

Court No. - 6

Case :- MATTERS UNDER ARTICLE 227 No. - 2850 of 2022

Petitioner :- Premraj Pratap Singh

Respondent :- Alka Singh @ Meenu

Counsel for Petitioner :- Rateesh Singh

Hon'ble J.J. Munir,J.

Perused the report dated 21.05.2022 submitted by the Principal Judge, Family Court, Hathras. It is gratifying to note that the trial has progressed a lot. The Principal Judge owes an explanation to this Court why he had adjourned the case acknowledging a probable strike by Advocates on 20.05.2022. The adjournment by the Principal Judge prima facie amounts to misconduct. No Court ought to take notice of a strike or a probable strike by the Advocates. The directions of the Supreme Court in **District Bar Association., Dehradun through its Secretary v. Ishwar Shandilya and others, (2020) 17 SCC 672** read:

"6.6. In spite of the law laid down by this Court in the aforesaid decisions, this Court time and again deprecated the lawyers to go on strikes, the strikes were continued unabated. Even in the present case, the advocates have been boycotting the courts on all Saturdays, in the entire district of Dehradun, in several parts of the District of Haridwar and Udham Singh Nagar District of the State of Uttarakhand. Because of such strikes, the ultimate sufferers are the litigants. From the data mentioned in the impugned judgment [*Ishwar Shandilya v. State of Uttarakhand*, 2019 SCC OnLine Utt 976] and order, things are very shocking. Every month on 3-4 Saturdays, the advocates are on strike and abstain from working, on one pretext or the other. If the lawyers would have worked on those days, it would have been in the larger interest and it would have achieved the ultimate goal of speedy justice, which is now recognised as a fundamental right under Articles 14 and 21 of the Constitution. It would have helped in early disposal of the criminal trials and, therefore, it would have been in the interest of those who are languishing in the jail and waiting for their trial to conclude. When the institution is facing a serious problem of arrears and delay in disposal of cases, how the institution as a whole can afford such four days' strike in a month.

6.7. Now, so far as the submission on behalf of the petitioner that to go on strike/boycott courts is a fundamental right of freedom of speech and expression under Article 19(1)(a) of the Constitution and it is a mode of peaceful representation to express the grievances by the lawyers' community is concerned, such a right to freedom of speech cannot be exercised at the cost of the litigants and/or at the cost of the justice delivery system as a whole. To go on strike/boycott courts cannot be justified under the guise of the right to freedom of speech and expression under Article 19(1)(a) of the Constitution. Nobody has the right to go on strike/boycott courts. Even, such a right, if any, cannot affect the rights of others and more particularly, the right of speedy justice guaranteed under Articles 14 and 21 of the Constitution. In any case, all the aforesaid submissions are already considered by this Court earlier and more particularly in the decisions referred to hereinabove. Therefore, boycotting courts on every Saturday in the entire district of Dehradun, in several districts of Haridwar and Udham Singh Nagar District in the State of Uttarakhand is not justifiable at all and as such it tantamounts to contempt of the courts, as observed by this Court

in the aforesaid decisions. Therefore, the High Court is absolutely justified in issuing the impugned directions. We are in complete agreement with the view expressed by the High Court and the ultimate conclusion and the directions issued by the High Court. Therefore, the present special leave petition deserves to be dismissed and is accordingly dismissed. We further direct all concerned and the District Bar Associations concerned to comply with the directions issued by the High Court impugned in the present SLP in its true spirit. It is directed that if it is found that there is any breach of any of the directions issued by the High Court in the impugned judgment [*Ishwar Shandilya v. State of Uttarakhand*, 2019 SCC OnLine Utt 976] and order, a serious view shall be taken and the consequences shall follow, including the punishment under the Contempt of Courts Act.

7. As observed hereinabove, in spite of the decisions of this Court in *Harish Uppal* [*Harish Uppal v. Union of India*, (2003) 2 SCC 45], *Common Cause* [*Common Cause v. Union of India*, (2006) 9 SCC 295 : (2006) 2 SCC (Cri) 493] and *Krishnakant Tamrakar* [*Krishnakant Tamrakar v. State of M.P.*, (2018) 17 SCC 27] 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, criticising 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 29-9-2002, thereafter, no further concrete steps are taken even by the Bar Council of India and/or the 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 *Harish Uppal* [*Harish Uppal v. Union of India*, (2003) 2 SCC 45], the Bar Council of India is enjoined with a duty of laying down the standards of professional conduct and etiquette for the advocates. It is further observed that this would mean that the Bar Council of India ensures that the 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 the 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 motu 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. The notices may be made returnable within six weeks from today. The Registry is directed to issue the notices to the Bar Council of India and all the State Bar Councils accordingly."

Once this is the position, the action of the Trial Judge in adjourning the case on 21.05.2022 to 08.07.2022 requires to be explained by him, which he shall do through a report for the time being before any further orders are passed. Even otherwise, in a Family Court, the presence of an Advocate is not a necessity, though this Court is mindful of the fact that no meaningful justice can be done in the absence of the learned Counsel for parties.

Lay this petition as fresh again on **27.05.2022** along with the learned Trial Judge's explanation.

Let a copy of this order be furnished to Mr. Sudhir Mehrotra, learned

Special Counsel for the High Court, whose name shall be printed on the respondent's side on the next date of listing.

Order Date :- 23.5.2022

Anoop