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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

Date: 05.11.2019

To,

1. Hon'ble Chairman/Secretary,
Coordination Committee of Bar Associations of Delhi

2. All the Presidents and Secretaries,
All the District Bar Associations of Delhi.

Reg.: 1. Immediate recall of resolutions passed by you on 4th November, 2019 giving a call to advocates of Delhi for abstaining from Court works.

2. To stop violence in Court premises immediately.

Dear Sir(s),

This letter is in continuation of our earlier appeals to the leaders of Delhi Bar Associations.

Kindly remember that you all were part of the proceedings of Delhi High Court on Sunday (3rd November). The Chairman, Mr. Mahavir Sharma Ji was the first to argue his points. You all demanded for a judicial inquiry into the police firing and entire episode. We also prayed for suspension of the police officials and transfer of two. Your requests were accepted by the Court. We asked for No Coercive Action against Advocates during the pendency of inquiry and the Court passed order.

Please remember it was me (Manan Kumar Mishra) who emphatically and repeatedly requested for the arrest of guilty police officials.

Now let's examine the legal position.

A judicial inquiry is going on, C.B.I., the I.B., the Vigilance Officials are to assist the Hon'ble Inquiring Judge. Police is out of picture in this case from yesterday.

Now legally, police has no authority to arrest even any police personnel or take any action in this matter till the conclusion of enquiry. Police is functions-officio.

Therefore, the resolution of Coordination Committee (that police officials or personnel should be arrested first) is now meaningless and has no legal basis. We are to think this important aspect from legal point of view, so that we may not be laughing stock before the Society.

Please listen to us seriously. See carefully the media reports, news channels and videos circulated widely on Social media and also the CCTV footage of different incidents. See the media news reports, the Policemen's Associations have become active and are now threatening to come on roads and/or to move the Delhi High Court for review of the order.

The CCTV Footage and Videographs', while some are showing the high handedness and atrocities of Police, the videos circulated by our opponents (police) are trying to malign our image and to implicate some lawyers.

As responsible leaders of the Bar, you can't overlook these materials. The opponents will produce these things before the Committee, the C.B.I. the Vigilance, the I.B. and the High Court.

I. B. has now been deputed in this matter, they might be closely watching and collecting materials to find out.

1. How the incident started.
2. Who all were indulged in the nefarious activities.
3. Who were the aggressors.
4. Who crossed the limits (in our opinion certainly the Police, but they will try to make out a case of self defence or they might allege that lawyers themselves resorted to firing). They may say and try to prove anything to save their colleagues.
5. The C.B.I. and I.B. would also be moving in court campuses and recording/watching incidents subsequent to 4th November.

These incident of beating the policeman on bike by some of Saket lawyers, assault of an auto driver, manhandling general public (which are being highlighted in news and media) are most unfortunate and Bar Council of India is not going to tolerate it. These are acts of grave misconduct.

These would be produced by the Police in course of inquiry too.

Even in Tis Hazari Court campus, on 4th November untoward incidents of violence are being reported. Most unfortunate!

Hooliganism and violence has no place in the Bar. The leaders will have to stop it immediately. It's my earnest and humble request.

Kindly identify those Advocates (if they are Advocates in real sense) and send their names and other details by tomorrow to the office of Bar Council of India.

We are tarnishing the image of the Institution by sparing such rowdy elements. Our inaction and tolerance encourages them and ultimately results in Contempt Proceedings by the High Courts or Supreme Court.

(see the case of Odisha Lawyers, Supreme Court has issued notice to all the leaders of Odisha Bar and to me also)

8th November is the date fixed in Supreme Court.

I (Manan Kumar Mishra) have been asked to be present in person

This is the time to maintain peace and harmony.

We have got a historic order from the High Court. Let's take full advantage of it.

We must be obliged to High Court that it came to our rescue quickly. Suo Moto cognizance was taken and all of your demands were accepted. You can't even imagine of such substantial reliefs being granted in such a short time. Whatever you wanted, you got.

You are all seasoned and experienced leaders. Imagine the scenario, had the High Court not intervened in this matter!

Even our strike/abstinence of several months would not yield a positive result and by now several Advocates would have been booked and some would have again been victimized by police. Many more F.I.Rs and accusations would have been made by now. See the statements of policemen and their officers on news media today.

But instead of being obliged to our Judiciary/High Court, we are showing our disrespect to it. Most unfortunate! Judges might not have thought that our leaders would behave like this even after such a wonderful Order. It's very unfortunate. Kindly think over it.

Only few months ago, you have seen the fate of West Bengal Lawyers who were badly beaten by police. They remained on strike for several weeks, but nothing happened. What to talk of lodging F.I.Rs against them, not a single Police man was suspended or transferred.

Same was the case with Odisha Lawyers 2 months back. Their strikes proved futile and lastly they started to find out some face saving way out to get it solved.

What we want to say is that for the first time in the history of Judiciary of our Country, the High Court (that too a High Court like Delhi High Court) sat on Sunday and passed such an unprecedented order in favour of Advocates. We should not forget this obligation of the Court. All the leaders of the Bar were respectfully invited by the registry, it was a historic move. We see the importance of this move/order for future (in case of police atrocities on any lawyer, this will be cited as a precedent).

Therefore, we shouldn't do anything which could result in recall of such order. Policemen are planning to go for review.

Bar Council of India and State Bar Councils know the importance of such historic Order of a Higher Court. Hence, any sort of disrespect to this order will brand us as UNRELIABLE PEOPLE in the eyes of Judges and Bar Council of India cannot tolerate such unruly conduct of any Advocate

Just remember, soon after passing of the order. You all present in Court No.1 started clapping because of happiness. All were fully satisfied. All of you fully appreciated the Court's Orders. No one, even Mr. Rajiv Khosla ji, K.C.Mittal ji, Mahavir Sharma ji, Mohit Mathur ji, Chandhioke ji, Kasana ji. All were cheerful.

Then what happened in 24 hours? The elections are in hands and so continuation of agitation would be beneficial? But, what if such candidates (if found guilty of instigating young lawyers to indulge in violence by the C.B.I./I.B.)? Do you think they would be allowed to contest any election or they would be in a position to contest any election. Bar Council cannot tolerate Hooliganism. There is no place for anti social, unruly or rowdy elements in the Bar. Time has changed. Courts have changed and so, Bar Councils have also changed.

Now there is urgent need to mend the Bar Associations. Otherwise the Institution would be in danger. Consider the seriousness of the situation and take appropriate decision. You, the leaders are supposed to identify bad elements of the Bar and to deal with them tactfully but effectively.

It's the responsibility of you (the leaders of Delhi Bar) to ensure that as a final result of Judicial enquiry, the guilty police officials are taken to task, they are sent to jail, and ultimately convicted under Section 307 I.P.C. and Arms Act and you and me are also to ensure their Removal from service.

And at the same time it's your responsibility to ensure that in course of enquiry nothing adverse should come, which could put any lawyer in trouble. No lawyer should be put to trial in any criminal case. Our experience is that, in such situation, the leaders start keeping distance from the Advocates in trouble. Leaders are only concerned with their interests and votes. That's all. No one comes to rescue of lawyer if a criminal case starts against him. (Kindly accept this harsh truth).

Therefore, our humble request to all of you would be to collect best evidence/materials, find out material witnesses to prove our case of police firing, atrocities and aggressiveness.

Our effort should be to ensure that no lawyer is found guilty/or even made accused by the C.B.I./I.B./Vigilance and by Inquiring Judge.

The High Court has asked us also to cooperate in inquiry proceedings. We will try our level best to support our fraternity. It's our duty and it's our nature.

But the way some lawyers are acting even after such a nice step of Delhi High Court, yesterday's (4th November) behaviour of few lawyers has disturbed us. The resolution of Coordination Committee has further caused anxiety. We are probably only thinking of our own election and we have no concern with those lawyers who might have been made accused in the F.I.Rs lodged by police. We are overlooking the interest of those who might have been captured in CCTV/Video footage while committing some violence.

Please think about the future of a lady lawyer of Tis Hazari Court (who is shown to have lit fire to a bike in front of Police lockup). We hope it's a manufactured video. No lawyer will do it. But we shall have to prove our

innocence once such materials are produced before the Inquiring Judge. We are not to take these things lightly. It has serious consequences.

Abstaining from Court or resort to Violence will not help us, rather by doing this we are loosing the sympathy of Courts, Inquiring judge, C.B.I., I.B. and Vigilance. Even general public opinion is going adverse to us. Result may be dangerous.

You all know that some media is always against Advocates and here also they are committing mischief. Lawyers are branded as Goons. Its Highly derogatory and defamatory. But who gives them the opportunity to do this. We were told that a very sober reporter of Aajtak Ms. Poonam Sharma was manhandled by few Advocates in Tis Hazari yesterday. If it's so, we will request the Office bearers of Tis Hazari Court Bar to find out such Advocates. Such unfortunate things shouldn't be repeated. Please don't lose sympathy of all.

Lastly, we again request you (the big leaders of Bar Associations of Delhi, who all are our best friends, nears and dears) to recall the resolution passed yesterday and resume the court work from today itself. You all know that we pay full respect to each one of you.

Yes, if the peace and harmony is not restored and resolution (to abstain from work) is not recalled, then we will have no option but to withdraw from this episode. We will neither participate in enquiry nor we will be in a position to defend anyone inside or outside Court.

And you know what will happen in that event.

Once the Apex Statutory Body expresses its inability to tackle/control the situation, the Law and Law Courts will take up the issue.

And you are aware of the result, see the various Judgments of several High Courts and Supreme Court. Even your Apex Body may be put in trouble (what to talk of Bar Associations and their office bearers).

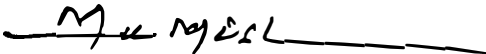
Please convene your meeting at 02.00 pm and place this letter before the Committee.


And let the B.C.I. be informed about the result of that meeting.

Please take it seriously as it's in the interest of the Institution. It's to protect the rights, interests and privileges of lawyers.

If you all feel it necessary you may come to the office of Bar Council of India to discuss the issues and have a cup of tea with us. But only office-bearers and none else is invited.

Thanks and Regards


(Manan Kumar Mishra)
Chairman
Bar Council of India


(Ved Prakash Sharma)
Co-Chairman
Bar Council of India