

Date: 17.06.2020

To,

Sri. Ravishankar Prasad
The Honourable Minister,
Ministry of Law & Justice,
Union of Indian, Shastri Bhavan
New Delhi

Re.: Request to formulate scheme for temporary suspension of Lease rentals/Leave & Licence fees for the offices of lawyers

Respected Sir,

1. This representation is on behalf of the Advocates, who are in addition to being professionals, are also officers of the Courts who play a vital role in the administration of justice.
2. As you are aware, on 11/03/2020, world health organisation declared COVID-19 outbreak of pandemic. Taking into consideration the possibility of widespread of the virus, the Government of India declared lockdown on 21/03/2020. Even the Courts in almost entire part of the country restricted work to urgent matters one week prior to the lockdown. Hence, after announcement of lockdown, the Courts are not functioning except hearings of the extreme urgent matters.
3. Most of the lawyers in our country earn their livelihood on a day-to-day basis and they left hardly with any savings except a few. Legal profession is a noble profession and, the majority of the advocates' offices are in city or premises close to the Court. Due to the lockdown none of the advocates were able to work or earn any amount of money during all this lock down period. The advocates being professions, unless carry out professional activity, they won't be able to earn anything for their livelihood. Further, unless the Courts are working, there is hardly any professional work for the advocates.
4. It is apparently evident that most of the lawyers are using rented premises for the professional activities. The monthly rent/licence fee is a major part of monthly expenses for advocates. Maintaining such premises without any income for months together would be a Herculean task for advocates. When forced to lend money to maintain such premises and less there is some support for government assistance is given to the professionals to survive during such a difficult situation, would caused a great hardship. Even though different State Governments have formulated schemes for the benefits extend to different sects/class of people in the country.

However, none of the scheme covers advocates or any working professionals till date.

5. The Government of India and various State Governments have formulated many beneficial schemes for labourers, students and other sects of people. However, surprisingly, the Government has not considered hardship and losses occurred/caused by the lawyers and those who are professionals.
6. It is pertinent to note that during the lockdown period, most of the advocates have paid their respective clerks and office staff to support their families and to avoid any kind of insecurity of employment and avoid larger hardship.
7. It is noted that many State Governments discussed about the waiver of rent for the professional premises of lawyers, but as of now, no decision was taken by the respective Governments till date. In the absence of any relief or clarity by the Government, the advocates are left with no other option but to perform the obligation to pay lease rentals/licence fees under commercial agreements, though their respective commercial premises were not used during the lockdown period. In addition to payments of office staff payment obligations are vigorously evaluating the *Force Measure* clause under the respective agreements during the present pandemic. The *Force Measure* clause can only be availed if such clause is explicitly provided under the leaves agreement. In general, Lease Agreements/Leave & Licence Agreements does not include the force measure clause. In the absence of such a clause in the commercial agreement, the lawyers are forced to pay the monthly rent/licence fees, which will create huge hardship to the majority of advocates in the country. In view of the foregoing, in the absence of a *Force Majeure* clause in the agreement, it is unlikely that advocates can claim frustration of contract with respect to the premises and eventually it will lead to termination of contract forcing most of the advocates to vacate their office premises.
8. Under general / ordinary circumstances, loss of income would have been no excuse to request for a temporary waiver of rental payment; the lockdown has created unforeseen 'special circumstances' leading to a loss of income by reason of the 'fetter' imposed on legal professionals in carrying out the daily activity to sustain among other things-the infrastructure in place. The professionals like advocates are already suffering for the reason of no income during this period. In addition to this they cannot be forced to pay towards monthly rent/licence fees. There is a need of a scheme where a burden of a loss due to the pandemic is attributed to the landlords too.

9. The Government of India has recently exercised the power to waive of rent as conferred upon it under Section 10(2) of the Disaster Management Act, 2005, to remedy the situation in respect of certain sections of the population.
10. Thus, unless the Government formulates a scheme thereby providing relaxation from payment or waiver or suspension of lease rentals/licence fee during this period would be the only solution otherwise in most of the cases it may lead to termination of lease agreement/leave and licence agreement by the landlords for breach of the terms of the agreement, more particularly for non-payment of the monthly rent/licence fees.
11. Yet another aspect appalled to your good self is about the financial hardship faced by the young lawyers across country. Very few of the lawyers being paid full salary from their respective Senior or Law Firm. That apart lot of junior associates lost employment, and those who were not employed or associated with any law chambers has not earned not even single penny during the lock down and the condition many not improve in the soon future. Legal profession is a noble profession, the integrity reputation and self respect, is essential to maintain the nobility of independence of legal profession as well as the
12. its power, were by formulate appropriate schemes to financially support and help the legal professionals and also issue appropriate notification or order, to dispenses with / excuses the professionals from their obligation to pay the rent for the office premises/chambers till such time as the lockdown prevails, to avoid larger hardship.

CC: The Honourable Chief Justice of India

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