



BAR COUNCIL OF KERALA

(Statutory Body Constituted under the Advocates Act, 1961)

Bar Council Bhavan, High Court Campus, Kochi-682 031

No. BCK/HC/

/2020

30.9.2020

To

The Hon'ble Mr. Justice S. Manikumar,
Hon'ble Chief Justice, High Court of Kerala,
Ernakulam-682031

Respected Sir,

1. The Bar Council of Kerala is anxious about the apathy of the Hon'ble High Court of Kerala and the Hon'ble Chief Justice towards the plight of the lawyers in Kerala. The same attitude is also reflected towards the Bar Council of Kerala, which is the statutory body for the discipline and welfare of lawyers in Kerala.
2. The Chief Justice and the then Judges of the Administrative Committee have orally assured the delegation of the Bar Council of Kerala, which met the Chief Justice and the companion Judges on 19.11.2019, 02.12.2019 and 05.12.2019 that the Bar Council would be called to discuss the many grievances pointed out by the Council.
3. One major issue highlighted by the Bar Council during the aforesaid meeting was the arbitrary functioning of the Kerala State Legal Services Authority (KELSA) in taking unilateral decisions prejudicially affecting the whole Advocates' community in the State, without consulting the stakeholders who are mainly the Advocates who represent the litigants. Neither the Bar Council of Kerala nor the 85 Bar Associations in Kerala were consulted. Though the Chief Justice and Judges of the Administrative Committee in the aforesaid meetings have given oral assurances to rectify the same, the matters have only badly aggravated with the KELSA resorting to even more arbitrary decisions affecting the lawyer community, as narrated hereunder, without consultation.

4. Another prominent issue pointed out in the aforesaid meetings by the Bar Council Members was the countless difficulties and hardships faced by lawyers in respect of professional fees for litigations in the Motor Accidents Claims Tribunals (MACT), which was seriously affecting the livelihood of the lawyer community in general and certain lawyers in particular. This has happened due to changes made in the rules by the High Court without consultation. Though oral assurances were given to provide solutions, so far, nothing has happened and the miserable plight of the lawyers continues as such.

5. Another serious issue pointed out by the Bar Council members was regarding the misbehaving conduct or errant behavior of certain Judicial Officers (a minuscule minority among Judicial Officers) demeaning and degrading lawyers including Senior and reputed lawyers at various Court Centres in Kerala, which is nothing but judicial misconduct. The consequent pain suffered and humiliation faced by the lawyers of the mofussil courts, at the hands of these Judicial Officers are immeasurable. We have requested to take corrective actions against such Officers and also stressed on the need for special training for Judicial Officers through the Kerala Judicial Academy. Though oral assurances were given by the Chief Justice and companion Judges in the aforesaid meetings that corrective actions would be taken, nothing is done so far. On the other hand, the matters have only worsened. Kindly recall the serious grievances of lawyers against the then lady Magistrate at Kattakada. The Bar Council pointed out in one of the aforesaid meetings that she was demeaning lawyers including Senior Members of Kattakada Bar and her misbehavior was intolerable and unbearable for the local lawyers and transgressing all levels of decency and civilized behaviour. On that occasion, the Administrative Committee of the High Court has orally assured that necessary action will be taken. But no action is taken. The said Magistrate was recently transferred to Neyyattinkara. But before transfer, she has issued contempt notices against two senior members of Kattakada Bar.

6. Further, though the Chief Justice and the then members of the Administrative Committee orally assured the representatives of the Kerala Bar Council that they would be called again to settle these matters and to put in place an effective permanent mechanism involving the members of the Bar Council and Senior most High Court

Judges to resolve issues of conflicts between the Bench and the Bar, so far, no action is taken, Moreover, the Bar Council has not been called for even a single meeting as assured. On the contrary, even the oral requests from the side of the Bar Council for a meeting with the Chief Justice to address the immediate and urgent issues affecting the Advocates' community in Kerala have been repeatedly turned down, which is an embarrassment to the Advocates' community.

7. Several decisions having wide ramifications affecting the community of Advocates in Kerala have been taken by the KELSA without consulting the Bar Council. The Bar Council is of the definite view that any decision taken by KELSA or the High Court prejudicially affecting the Advocates' profession in the State ought to be done only after effective consultation with the Bar Council of Kerala, which is the major stakeholder in Kerala as far as the Advocates' profession is concerned. The predominant role of the Bar in the effective administration of justice need not be overemphasized. So, the grievances pointed out are not merely affecting the livelihood of lawyers, but, more importantly, affecting the administration of justice.

8. There are 108 Court Centres in the State of Kerala in addition to the High Court of Kerala and there are 85 Bar Associations in Kerala representing more than 50,000 Advocates. Besides the Advocate General of Kerala as the ex-officio member, members of the Bar Council of Kerala are those elected by the Advocates from the length and breadth of the State, representing the entire Advocates' community in the State and duty bound to stand for their welfare.

9. It may not be out of place here to point out that the representatives of the Bar are ignored or sidelined in all major developments including e-filing and Court e-systems on the Judicial and Professional side, by the highest Judiciary of the State as if the Bar is an inconsequential partner in administration of Justice and judicial process.

10. Presently, it is a matter of grave concern that the E-Lok Adalat and the Standard Operating Protocol (SOP) of the E-Lok Adalat, which have major consequences for the whole Advocates' community in Kerala, have been arbitrarily introduced by KELSA,

without consultation with the Bar Council of Kerala. It is seen widely circulated in social medias of Advocates' Groups that even some outside opaque private agencies are roped into the E-Adalat process and these consulting agencies have even started soliciting clients without notice to the lawyers representing them. This is a worrying trend. This may lead to a situation where outside private agencies are handling all Court related litigations, ousting Advocates, to the prejudice of administration of justice. The Bar Council of Kerala is flooded with grievances from lawyers, Bar Associations, Advocates' Organizations and lawyer groups from all over the State complaining of such issues. But representatives of the Bar Council of Kerala are finding it difficult to get an appointment to meet the Hon'ble Chief Justice or the Administrative Committee of the High Court even to discuss this serious issue. The Advocates' community is distressed by these developments.

11. Taking into account all the circumstances and the inputs from the various Bar Associations and lawyer groups, the Bar Council of Kerala in its meeting held on 26.09.2020 was constrained to take a painful decision to call upon the Advocates' community of Kerala and all Bar Associations to abstain from participating or cooperating with any Adalat including E-Adalats in the State of Kerala till all serious issues affecting the Advocates' profession in Kerala are settled by the highest Court of the State. Hence, the Hon'ble High Court is hereby informed of the said decision.

Dated this the 30th September 2020



K.P. Jayachandran

Chairman

Copies to: All Judges of the High Court