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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 11652/2019

COURT ON ITS OWN MOTION Petitioner

Through: Court on its own motion

Versus

UNION OF INDIA & ORS. Respondents

Through:

Ms. Maninder Acharya, ASG with Mr. Anil Soni, CGSCs for UOI along with Mr. Shreeshail Malge, Director, Ministry of Home Affairs

Mr. K.M. Nataraj, ASG with Mr. Anurag Ahluwalia, Mr. Anmol Chandan and Mr. Abhigyan Siddhant, Advs. for Delhi Police

Mr. Rahul Mehra, Standing Counsel, Adv. Mr. Chaitanya Gosain, Mr. Tushar Sannu, Mr. Amarpreet Singh, Mr. Anand Thanbayil, and Mr. Jamal Akhtar, Advs. for respondent nos. 2 and 3

Mr. Manan Kumar Misra, Sr. Advocate, Chairman, Bar Council of India (BCI) along with Mr. S. Prabhakaran, Sr. Advocate, Co-Chairman, BCI, Mr. Ved Prakash Sharma, Co-Chairman, BCI, and Mr. Ram Shankar, Standing Counsel for BCI.

Mr. K.C. Mittal, Advocate, Chairman, Bar Council of Delhi (BCD), Ms. Suman Rani, Advs. with Mr. Sanjay Rathi, Adv. and Co-Chairman for BCD, Mr. Piyush Sharma, Advocate and Co-Chairman, BCD; Mr. D.K.

Sharma, Advocate and Co-Chairman, BCD; Mr.R.K. Kochar, Advocate and Co-Chairman, BCD; Mr.Sanjay Rathi, Advocate and Co-Chairman, BCD; Mr.D.K. Singh, Advocate and Vice Chairman, BCD; Mr.Surya Prakash Khatri, Advocate and Member, BCD; Mr.Murari Tiwari, Member, BCD, Mr.Ajayinder Sangwan, Advocate and Member, BCD;

Mr. Rakesh K. Khanna, Sr. Adv. and President, Supreme Court Bar Association (SCBA), Mr.J.M. Sharma, Advocate and Vice President, SCBA, Mr. Rishi Kumar, Mr. Sandeep Lamba and Mr. Yasir, Adv. SCBA, Ms. Preeti Singh, Adv. Mr. Tanver Ahmed Khan, Mr. Shoeb Shakil, Adv. and Mr. Vishwajit Shahi, Adv, SCBA. Mr. Sanjay Khanna, Sr. Adv. and President, SCBA, with Mr. Jagjeet K. Sud, Sr. Adv. and Mr.Saching Gupta, Adv. SCBA

Mr. Vivek Narayan Sharma, Advocate and Joint Secretary, Supreme Court AOR Association; Ms. Savita Singh, Advocate and Member, Supreme Court AOR Association.

Mr. Mohit Mathur, Sr. Advocate and President, Delhi High Court Bar Association (DHCBA); with Mr. Kriti Uppal, Sr. Adv. Mr. B.S. Dhir, Member Executive, Ms.Kajal Chandra, Mr. Naginder Benipal, and Mr. Dhan Mohan, Adv. with Mr.Jatan Singh, Advocate and Vice President, DHCBA with Ms. Rupali Kapoor, Adv.; Mr. Abhijat, Advocate and Secretary, DHCBA with Mr.Mohit Gupta, Mr. Amit Saxena, Adv., Mr. Harshit Jain, Adv. for DHCBA, Mr. P.S.

Prakash, Adv. for DHCBA, Mr. Sitab Ali Chaudhary, Adv., Mr.A.K.Chaurasiya, Adv. for DHCBA, Mr. B.P.Singh, Mr. G.M. Akhtar and Mr.Ajay Sharma, Advs. for DHCBA, Mr.Nikhil Mehta, Adv. and Member Executive, DHCBA, Mr. Rahul Dutta, Mr. Mithilesh Kumar Jaiswal and Mr. Abhishek Gupta, Advs. for DHCBA

Mr. Rajiv Khosla, Mr. Sunil Rai, Mr. Sunil Sharma, Mr. Amit Sharma and Mr. Surender Chauhan, Advs. for DBA, Mr.N.C. Gupta, Advocate and President, Delhi Bar Association, Tis Hazari (DBA); Mr.Jaivir Chauhan, Adv. and Hony. Secretary, DBA; Mr. Ansul Pratap Singh, Advocate, Mr.Shitez Sharma, Mr.Mohit Rana, Mr.Sahil Aeron, Mr.Vaibhav Jain, Mr. Robin, Mr.Prateek Mehta, Mr.Vivek Kumar, Mr.Ankur Kr. Sharma, Advocates for DBA, Mr. J.S. Chauhan, Adv. and Secretary with Mr.Rajender Sharma, Mr. Rachit Sahney and, Mr. Naveen Gaur, Mr. R.K. Sharma, Mr. Varunn Sakuja, Advs. DBA

Mr. Karnail Singh, Adv. and President Saket Court Bar Association with Mr. Dhir Singh Kasana, Secretary, Saket Court, with Mr.Deepanshu Joshi, Mr. Himanshu Vashishth, and Mr. Hemant Mehta, Addl. Secretary, Saket Court Bar Association (SCBA), Advs.

Mr. Raman Sharma, Advocate and Secretary, Ch. Rabindra Singh, Mr. R.B.S. Chauhan and Mr. Pramod Nagar, Mr. Amit Sinha, Advs. for Shahdara Bar Association(SBA)

Mr.Y.P. Singh, Advocate and President, Dwarka Court Bar Association (DCBA); Mr.Rajesh Kaushik, Advocate and Vice President, DCBA; Mr.Jai Singh Yadav, Advocate and Hony. Secretary, DCBA, Mr. Subhash Ahlawat, Adv. and Sr. Member Executive with Mr. K.K. Chauhan, Adv.

Mr. R.K.Wadhwa, Advocate and President with Mr. D.S. Khatana, Mr. Nagender Kumar, Hony. Secretary, New Delhi Bar Association, Addl. Secretary, Mr. Ravi Mehta, Mr. Vijay Pratap Singh, Advs. for NDBA, Mr. Sunil Pandey, Adv. with Mr. Sandeep Lamba, Mr. S.N. Sharma, Mr. Naveen Kapila, Mr. Ashok Sharma, Mr. Jalaj Agarwal, Mr. A. Rana and Mr. Prashant Saini, Advs. for NDBA

Mr. Mahavir Sharma, Advocate, President, Rohini Court Bar Association (RCBA) AND Chairman, Coordination Committee of All Delhi District Bar Associations with Mr. Rajbir Malik, Advocate and Vice President, RCBA Mr. Rakesh Chahar, Advocate and Secretary, RCBA.

Mr.Siddharth, Advocate and Hony. Secretary, Rouse Avenue Bar Association with Mr. Tarun Dubey, Joint Secretary, Delhi Rouse Avenue Court Bar Association

Mr. Rajiv Sharma, Adv. and Secretary, Delhi Tax Bar Association
Mr. Honey Jain, Adv. Mr. Prateek Goswami and Mr. Ojas Mittal, Advs.

Mr.Anupam S. Sharma, SPP-CBI with

Mr. Prakash Airan, Mr. Apoorv Bansal and Mr. Pankaj Chaudhary, Advs.

Mr. Pardeep Kumar Saini, Adv. with Mr. Hemant Kumar, Adv., Mr. Sachin Gautam, Adv., Mr. Jatin Anand Dwivedi, Mr. Shubhnan Chaturvedi, Mr. Hemant Kumar Mathur, Mr. Abhishek Rana, Mr. Manish Kumar, Mr. Gagan Gupta and Mr. Ashish P., Advs., Mr. Sanket Gupta, Adv. with Mr. A.C.P. Gautam, Adv., Mr. Anil Kumar Verma, Adv. with Mr. Ashu Rani, Mr. T. Singh and Mr. Tanveer A. Khan, Advs., Mr. Suraj Kumar and Mr. Gagan Kumar, Advs. Mr. Amit Kumar Singh, Adv. with Mr. Satish Bhandari, Adv., Mr. B.S. Bagga and Mr. Pankaj Gupta, Advs., Mr. Vishal Singh, Adv., Mr. Raja Ram Tripathi, Adv. Mr. Ashish Deep Verma, Mr. Anshul Pratap Singh, Mr. Upendra K. Nagar, Mr. Vivek Ojha, Mr. Sanjeev, Mr. Ankur Kumar, Mr. S.N. Sharma, Mr. Neeraj, Advs., Mr. Akhilesh Singh and Mr. Nawin Kumar, Advs.

Mr. Nitesh Mehra, Ms. Angel Bhardwaj, Ms. S. Bhateja and Ms. Hitaakshi Mehra, Advs. for non-applicants with non-applicants in person

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER

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06.11.2019

CM Appl. No. 48283/2019 in W.P.(C) 11652/2019

1. This Civil Miscellaneous Application has been preferred by

Ministry of Home Affairs, Union of India with the following prayers:

“a) Allow the instant application and clarify the order dated 03.11.2019 that there is no impediment in taking any action in accordance with law to maintain law and order;

b) Pass any other order(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”

2. By this application applicant is seeking clarification of the order passed by this Court dated 3rd November, 2019 in W.P.(C) 11652/2019, especially seeking clarification in paragraph 15(ix).

3. Having heard all the counsels at length and looking to our order dated 3rd **November, 2019**, we hereby clarify that the observations made in para 15(ix) were for **FIR Nos. 268/2019** and **269/2019**, both dated 2nd November, 2019.

3. Hence, paragraph 15(ix) will now be read as under:

“(ix) Meanwhile, no coercive action shall be taken against the Advocates in pursuance of the F.I.R. Nos. 268/2019 and 269/2019 dated 2nd November, 2019 with regard to the aforesaid incident filed against Advocates.”

4. Thus, we hereby clarify that observations made in para 15(ix) that no coercive action shall be taken is only in pursuance of FIR Nos. 268/2019 and 269/2019, both dated 2nd November, 2019.

5. With this clarification this civil miscellaneous application is hereby allowed and disposed of.

CM Appl. No. 48439/2019 in W.P.(C) 11652/2019

1. This Civil Miscellaneous Application has been preferred by **Delhi Police**. Looking to the urgency of the matter, the same is taken up for hearing today. **Prayers** in this Civil Miscellaneous Application read as under:

“(a) Pass an order modifying the order dated 03.11.2019 to exclude the words “One had opened the firing upon the Advocates and another had dragged a lawyer into the lockup room and confined him therein. Normally lockup room is meant for prisoners.” in Para15(viii) so that the same cannot be read and interpreted as the conclusive findings against the officers of the Delhi Police in question;

(b) Pass an order modifying the Order “Mr. Harender Kumar Singh had ordered for firing. Firearm injuries sustained by Advocates. Mr.Sanjay Singh ordered for lathicharge upon Advocates. Because of this order injuries were sustained by Advocates and also the police had broken window glasses of Cars parked at the Tis Hazari Courts Complex and have ransacked the Chambers of Advocates at Tis Hazari

Courts Complex, New Delhi.” in Para 15(x) so that the same cannot be read and interpreted as the conclusive findings against the officers of the Delhi Police in question;

(c) Pass any Order or any further Orders as this Hon’ble Court may deem fit in the facts and circumstances of the case in the interest of justice.”

2. Having heard all the counsels at length and looking to our order dated 3rd November, 2019, we hereby clarify that the observations made in paragraph **15 (viii)** of the order dated **3rd November, 2019:-**

“One had opened the firing upon Advocates and another had dragged a lawyer into the lockup room and confined him therein.

Normally the lockup room is meant for prisoners.”

are **prima facie observations, tentative in nature** and these observations are only to be read in the context of the order dated 3rd November, 2019; otherwise, these facts are to be proved on the basis of the evidences on record.

3. Similarly, the observations made by this Court in paragraph **15(x)** of our order dated **3rd November, 2019**, in W.P.(C) 11652/2019:

“Mr. Harender Kumar Singh had ordered for firing. Firearm injuries sustained by Advocates. Mr.Sanjay Singh ordered for lathicharge upon Advocates. Because of this

order injuries were sustained by Advocates and also the police had broken window glasses of Cars parked at the Tis Hazari Courts Complex and have ransacked the Chambers of Advocates at Tis Hazari Courts Complex, New Delhi. Further order will be passed by this Court after receipt of the inquiry report.”

are **prima facie observations**, **tentative in nature** and these observations are only to be read in the context of the order dated 3rd November, 2019; otherwise, these facts are to be proved on the basis of the evidences on record.

4. Moreover, we have also clarified, in para 16 of our order dated 3rd November, 2019, that *“the inquiry will be completed in accordance with law and on the basis of the evidences on record, on its own merits and without being influenced by the order of this Court in this matter.”*

5. Before parting with this order, we deem it appropriate to note, with a sense of anguish, that, in our democratic polity, the Bar and the Police establishment represent and constitute, as it were, the preserver, and the protector, of the rule of law. They are but two faces of the coin of justice, and it is essential, for the rule of law to prevail, that they work in close proximity and harmony. Any dissonance, or friction, between them, is deleterious to peace and harmony, and destructive of public interest, in the long run.

6. In our view, therefore, it would be advisable, in this case, that a joint meeting, of responsible representatives of the Advocates and the

Police establishment be convened, who should make a sincere effort to meet and sort out their differences amicably, on the basis of discussion and deliberations, with the objective of dissolution of their differences, which, in our view, have essentially arisen owing to a communication gap, during the last few days. We are hopeful that, if a sincere attempt is made in this direction, peace and harmony will ultimately prevail.

7. With this clarification, this civil miscellaneous application is hereby disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J

NOVEMBER 06, 2019

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