey area in regard to advocates who are not registered with any Associations (not State Bar Council) like DHCBA, SCBA and other Associations under State Bar, so they are left at mercy of God because these schemes have arbitrary conditions which we doubt will extend benefit to the needy advocates.

13. That recently Bar Council of Delhi came up with circular for Conditional financial assistance to Advocates, which is follows;-

*That only those advocate/applicant will be entitled to get exigent financial assistance*

*(A) who is member of Bar Association of Supreme Court/High Court/District Courts/ Tribunals at Delhi for the last three years uninterruptedly and*

*(B) advocates/applicants B required A to pass AIBE mandatorily within stipulated period must enclose/refer passing acknowledgement .*

*It is made clear that extra ordinary arrangement is made only for Advocates, who are unable to meet their day-to-day expenses or food or even medicines and only applications from such Advocates would be entertained.*

That it is humbly submitted that the idea of financial assistance to the advocates is really appreciated, but however the said policy has divided the advocates in two classes;-

1. Member Advocates of the Association and Non-members.
2. Also further classify the Member advocates in two class;-

Advocate with three year membership and more, forms one class and less than three years at the association, forms another class. So the members with less than 03 years at the Association is not eligible for this financial aid and I ask myself this question, whether Young Advocates with less than 03 years at the Bar do not form part of the Bar? Or they have established practice than that of the mentioned category above comparatively?

It is humbly submitted that the above classification of advocates violates the principle of equality as there is no intelligible differentia in the classification of advocates in two classes and further sub-classification on basis of years in Bar to qualify for financial aid is arbitrary and violates foundation of principle of equality; also the objective is to extend benefit to Advocates who are more established and settled.

“We are considered the champion of Rights & Liberties, because we stand for fundamental rights of our citizens, but this is the time champion of fundamental rights also think of future generation of the Bar & Bench, and extend them help”.

14. That a similar policy was recommended by the Supreme court Bar Association;

*Scheme will provide maximum assistance of Rs 25,000/ to the Member as Loan to be repaid without any interest in two years time or such shorter time as the Member concerned may like to repay.*

*It is submitted that the SCBA initiate is appreciated but the concern is that it may not reach to the Advocates in dire need because there is no policy as to whom this facility will be extended, only self declaration affidavit will be taken into consideration, in case there are various applicants applying for such facility then there is no due process to classify as to whom the fund should be disbursed and the young advocates may be left out with no help.*

15. That the objective of the instant letter is not to discourage the efforts of the respective State Bar Associations and their intention to fight the crisis of COVID-19. It is humbly submitted that the instant letter only try to convey the plight of Young Independent Advocates who are not associated with any Court Bar Association and still in dire need of financial help from the State Bar or BCI.
16. That there are various welfare scheme for Advocates available on state and national level & also under the ***Advocates Act, 1961 makes provision for safeguarding the rights, privileges & interest of Advocates on its roll. Also, Section 6[(2) of the Advocate Act litigate for creation of such emergency fund for advocates;-***



*A State Bar Council may constitute one or more funds in the prescribed manner for the purpose of— (a) giving financial assistance to organise welfare schemes for the indigent, disabled or other advocates;*

*[(3) A State Bar Council may receive any grants, donations, gifts or benefactions for all or any of the purposes specified in subsection (2) which shall be credited to the appropriate fund or funds constituted under that sub-section.]*

*Whereas for Bar Council of India, Section 7 reads as:-*

*(d) to safeguard the rights, privileges and interests of advocates;*

*(j) to manage and invest the funds of the Bar Council;*

*[(2) The Bar Council of India may constitute one or more funds in the prescribed manner for the purpose of— (a) giving financial assistance to organise welfare schemes for indigent, disabled or other advocates; (b) giving legal aid or advice in accordance with the rules made in this behalf;]*

*46A. financial assistance to State Bar Council.—The Bar Council of India may, if it is satisfied that any State Bar Council is in need of funds for the purpose of performing its functions under this Act, give such financial assistance as it deems fit to that Bar Council by way of grant or otherwise.]*

It is humbly submitted that practising advocates have to compulsory enrol with any state Bar of its choice, however, it is not compulsory for any practising advocate to register himself with any other court Membership, so if the Advocate

has not enrolled himself with any Court Associations like DHCBA/SCBA then do they lose the right to any of the financial assistance scheme floated for Advocate welfare?

It is humbly submitted that the Advocates Act, 1961 provides with the provision for creation of financial fund for Advocates in order to protect their rights, privileges and interest. Therefore it is humbly prayed that; kindly invoke that power under the Advocate Act, 1961 and create a Emergency Fund for the Young Independent Advocates in need of financial assistance during COVID 19.

And I quote my heart out as to how the Young Independent Advocates who are the future of this Bar & Bench legacy need a hand to support;

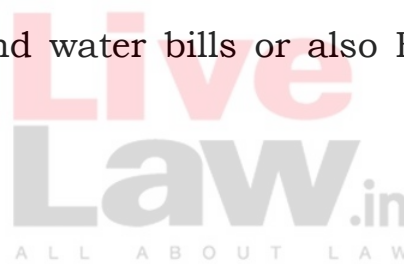
“Youth itself is a Talent, A perishable Talent”

“We will be remembered only if we give to our younger generation a prosperous & safe India, resulting out of economic prosperity coupled with civilizational heritage”- By APJ Abdul Kalam.

17. That litigation is a noble profession and we are said to be the officers of the Court who hold the highest level of integrity and dignity while performing our duties. The instant letter is on behalf of all the Young Independent Advocates who are facing the wrath of the COVID-19 pandemic situation & stand firmly with our Govt, Supreme Court & Associations and take a pledge to stand with their decisions during this

amid COVID situation and give our best to overcome this situation.

18. As we all know that advocacy is a very noble profession and all advocates are very well disciplined and followers of the law and believe in the Constitution of India. We fight for the others right but this is very hard time for us, especially for young independent lawyers who are not well settled, living far from their home states and earning on daily basis, who do not have many cases on a regular basis and we are financially suffering during this harsh period emerged due to this pandemic because we are unable to pay houses rent, electricity bills and water bills or also EMI'S of insurances etc.



**Suggestion;-**

- A. A dedicated single emergency pool fund may be created with the help of Bar & Bench.
- B. Bar Council of India has data of all the State Bar Associations, so the BCI can be the managing body for the pool fund and it's disbursal to the Concerned Advocates in need of financial assistance.
- C. Question Arises as to who is eligible for "Financial Assistance during COVID-19 situation?"

Well the Rules can be laid down by the Learned Members of the Bar, whereas our suggestion to this would be the Parameters like;-

- i. Advocates who are enrolled with their respective State Bar and their names appeared on the State Roll.
- ii. Advocates who are practising Independently and not associated with any law firm or drawing salary/stipend from any law firm, Chambers, or through any other source.
- iii. Income Tax return as a proof of their declared Income, like in our case the total income is less than Rs 2,50,000.00.
- iv. Advocates who are practising in their respective states and solely dependent upon the litigation as there source of income.
- v. Self Attested Affidavit in regard to need of financial assistance during COVID 19 to manage their essential need of food, Accomodation and Medical bills.

How we can pool fund-

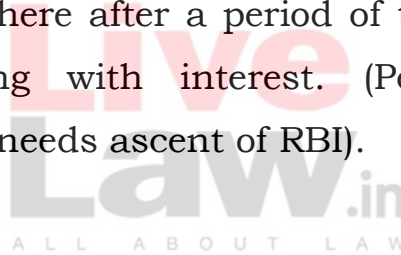
State Bar Associations may contribute, Law firms in India, Advocates who are willing to contribute towards this fund or any other Institutions.

Financial Scheme for Advocates;-

Monthly or one time Financial Assistance may be provided to the Advocates who are in need of the aid during COVID 19,  
OR

Assistance in form of Loan disbursement for a certain period of time can be provided to the Advocates who will return the Aid money after a fix period of time, once the court reopens along with the reasonable interest and then the Emergency fund can be distributed among various State Bar Associations or BCI may utilise it for legal aid or any other mankind purpose.  
OR

Senior advocates, well settled advocates or the law firms who have contributed towards this fund, their money can be refunded once the Advocates who have availed the financial assistance return aid money, so this will encourage the Advocates, law firms to divert there surplus fund in this emergency fund where after a period of time there fund will be returned along with interest. (Permission for this particular scheme needs ascent of RBI).



### **Prayer**

It is humbly prayed that Hon'ble Court & Bar Council may take cognizance of this situation where the concerned members of the different Bars across the country are on verge of starvation and the issue in hand concerns the life and liberty of our learned brothers across India.

Also, invoke the provisions of Advocate Act, 1961 & Advocates Welfare Scheme, 1998 in order to meet the current COVID-19 situation.

Or any other order & directions, the concerned party may deem fit in the interest of legal fraternity and protector of fundamental rights.

Thanking You

Pawan Prakash Pathak

&

Alok Singh

(Advocate)

(Advocate)

Public Interest Lawyer

Supreme Court of India

Enrol.No- D/6911/2017

Enrol.no.- MP-490/2017

Mobile No.- 8600545332

Mobile No.-980683319

