

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. ____ OF 2020
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

Bar Council of India

Petitioner

Versus

Union of India and Ors.

.. Respondents

PAPER-BOOK

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ADVOCATE FOR THE PETITIONER: **MR. S.N.BHAT**

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LISTING PROFORMA

SECTION: X

The case pertains to (Please tick/check the correct box):

- Central Act : Constitution of India
- Section : Articles 14 and 21
- Central Rule: N.A.
- Rule No (s) : N.A.
- State Act : N.A.
- Section : N.A.
- State Rule: N.A.
- Rule No (s) : N.A.
- Impugned Interim Order : N.A.
- Impugned Final Order/Decree : N.A.
- High Court : N.A.
- Names of Judges: N.A.
- Tribunal/Authority : (Name) N.A.

1. Nature of matter: Civil
Criminal

2. (a) Petitioner/Appellant No.1 : Bar Council of India
(b) E-Mail ID: N.A.

(c) Mobile phone number: N.A.

3. (a) Respondent No.1: Union of India and Ors.

(b) E-Mail ID: N.A..

(c) Mobile Phone Number: N.A.

4. (a) Main category classification: 18, Ordinary Civil matters

(b) Sub classification: 1807, others

5. Note to be listed before: N.A.

6(a). Similar disposed of matter with citation, if any & case details: No similar matter is disposed of

(b). Similar pending matter with case details: No similar matter is pending

7. Criminal Matters:

(a) Whether accused/convict has surrendered:

Yes No.

(b) FIR No. N.A. Date : N.A.

(c) Police Station: N.A.

(d) Sentenced Awarded: N.A.

(e) Sentenced Under gone: N.A.

8. Land Acquisition Matters: N.A.

(a) Date of Section 4 notification: N.A.

(b) Date of Section 6 notification: N.A.

(c) Date of Section 17 notification: N.A.

9. Tax Matters: State the tax effect: N.A.

10. Special Category (first Petitioner/Appellant only): N.A.

Senior citizen > 65 years SC/ST Woman/child Disabled
 Legal Aid case in custody

11. Vehicle Number

(in case of Motor Accident Claim matters): N.A.

(S.N.BHAT)

Date :

ADVOCATE FOR THE PETITIONER

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. ____ OF 2020
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

Bar Council of India
Through its Secretary,
21, Rouse Avenue,
Institutional Area,
Near Bal Bhawan,
New Delhi-110001

Petitioner

Versus

1. Union of India
Through Secretary,
Ministry of Finance
Government of India,
Jeevan Deep Building,
Parliament Street,
New Delhi-110001
2. Union of India
Through Secretary,
Ministry of Law and Justice,
A- Wing, Shastri Bhawan,
Dr.Rajendra Prasad Road,
New Delhi- 110002
3. State of Andhra Pradesh
Through Chief Secretary
#1, 1st Floor, Interim Government Complex,
A.P. Secretariat, Velagapudi, Guntur,
Andhra Pradesh

4. State of Arunachal Pradesh
Through Chief Secretary
Civil Secretariat,
Itanagar- 791111
Arunachal Pradesh
5. State of Assam
Through Chief Secretary
Block-3, 3rd Floor, Assam Sachivalaya,
Dispur- 781006,
Guwahati,
Assam
6. State of Bihar
Through Chief Secretary
Main Secretariat,
Patna- 800015
Bihar
7. State of Chhatisgarh
Through Chief Secretary
Mahanadi Bhawan,
Mantralaya,
Naya Raipur- 492002
Chattisgarh
8. State of Goa
Through Chief Secretary
Secretariat,
Porvrim,
Bardex, Goa- 403521
Goa
9. State of Gujarat
Through Chief Secretary
1st Block, 5th Floor,
Sachivalaya,
Gandhinagar- 382010
Gujarat

10. State of Haryana
Through Chief Secretary
Room No.4, 4th Floor,
Haryana Civil Secretariat,
Sector-1,
Chandigarh- 160019
Haryana
11. State of Himachal Pradesh
Through Chief Secretary
H.P.Secretariat,
Shimla- 171002
Himachal Pradesh
12. State of Jharkhand
Through Chief Secretary
1st Floor, Project Building,
Dhurwa,
Ranchi-834004
Jharkhand
13. State of Jammu & Kashmir
Through Chief Secretary
Government of Jammu & Kashmir
R.No.2/7, 2nd Floor, Main Building,
Civil Secretariat,
Jammu-180001
And
Room No.307, 3rd Floor,
Civil Secretariat,
Srinagar- 190001
Kashmir
14. State of Karnataka
Through Chief Secretary
Room No.320, 3rd Floor,
Vidhana Soudha- 560001
Karnataka

15. State of Kerala
Through Chief Secretary
Secretariat, Thiruvananthapuram-695001
Kerala
16. State of Madhya Pradesh
Through Chief Secretary
MP Mantralaya, Vallabha Bhavan,
Bhopal- 462004
Madhya Pradesh
17. State of Maharashtra
Through Chief Secretary
C.S. Office main Building,
Mantralaya,
6th Floor, Madame Cama Road,
Mumbai- 400032
Maharashtra
18. State of Manipur
Through Chief Secretary
South Block, Old Secretariat,
Imphal- 795001
Manipur
19. State of Meghalaya
Through Chief Secretary
Main Secretariat Building,
Rilang Building,
Room No.321,
Meghalaya Secretariat,
Shillong- 793001
Meghalaya
20. State of Mizoram
Through Chief Secretary
New Secretariat Complex,
Aizawal- 796001
Mizoram

21. State of Nagaland
Through Chief Secretary
Civil Secretariat,
Kohima- 797004
Nagaland
22. State of Odisha
Through Chief Secretary
General Administration Department,
Odisha Secretariat,
Bhubaneswar- 751001
Odisha
23. State of Punjab
Through Chief Secretary
Chandigarh- 16001
Punjab
24. State of Rajasthan
Through Chief Secretary
Secretariat,
Jaipur- 302005
Rajasthan
25. State of Sikkim
Through Chief Secretary
New Secretariat,
Gangtok- 737101
Sikkim
26. State of Tamil Nadu
Through Chief Secretary
Secretariat,
Chennai- 600009
Tamil Nadu

27. State of Telangana
Through Chief Secretary
Burgula Rama Krishna Rao Bhavan,
9th Floor,
Adarsh Nagar,
Hyderabad- 500063
Telangana
28. State of Tripura
Through Chief Secretary
New Secretariat Complex,
Secretariat,
Agartala- 799010
West Tripura,
Tripura
29. State of Uttarakhand
Through Chief Secretary
4, Subhash Road, Uttarakhand Secretariat,
Dehradun- 248001
Uttarakhand
30. State of Uttar Pradesh
Through Chief Secretary
1st Floor, Room NO.110
Lalbahadur Sastri Bhawan
Uttar Pradesh Secretariat,
Lucknow- 226001
Uttar Pradesh
31. State of West Bengal
Through Chief Secretary
Nabanna, 13th Floor,
325, Sarat Chatterjee Road,
Mandiratala Shibpur,
Howrah- 711002
West Bengal

32. Union Territory of Andaman and Nicobar,
Through Chief Secretary,
Government of Andaman and Nicobar,
Andaman and Nicobar
Administration Secretariat,
Port Blair- 744101
33. Union Territory of Daman and Diu, Dadra and Nagar Haveli
Through Chief Secretary
Government of Daman and Diu, Dadra and Nagar Haveli
Secretariat, Moti,
Daman- 3396220
34. Union Territory of Chandigarh
Through Chief Secretary
Government of Punjab and Haryana
Chandigarh
35. The Government of NCT of Delhi
Through Chief Secretary
Delhi Secretariat, I.P.Estate,
New Delhi-110002
36. Union Territory of Lakshadweep
Through Chief Secretary
Government of Lakshadweep
Lakshadweep,
Kavaratti- 682555
37. Union Territory Ladakh
Through Chief Secretary
UT Secretariat, Leh-Ladakh
38. Union Territory of Puducherry
Through Chief Secretary
Government of Puducherry
Main Building,
Chief Secretariat,
Puducherry- 605001

Respondents

**PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA**

TO

THE HON'BLE CHIEF JUSTICE OF INDIA AND HIS
OTHER COMPANION JUDGES OF THE HON'BLE
SUPREME COURT OF INDIA.

The humble petition of the petitioner above named.

MOST RESPECTFULLY SHEWETH:

1. This petition under Article 32 of the Constitution of India is being filed by the Bar Council of India for a direction to the respondents- authorities to provide financial assistance including disbursal of soft loans to financially needy advocates enrolled with the various State Bar Councils in view of unprecedented crisis being faced by a large section of legal practitioners currently.

2. The petitioner- Bar Council of India is a statutory body constituted under Section 4 of the Advocates Act, 1961 ("the Act" for short). The Bar Council of India is the apex statutory

body constituted under the Act and entrusted with various functions and duties.

The petitioner- Bar Council of India is statutorily entrusted with the duty of catering to the welfare of the Advocates all over the country. Section 7 of the Act in particular provides that the Bar Council of India shall strive inter-alia to safeguard the interests of advocates (See Section 7(1)(d) of Advocates Act, 1961).

3. Advocates are enrolled under the provisions of the Act with any one of the different State Bar Councils constituted under the Act.
4. There are presently about 16 lakhs (about sixteen lakhs) advocates enrolled with the different State Bar Councils in the country. A large number of advocates practising law in the country have enrolled and started practice since the last ten years and thus they constitute substantial proportion of the profession. It is also necessary to mention that a significant section of them are first- generation lawyers in that there are no other member of the family in the legal profession. These advocates are solely dependent on the regular, though meager,

income they earn from appearing in different courts and various tribunals as well as before the quasi-judicial authorities. This significant section of lawyers have no real savings to fall back on and they are dependent on the regular functioning of the courts and tribunals for their livelihood. They are particularly vulnerable financially since they are relative beginners in the profession and therefore, their financial position is very precarious.

5. The prolonged closure of the courts and tribunals all over the country since March, 2020 due to the lock-down declared by the Government of India and the various State Governments to combat COVID – 19 pandemic has resulted in depriving majority of the advocates their only source of income. This has affected all sections of the profession and the younger and junior advocates are hit hardest financially. Large number of them have various commitments to meet apart from keeping their and their family's body and soul together. The situation of some of them is so grim that it may not be an exaggeration to say that they face virtual starvation and they require urgent and immediate financial aid and succor. It is the estimate of

the petitioner- Bar Council of India that almost about 25% to 30% of the advocates enrolled would be in need of immediate financial help.

6. There is no scheme applicable country-wide to provide financial assistance to the needy advocates.

The Bar Council of India also does not possess the necessary financial resources to help the needy advocates at this hour of crisis though the Bar Council of India acutely realises the necessity to come to the aid of the advocates. The Bar Council of India does not get any subscription money from the advocates periodically. The Bar Council of India receives only a fraction of the one-time enrolment fee paid by the advocates at the time of enrolment and the funds at the command of the Bar Council of India are barely sufficient to meet its regular expenses.

7. In many States, the proceeds of the Advocates Welfare Stamp duty collected at the time of filing of the vakalatnama in courts goes to the coffers of the Governments of the respective States. Thus, there is a regular contribution made by the

advocates to the Government funds while they carry on their practice apart from the various taxes paid like other citizens.

In view of the present situation, some of the State Bar Councils devised financial assistance schemes by way of giving loans and advances in order to mitigate the financial stress of the needy advocates. The State Bar Councils have only modest funds and the financial resources of the State Bar Councils are not sufficient to help the advocates in need in an effective manner. The State Bar Councils do not possess funds required for the purpose of giving any meaningful help to the advocates.

It is pertinent to mention that according to information available with the Bar Council of India, out of about 64,000 (Sixty four thousand) advocates practising in Delhi more than 16,000 (Sixteen thousand) advocates requested for grant of Rs.5000/- (Rupees five thousand) from the Bar Council of Delhi in order to survive the present crisis. This fact alone points to the poignant situation prevailing at present. It is also necessary to mention that advocates cannot take up any other

avocation for earning livelihood. The meager amount of Rs.5000/- sought by way of assistance by the advocates would be hardly sufficient to meet their requirements.

True copy of the scheme (approval) dated 11.4.2020 formulated by the Bar Council of Maharashtra and Goa is annexed hereto and marked as ANNEXURE:P-1(PAGES _____ TO _____).

True copy of the scheme (approval) dated 04.05.2020 formulated by the Odisha State Bar Council is annexed hereto and marked as ANNEXURE:P-2(PAGES _____ TO _____).

True copy of the Odisha State Bar Council Emergency Financial Assistance Rules, 2020 is annexed hereto and marked as ANNEXURE:P-3(PAGES _____ TO _____).

True copy of the scheme(approval) dated 2.5.2020 formulated by the Bar Council of Manipur dated 2.5.2020 with enclosures is annexed hereto and marked as ANNEXURE:P-4(PAGES _____ TO _____).

True copy of the letter of the Secretary, Bar Council of the State of Andhra Pradesh, dated 4.4.2020 is annexed hereto and marked as ANNEXURE:P-5(PAGES _____ TO _____).

True copy of the reply of the Secretary, Bar Council of India dated 5.4.2020 is annexed hereto and marked as **ANNEXURE:P-6(PAGES TO)**.

True copy of letter of the Secretary, Bar Council of Telangana dated 1.4.2020 is annexed hereto and marked as **ANNEXURE:P-7(PAGES TO)**.

True copy of the reply of the Secretary, Bar Council of India dated nil to the Secretary, Bar Council of Telangana is annexed hereto and marked as **ANNEXURE:P-8(PAGES TO)**.

True copy of the letter dated 13.4.2020 of the Secretary, Bar Council of Punjab & Haryana alongwith Minutes of Emergent meeting of the General House of the Bar Council of Punjab and Haryana held on 13.4.2020 is annexed hereto and marked as **ANNEXURE:P-9(PAGES TO)**.

True copy of the reply of the Secretary, Bar Council of India dated 14.4.2020 to the Chairman and Secretary of the Bar Council of Punjab and Haryana is annexed hereto and marked as **ANNEXURE:P-10(PAGES TO)**.

True copy of letter dated 1.4.2020 of the Secretary, Bar Council of Kerala alongwith resolution dated 1.4.2020 and

Bar Council of Kerala Rules for Financial Assistance to Advocates in Extraordinary situations arising out of epidemic/pandemic diseases or natural calamities- 2020 is annexed hereto and marked as ANNEXURE:P-11(PAGES _____ TO _____).

True copy of the reply of the Secretary, Bar Council of India dated 3.4.2020 to the Secretary, Bar Council of Kerala is annexed hereto and marked as ANNEXURE:P-12(PAGES _____ TO _____).

8. In order to support the needy advocates of the country, large sums of money beyond the means of the Bar Council of India and the State Bar Councils would be necessary. On a back of the envelope calculation, the funds necessary for payment of a modest sum of Rs.20,000/- to each of het 25% of the advocates would require about Rs.8000000000 (Rupees eight hundred crores) and the Bar Council of India does not have the necessary resources for the task at hand.
9. It is now felt that the assistance schemes formulated by the State Bar Councils are wholly inadequate looking at the

enormity of the problem faced by the lawyers due to the closures of the courts and the tribunals since March, 2020 and only the partial re-opening of the judicial fora. In the circumstances, the Bar Council of India feels it necessary to bring the difficulties faced by the members of the legal profession, particularly the younger and the junior members of the Bar, to the notice of this Hon'ble Court and seek appropriate directions from this Hon'ble Court to help them.

10. Therefore, Bar Council of India seeks the kind intervention of this Hon'ble Court in its unique role as the *parens patriae* of the entire legal profession to help the needy lawyers tide over the present unprecedented and enormous difficult times by directing the respondents- authorities to release adequate funds.
11. In the circumstances, the petitioner- Bar Council of India seeks direction to the respondents to arrange by appropriate means financial assistance in the shape of loan of atleast Rs.3 lakhs to each advocate payable immediately and repayable by

the advocate concerned atleast 12 months after the normal functioning of the courts begins in reasonable installments.

12. That the petitioner states that it has not filed any other petition on similar grounds and seeking similar relief before this Hon'ble Court or before any other court.
13. The petitioner having no other effective, efficacious or alternative remedy under law, is filing this writ petition under Article 32 of the Constitution of India on the following amongst other grounds,

GROUND

- I. Because a significant section of advocates, particularly the younger lawyers are in acute need of urgent financial support in the prevailing circumstances brought about by the global pandemic resulting in closure of courts for a long time initially and only partial functioning of the courts since then. The very survival of these advocate has come into question in view of the present conditions. Large sections of practicing advocates depend upon the day-to-day functioning of the courts and tribunals to meet their

financial needs and the present uncertainly has jeopardized their only source of income. It is therefore necessary to ensure the meaningful enjoyment of the rights guaranteed under Articles 21 of the Constitution of India to give effective and immediate assistance to them and this Hon'ble Court may be pleased to do direct the respondents- authorities to do the needful in this regard.

II. Because Disaster Management Act, 2005 provides for meeting the contingencies rising during disaster. The provisions of the said Act, in particular Section 13 provide for grant of financial relief including loans on concessional terms to persons affected by disaster. The government has already taken steps in this regard for giving relief to certain sections of the society including entrepreneurs. In the circumstances, it is necessary that appropriate relief is given to the suffering lawyers also.

III. Because the advocates enrolled under the Advocates Act, 1961 are obliged as a matter of professional discipline and statutory duty not to take up any other avocation and

not to enter into any other means of earning a livelihood. It is the solemn duty of every advocate to be a diligent and dutiful servant of law and sustain himself only through the practice of law. In view of the present crisis, it is necessary that the needy and deserving advocates are given assistance.

IV. Because the advocates form essential and integral part of the justice delivery system and it is necessary to look after the well-being of this important segment of the system. Therefore, it is general public interest that the respondents-authorities are directed to make available requisite assistance to the needy advocates in view of the prevailing circumstances.

V. Because advocates continually keep contributing to generation of funds which goes to the coffers of the government in myriad ways during the course of their practice. In particulars, advocates generate funds by way court-fee and advocates welfare funds. The financial contribution made by the legal community is substantial and therefore, it is reasonable to expect the government to

extend assistance to advocates in times of grave need like the present one.

VI. Because this Hon'ble Court has always acted as the parens patriae of the legal community in the country and tended to the needs and welfare of the members of the legal community as a whole. Therefore, this Hon'ble Court may pass appropriate directions to obviate the difficulties afflicting a section of the lawyers at present.

PRAYER

It is therefore, most respectfully and humbly prayed that this Hon'ble Court may graciously be pleased to:

- a). issue appropriate writ, order or direction directing the respondents to arrange financial assistance by way of interest-free loan of upto Rs.3 lakhs each to advocates enrolled with the respective Bar Council of each State through the said Bar Council repayable in reasonable monthly installments atleast 12 months after normal court functioning commences; and in the alternative
- b). direct the respondent- Union of India and the respective State Government to financially support the needy advocates

through respective Bar Association by depositing the amount directly in the accounts of the said advocates after receiving the necessary details from the respective Bar Association;

- c). pass such other/ further orders/ direction as this Hon'ble Court may deem fit and proper in the circumstances of the present case.

DRAWN AND FILED BY:

Drawn on:

(S.N.BHAT)

Filed on:

Advocate for the Petitioner

SYNOPSIS AND LIST OF DATES

This petition under Article 32 of the Constitution of India is being filed by the Bar Council of India for a direction to the respondents- authorities to provide financial assistance including disbursement of soft loans to financially needy advocates enrolled with the various State Bar Councils in view of unprecedented crisis being faced by a large section of legal practitioners currently.

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The petitioner- Bar Council of India is statutorily entrusted with the duty of catering to the welfare of the Advocates all over the country. Section 7 of the Act in particular provides that the Bar Council of India shall

strive inter-alia to safeguard the interests of advocates (See Section 7(1)(d) of Advocates Act, 1961).

Advocates are enrolled under the provisions of the Act with any one of the different State Bar Councils constituted under the Act.

There are presently about 16 lakhs (about sixteen lakhs) advocates enrolled with the different State Bar Councils in the country. A large number of advocates practising law in the country have enrolled and started practice since the last ten years and thus they constitute substantial proportion of the profession. It is also necessary to mention that a significant section of them are first- generation lawyers in that there are no other member of the family in the legal profession. These advocates are solely dependent on the regular, though meager, income they earn from appearing in different courts and various tribunals as well as before the quasi-judicial authorities. This significant section of lawyers have no real savings to fall back on and they are dependent on the regular functioning of the courts and

tribunals for their livelihood. They are particularly vulnerable financially since they are relative beginners in the profession and therefore, their financial position is very precarious.

March,2020:The prolonged closure of the courts and tribunals all over the country since March, 2020 due to the lock-down declared by the Government of India and the various State Governments to combat COVID – 19 pandemic has resulted in depriving majority of the advocates their only source of income. This has affected all sections of the profession and the younger and junior advocates are hit hardest financially. Large number of them have various commitments to meet apart from keeping their and their family's body and soul together. The situation of some of them is so grim that it may not be an exaggeration to say that they face virtual starvation and they require urgent and immediate financial aid and succor. It is the estimate of the petitioner- Bar Council of India that almost about

25% to 30% of the advocates enrolled would be in need of immediate financial help.

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The Bar Council of India also does not possess the necessary financial resources to help the needy advocates at this hour of crisis though the Bar Council of India acutely realises the necessity to come to the aid of the advocates. The Bar Council of India does not get any subscription money from the advocates periodically. The Bar Council of India receives only a fraction of the one-time enrolment fee paid by the advocates at the time of enrolment and the funds at the command of the Bar Council of India are barely sufficient to meet its regular expenses.

In many States, the proceeds of the Advocates Welfare Stamp duty collected at the time of filing of the vakalatnama in courts goes to the coffers of the Governments of the respective States. Thus, there is a

regular contribution made by the advocates to the Government funds while they carry on their practice apart from the various taxes paid like other citizens.

In view of the present situation, some of the State Bar Councils devised financial assistance schemes by way of giving loans and advances in order to mitigate the financial stress of the needy advocates. The State Bar Councils have only modest funds and the financial resources of the State Bar Councils are not sufficient to help the advocates in need in an effective manner. The State Bar Councils do not possess funds required for the purpose of giving any meaningful help to the advocates.

It is pertinent to mention that according to information available with the Bar Council of India, out of about 64,000 (Sixty four thousand) advocates practising in Delhi more than 16,000 (Sixteen thousand) advocates requested for grant of Rs.5000/- (Rupees five thousand) from the Bar Council of Delhi in order to survive the

present crisis. This fact alone points to the poignant situation prevailing at present. It is also necessary to mention that advocates cannot take up any other avocation for earning livelihood. The meager amount of Rs.5000/- sought by way of assistance by the advocates would be hardly sufficient to meet their requirements.

In order to support the needy advocates of the country, large sums of money beyond the means of the Bar Council of India and the State Bar Councils would be necessary. On a back of the envelope calculation, the funds necessary for payment of a modest sum of Rs.20,000/- to each of the 25% of the advocates would require about Rs.8000000000 (Rupees eight hundred crores) and the Bar Council of India does not have the necessary resources for the task at hand.

It is now felt that the assistance schemes formulated by the State Bar Councils are wholly inadequate looking at the enormity of the problem faced by the lawyers due

to the closures of the courts and the tribunals since March, 2020 and only the partial re-opening of the judicial fora. In the circumstances, the Bar Council of India feels it necessary to bring the difficulties faced by the members of the legal profession, particularly the younger and the junior members of the Bar, to the notice of this Hon'ble Court and seek appropriate directions from this Hon'ble Court to help them.

Therefore, Bar Council of India seeks the kind intervention of this Hon'ble Court in its unique role as the *parens patriae* of the entire legal profession to help the needy lawyers tide over the present unprecedented and enormous difficult times by directing the respondents- authorities to release adequate funds.

. In the circumstances, the petitioner- Bar Council of India seeks direction to the respondents to arrange by appropriate means financial assistance in the shape of loan of atleast Rs.3 lakhs to each advocate payable immediately and repayable by the advocate concerned

at least 12 months after the normal functioning of the courts begins in reasonable installments.

7.7.2020: HENCE THE PRESENT WRIT PETITION IS BEING FILED.