

**Court No. - 43**

**Case :-** CONTEMPT APPLICATION (CRIMINAL) No. - 12 of 2024

**Applicant :-** In Re

**Opposite Party :-** District Bar Association Of Prayagraj

**Counsel for Applicant :-** Sudhir Mehrotra

**Counsel for Opposite Party :-** Ashok Kumar Tiwari, Sai Girdhar, Shivendu Ojha

**Hon'ble Ashwani Kumar Mishra, J.**

**Hon'ble Dr. Gautam Chowdhary, J.**

1. Cognizance in this contempt case was taken on a report received from District Judge, Prayagraj, indicating that between July 2023 to April, 2024 the lawyers in District Court, Prayagraj abstained from work/resorted to strike on 127 days out of total working of 218 days. The court functioned only for 41.74% days while strike was resorted to on 58.26% days. Notices were issued to the office bearers of Bar Association and other advocates responsible in the matter.

2. This Court took note of the judgment of Supreme Court in the case of Ex. Captain Harish Uppal vs. Union of India (2003) 2 SCC 45, wherein the Constitution Bench of the Court held that lawyers have no right to go on strike or even token strike or even give a call for strike. Even prior to the judgment in Ex. Captain Harish Uppal (supra) the Supreme Court in the case of Supreme Court Bar Association vs. Union of India (1998) 4 SCC 409 held that going on strike by lawyers is not only contempt of court but also amounts to professional misconduct. This position in law has been consistently reiterated in a series of judgments of the Supreme Court, including the judgments in the case of Common Cause vs. Union of India (2006) 9 SCC 295, Krishnakant Tamrakar vs.

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State of M.P. (2018) 17 SCC 27, District Bar Association Dehradun through its Secretary vs. Ishwar (2020) 17 SCC 672 and In Re: Assault on Two Members of the Supreme Court Bar Association at District Court Complex, Gautam Budh Nagar (2024) SCC Online SC 1016. As the issue raised had a far reaching impact on administration of justice we requested the highest advocates body at the national and state level to assist the Court in evolving mechanism to handle the menace of strike by the advocates. In the order of the Court passed on 31.05.2024 this Court observed as under:-

“10. We also request the Chairman, Bar Council of India, Chairman, U.P. Bar Council and the President of the High Court Bar Association and the Advocates Association to assist the Court in evolving mechanism to forthwith discontinue the menace of strike in the District Courts of Uttar Pradesh. The Registrar General of the High Court of Judicature at Allahabad is also directed to obtain a report from all the District Judges of the State of Uttar Pradesh regarding the number of actual working days in a month and the corresponding days of abstinence from work/strike between 1st July, 2023 to 30th April, 2024 by the next date fixed.”

3. The matter was adjourned on 08.07.2024 and again on 16.07.2024. After hearing learned counsels appearing for the Bar Council of India and Bar Council of Uttar Pradesh as also the learned counsels appearing for the District Bar Association, Prayagraj and High Court Bar Association we issued following directions on 16.07.2024:-

“1. Pursuant to the orders passed on previous occasion learned counsels representing the Bar Council of India and Uttar Pradesh Bar Council have filed their respective affidavits.

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2. The Court is informed that the Chairman of Bar Council of India has held a meeting with the respective stakeholders and a fresh meeting on the aspect relating to holding of strike in the different district courts of Uttar Pradesh is proposed to be held within next two weeks.

3. Shri Sai Girdhar, learned counsel representing the Bar Council of India informs that the Bar Council of India is committed to maintenance of peaceful working without any uncalled for strike by the lawyers and that appropriate modalities in that regard would be finalized soon. A statement is made that the Chairman, Bar Council of India will remain personally present on the next occasion to assist the Court for ensuring that strikes are not allowed in district courts.

4. The statement made on behalf of Bar Council of India has been adopted by the counsel appearing for the Uttar Pradesh Bar Council as also by Shri R. K. OJha, Senior Advocate, who represents the District Bar Association, Prayagraj.

5. We hope and trust that by the next date of listing the Bar Council of India shall ensure that appropriate decisions are taken so as to contain the menace of strike in the district courts of Uttar Pradesh.

6. As prayed by the counsel representing the Bar Council of India, list this matter on 07.08.2024, on the top of the list. In addition to the presence of the Chairman of Bar Council of India, the Presidents of the Allahabad High Court Bar Association and Advocates Association are also requested to remain present on the next date fixed.

7. Till the next date of listing, none of the Bar Associations of any district courts would resort to any strike. Holding of strike in teeth of the law laid down by the Supreme Court would be viewed as an act of ex facie contempt.”

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4. It is in the above backdrop that the matter has been heard at length today. While Shri Sudhir Mehrotra, learned counsel has appeared for the Court; Shri Manan Kumar Mishra, learned Senior Counsel/Chairman, Bar Council of India (through virtual mode) assisted by Shri Sai Girdhar, Advocate has appeared for the highest body of advocates at national level i.e. Bar Council of India; Shri R. K. Ojha, learned Senior Counsel assisted by Shri Ashok Kumar Tiwari, Advocate has appeared for Bar Council of Uttar Pradesh and District Bar Association, Prayagraj. Other learned counsels have assisted the Court on behalf of different association of advocates.

5. The report received from the Registrar General of the Court shows that in the entire State of Uttar Pradesh judicial work in the district courts are seriously hampered on account of strike call by the advocates. The actual days of working in almost all courts are substantially curtailed thereby causing further strain on the otherwise overburdened courts in the State of Uttar Pradesh.

6. Shri M. K. Mishra, learned Senior Counsel/Chairman, Bar Council of India as also Shri R. K. Ojha, learned Senior Counsel appearing for Bar Council of Uttar Pradesh state in categorical terms that the Bar Council of India and the Bar Council of Uttar Pradesh are opposed to the lawyers going on strike and hold the direction of Supreme Court in highest esteem. Shri Mishra and Shri Ojha state that the judgment of Supreme Court holding that lawyers have no right to go on strike is the law declared by the Supreme Court by virtue of Article 141 of Constitution of India and is thus binding on all courts within the territory of India. Learned Senior Counsels for the apex body of advocates at the national level and state

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level unequivocally resolve to faithfully abide by and implement the direction of Supreme Court in the case of Ex. Captain Harish Uppal (supra) and Supreme Court Bar Association (supra).

7. Learned Senior Counsel appearing for Bar Council of Uttar Pradesh states that a resolution has already been passed by it to comply with the directions issued by the Supreme Court in the case of Ex. Captain Harish Uppal (supra). In its resolution dated 05.11.2011 it is already resolved as under:-

“Frequent strikes are creating great disruption in the functioning of the courts and are lowering down the image of the Bar and Bench in general and Bar Council of U.P. in particular. We are at the verge of losing our relevance and existence, if we fail to protect the functioning of the Courts and the interest of our client. In case of any local grievances, you are requested to approach the Bar Council for its redressal instead of giving call for strike. In exceptional circumstances, if we give call for protest day for one day only it should not be misunderstood as call for strike and the protest day may be observed by showing resentment by means of press statements, T.V. interviews, carrying, banners and placards, Wearing black armbands, peaceful protest marches outside court premises etc., otherwise Bar Council will be compelled to initiate appropriate Disciplinary Proceedings against the office-bearers of Bar Associations and others found guilty of violating the above norms.

We hope and trust that brother lawyers of the State of U.P. will appreciate and strictly follow the direction contained in the Supreme Court decision in "Ex. Capt. Harish Uppal Vs. Union of India & another" and also various resolutions and guidelines issued by the Bar Council of U.P. time to time for rendering meaningful and fullest cooperation in the functioning of the courts in the interest

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of public at large, justifying our existence.”

8. The above resolution has been reiterated by the Bar Council of Uttar Pradesh vide its resolution dated 28.11.2022, operative portion whereof is reproduced hereinafter:-

"माननीय उच्च न्यायालय एवं माननीय हाईकोर्ट द्वारा जिला न्यायालय एवं तहसील न्यायालय में आये दिन होने वाले हड़तालों के प्रति गम्भीरता प्रकट की गयी है जिससे बार काउंसिल ऑफ उत्तर प्रदेश को यह परिपत्र जारी करना पड़ रहा है, ताकि

माननीय उच्चतम न्यायालय एवं माननीय उच्च न्यायालय द्वारा पारित आदेशों / दिशा-निर्देशों का अनुपालन सुनिश्चित हो सकें।

प्रदेश की विभिन्न अदालतों में लगातार हो रही हड़तालों ने अदालतों का कार्य प्रभावित करने के साथ-साथ मुवक्किलों की समस्या बढ़ायी है। अतः सामान्य रूप से बेंच एवं बार की गरिमा धूमिल हो रही है तथा विशेष रूप से बार काउंसिल ऑफ उत्तर प्रदेश की, जिससे हम सभी अपनी प्रासंगिकता एवं अस्तित्व खो सकते हैं। यदि कोई स्थानीय समस्या है तो सम्बन्धित पदाधिकारी, बार एसोसिएशन समस्या समाधान के लिये बार काउंसिल ऑफ उत्तर प्रदेश को अवगत करा निराकरण करवा सकते हैं, बजाय हड़ताल के आह्वान के।

उपरोक्त के परिप्रेक्ष्य में यदि बार एसोसिएशन द्वारा 01 दिन के विरोध दिवस का आह्वान किया जाता है तो उसे हड़ताल नहीं समझा जाना चाहिये तथा विरोध दिवस के दिन प्रेस स्टेटमेंट, टी०वी० न्यूज, बैनर-पोस्टर तथा बाह में काली पट्टी बांध कर कोर्ट परिसर के बाहर शांतिपूर्ण तरीके से विरोध किया जा सकता है, अन्यथा की स्थिति में बार काउंसिल ऑफ उत्तर प्रदेश द्वारा सम्बंधित बार एसोसिएशन के पदाधिकारियों के विरुद्ध उपरोक्त आदेशों/दिशा-निर्देशों के उल्लंघन में अनुशासनात्मक कार्यवाही की जा सकती है।

हम आशा एवं विश्वास करते हैं कि बार एसोसिएशन के पदाधिकारियों द्वारा माननीय उच्चतम न्यायालय के रिपोर्टेड निर्णय

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2003 (2) एस सी सी 45 एक्स कैप्टन हरीश उप्पल बनाम यूनियन ऑफ इण्डिया व अन्य एवं बार काउंसिल ऑफ उत्तर प्रदेश द्वारा जारी दिशा-निर्देशों का अक्षरशः पालन करें जिससे अदालतों का कार्य जनमानस के हित में प्रभावित न हो सके।”

9. Chairman, Bar Council of Uttar Pradesh has also resolved on 13.02.2023 that even if lawyers are holding protest on any specific day, yet the witnesses who have come to the court for deposition or are to be cross-examined etc. would not be hampered. Resolution passed in that regard is reproduced hereinafter:-

“उत्तर प्रदेश की सभी जिला न्यायालय , जिला कलेक्ट्रेट , कमिश्नरी, टैक्स, तहसील न्यायालय एवं समस्त ट्रिब्यूनल के बार एसोसिएसन के अध्यक्ष/सचिव एवं अन्य पदाधिकारियों को निर्देशित किया जाता है कि विरोध दिवस के दिन किसी भी वाद में अगर कोई गवाह, गवाही/जिरह हेतु सम्मन किया गया है, तो उस वाद से सम्बन्धित अधिवक्ता को गवाही हेतु न रोकें एवं न ही उक्त वाद में किसी भी विरोध दिवस का प्रभाव डालें। साथ ही साथ यह भी निर्देशित किया जाता है कि उपरोक्त तिथि पर आये हुए गवाह का गवाही/जिरह किसी भी परिस्थिति में सम्पन्न करायें , ताकि सम्बन्धित वाद में किसी भी प्रकार का न्यायिक अवरोध उत्पन्न न हो।”

10. A further resolution no.1869/21 has been passed by the Bar Council of Uttar Pradesh in its general meeting dated 21.01.2024 that even in case of condolence the lawyers would not abstain from work but would only hold a condolence meeting at 03.30 PM so that judicial work in the courts are not adversely affected. Resolution of the Bar Council of Uttar Pradesh in that regard is reproduced hereinafter:-

“बार काउंसिल ऑफ उत्तर प्रदेश की सामान्य बैठक दिनांक 21.01.2024 में सर्वसम्मति से निम्न प्रस्ताव पारित किया

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गया है।

"प्रदेश के विभिन्न बार संघों के बारे में लगातार शिकायत प्राप्त हो रही है कि जिले/तहसीलों की बार संघ द्वारा आये दिन अधिवक्ता, अधिवक्ता के माता, पिता, भाई-बहन या किसी अन्य रिश्तेदार की भी मृत्यु होने पर शोक प्रस्ताव पारित कर पूरे दिन के लिये कार्य से विरत रहने का प्रस्ताव पारित कर दिया जाता है, जिससे न्यायिक कार्य पूरी तरह से बाधित हो जाता है। माननीय उच्च न्यायालय में यदि किसी अधिवक्ता की मृत्यु होती है तो शोक सभा अपराह्न 03:30 पर किया जाता है, ताकि न्यायिक कार्यों में कोई बाधा उत्पन्न न हो।

अतः उपरोक्त परिस्थितियों को दृष्टिगत रखते हुए सर्वसम्मति से निश्चय किया जाता है कि जिले/तहसीलों की प्रत्येक बार संघ को इस आशय से निर्देशित किया जाये कि सम्बन्धित जिले/तहसील के किसी अधिवक्ता की मृत्यु होने पर ही अपराह्न 03:30 बजे शोक प्रस्ताव पारित किया जाये।"

11. People of India have given to themselves the Constitution of India for their governance. The citizenry of this great country has thus pledged and resolved to be governed by the rule of law. Unless and until administration of justice is secured by the smooth and effective running of courts the rule of law cannot be ensured. If the courts are not allowed to function at its optimal level on account of frequent call of strikes by lawyers the very edifice on which the entire system rests may crumble. The law on strike has otherwise been settled by the Supreme Court in Ex. Captain Harish Uppal (supra). The apex body of the advocates at national and state level have resolved to abide by it. There is thus no reason as to why the menace of strike in courts of Uttar Pradesh can continue with impunity. Vested interests or a section of



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unscrupulous members at the Bar cannot be allowed to violate the law declared by the Supreme Court or the solemn resolutions of the Bar Council of India and the Bar Council of Uttar Pradesh. Time has come to take effective measures to strictly comply with the judgments of the Supreme Court banning strike by the lawyers, in letter and spirit.

12. Legal profession is otherwise recognized as a noble profession. Members of Bar through the generations have been held in high esteem for serving the society by establishing peace and order and to ensure that rights of citizens are protected by the courts. Bar members played an important role in our freedom struggle also. Most of our revered freedom fighters were actually advocates by profession.

13. People of this State have reposed faith in the Courts to resolve their dispute and protect their valuable rights guaranteed by the Constitution of India. This faith cannot be allowed to be compromised by a section of irresponsible advocates who place their own interest over and above the interest of common man. If the functioning of district judgship is allowed to be effected in any manner it would have an adverse cascading effect of grave proportions.

14. Since the highest body of advocates constituted under the Advocates Act, 1961 at national level i.e. Bar Council of India and at state level i.e. Bar Council of Uttar Pradesh have already resolved not to go on strike, in due deference to the law declared by the Supreme Court of India, we hold that any act of individual lawyers or their association (by whatever name called) to go on strike or to give call for strike or to

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abstain from work in the State of Uttar Pradesh, henceforth, shall be treated as an ex facie act of criminal contempt.

15. Shri M. K. Mishra and Shri R. K. Ojha, learned Senior Counsels, however, submit that the lawyers at times come across genuine difficulties and hardships and since even their legitimate grievances are not considered, therefore, they are left with no option but to go on strike. It is, therefore, suggested by the learned Senior Counsels that it would be desirable and in the interest of smooth running of Courts that a 'Grievance Redressal Committee' be constituted both at different levels of the Courts i.e. the High Court and the District Courts, so that genuine grievances of lawyers and litigants are addressed without lawyers being compelled to go on strike.

16. We find force in the above contention advanced on behalf of the Bar Council of India and Bar Council of Uttar Pradesh. Our attention has been invited to a recent order passed by the Supreme Court in District Bar Association Dehradun (supra) wherein the Court has directed as under:-

“3. Having heard Shri Manan Kumar Mishra, learned Senior Advocate and Chairman of the Bar Council of India, we once again reiterate that no member of the Bar can go on strike and/or abstain himself from court working. Time and again, this Court has emphasised and criticized the advocates going on strike and abstaining them from work. If the member of the Bar has any genuine grievance or the difficulty being faced because of the procedural changes in filing/listing of the matters and/or any genuine grievance pertaining to misbehave of any member of the lower judiciary they can very well make a representation and it is appropriate that their genuine grievances are considered by some forum so that

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such strikes can be avoided and members of the Bar who might have genuine grievances like above may ventilate their grievances. Therefore, we request all the High Courts to constitute Grievance Redressal Committee in their respective High Courts which may be headed by the Chief Justice and such a grievance redressal committee be consisting of two other senior Judges, one each from service and one from the Bar to be nominated by the Chief Justice as well as the Advocate General, Chairman of the Bar Council of the State and President of the High Court Bar Association. The High Court may also consider to constitute the similar Grievance Redressal Committee at the District Court level. It is observed that the Grievance Redressal Committee may consider the genuine grievance related to the difference of opinion or dissatisfaction because of procedural changes in filing/listing of the matters of the respective High Courts or any District Courts in their respective States and any genuine grievance pertaining misbehave of any member of the lower judiciary, provided such grievance must be genuine and not to keep the pressure on any judicial officer. The present application stands disposed of in terms of the above. I.A. No. 51257/2023 shall also stand disposed of.”

17. We are informed by Registrar General of High Court of Judicature at Allahabad, who is present in Court, that in due compliance of the aforesaid direction of the Supreme Court of India, a Grievance Redressal Committee has already been constituted at the level of High Court presided over by Hon'ble the Chief Justice. Following is the composition of Committee constituted by Hon'ble the Chief Justice:-

“Grievance Redressal Committee:

(Constituted vide order of Hon'ble the Chief Justice dated 03.05.2023 pursuant to order dated 20.04.2023 of Hon'ble the Supreme Court passed in M.A. 859 of 2020 in SLP (C) No. 5440 of 2020)

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1. Hon'ble the Chief Justice
2. Hon'ble Mr. Justice Rajan Roy
3. Hon'ble Mr. Justice Faiz Alam Khan
4. Advocate General, State of Uttar Pradesh
5. Chairman, Bar Council of Uttar Pradesh
6. President, High Court Bar Association"

18. Registrar General has also informed us that even at district level a Grievance Redressal Committee has been constituted presided over by the respective District Judge/Senior Additional District Judge. The composition of Grievance Redressal Committee at district level is as under:-

- “1. District Judge  
2. Additional District Judge-I  
3. Chief Judicial Magistrate  
4. D.G.C. (Civil) & (Criminal)  
5. President, Bar Association of the concerned district.”

19. Shri Manan Kumar Mishra and Shri R. K. Ojha, learned Senior Counsels submit that at district level most of the problems/issues can be resolved if representative of the district administration is also associated with the district level Grievance Redressal Committee. A suggestion is, therefore, made to include the District Magistrate or his nominee in the Grievance Redressal Committee formed at district level. To this suggestion of the Bar Council of India and Bar Council of Uttar Pradesh there is no opposition by anyone including the State Counsel present in Court.

20. We find substance in the suggestion of Shri M. K. Mishra and Shri R. K. Ojha, learned Senior Counsels that the District Magistrate or his nominee be included in the Grievance

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Redressal Committee at district level, so that legitimate grievance of lawyers at district level is duly addressed.

21. In that view of the matter, we request Registrar General of this Court to issue necessary directions to all District Judges throughout State of Uttar Pradesh to include District Magistrate or his nominee not below the rank of Additional District Magistrate to be a member of the Grievance Redressal Committee formed at the district level. This would make the Grievance Redressal Committee more effective in dealing with grievance of lawyers and would thereby help in smooth functioning of the courts and facilitate dispensation of justice. Ordered accordingly.

22. In light of the above deliberations and discussions, we issue following directions:-

(i) Any act of individual lawyer(s) or their association (by whatever name called) to go on strike or to give call for strike or to abstain from work in the State of Uttar Pradesh, henceforth, shall be treated as an ex facie act of criminal contempt.

(ii) All District Judges in the State of Uttar Pradesh shall report any act of strike by the lawyers in their respective courts to the Registrar General of this Court alongwith name of office bearers of the respective Bar Association which has given call for strike or the name of lawyers who call such strike so that appropriate proceedings of criminal contempt are instituted against them in accordance with law.

(iii) In light of the resolution already passed by the Bar Council of Uttar Pradesh on 21.01.2024, a further direction is

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issued to all lawyers body throughout the State of Uttar Pradesh not to abstain from work even on account of condolence due to death of lawyer/officer/employee of court or their relatives and the condolence meeting may be called only after 03.30 PM. Any violation of this direction would also be viewed as an act of ex facie contempt.

(iv) Above direction would be circulated to all district courts and would be displayed on the notice board of all courts throughout the State of Uttar Pradesh so as to ensure its strict compliance.

23. List this case before the appropriate Court, once again, on 25.09.2024 alongwith a report from the Registrar General of this Court regarding compliance of this order.

**Order Date :- 07.08.2024**

Ashok Kr.