

Chief Justice's Court

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 15895 of 2015

Petitioner :- In Re

Respondent :- Zila Adhivakta Sangh Allahabad

Counsel for Petitioner :- None

Counsel for Respondent :- Advocate General, Ashok Kumar Tiwari, Adv.

Hon'ble Pritinker Diwaker,Chief Justice

Hon'ble Mrs. Sunita Agarwal,J.

Hon'ble Surya Prakash Kesarwani,J.

Hon'ble Manoj Kumar Gupta,J.

Hon'ble Anjani Kumar Mishra,J.

Hon'ble Dr. Kaushal Jayendra Thaker,J.

Hon'ble Mahesh Chandra Tripathi,J.

Owing to the continuous strike by the Kanpur Bar Association and the Lawyers' Association, Kanpur Nagar yesterday, this matter was taken up by the Seven Judges' Bench of this Court and the following orders were passed:

“... ..In the given facts and circumstances of the case, we feel it appropriate to issue notices to Sri Naresh Chandra Tripathi, President, Kanpur Bar Association, Sri Anurag Srivastava, General Secretary, Kanpur Bar Association, Sri Ravindra Sharma, President, the Lawyers' Association, Kanpur Nagar and Sri Sharad Kumar Shukla, General Secretary, the Lawyers' Association, Kanpur Nagar.

Notices be served upon the aforesaid office bearers through the Commissioner of Police, Kanpur Nagar, directing them to remain present personally before this Court on 07.04.2023 at 10:00 am.

As an interim measure, it is directed that the lawyers shall resume their work forthwith and to purge the contempt and in case, any hindrance is created by any of the lawyer or office bearers, the same would be viewed seriously.... ..”

The aforesaid noticees have been duly served and in compliance thereof, Sri Naresh Chandra Tripathi, President, Kanpur Bar Association, Sri Anurag Srivastava, General Secretary, Kanpur Bar Association, Sri Sharad Kumar Shukla, General Secretary, the Lawyers' Association Kanpur Nagar,

Sri Sarvesh Yadav, Vice President, the Lawyers' Association, Kanpur Nagar (in the capacity of President, the Lawyers' Association, Kanpur Nagar) and other office bearers, namely, Sri Anoop Kumar Shukla, Vice President, Kanpur Bar Association and Sri Ajay Pratap Singh Chauhan, Secretary, Kanpur Bar Association, are present in the Court.

In compliance of the order dated 6.4.2023, Sri Panchu Ram Maurya, Chairman, Bar Council of Uttar Pradesh along with Sri Ashok Kumar Tiwari, learned counsel appearing for the Bar Council of U.P. are also present before this Court.

As per report of the District Judge, Kanpur Nagar dated 6.4.2023 along with enclosures, which are taken on record, the strike is still continuing and the judicial work continues to be hampered in Kanpur Nagar despite the aforesaid orders passed by this Court.

Prima facie, it appears that the aforesaid noticees have failed to discharge the obligation upon them to call off the strike and to resume the judicial work, as directed by this Court yesterday. Thus, *prima facie*, they appear to be in contempt of Court.

When this Court asked the President, Kanpur Bar Association Sri Naresh Chandra Tripathi, as to why strike has not been called off, the excuse taken by him is that the strike was not declared by him but by the general body of the Association. He admitted that he received the notice issued by this Court yesterday at 12:50 pm, but did not make any effort to call the general house and only claims to have held a meeting of the office bearers, who decided to continue with the strike. He further submits that he had never stopped any one from entering into the Court premises and it is the lawyers, who of their own, are not appearing before the Court. When certain further questions were put to the President regarding his conduct and the conduct of the lawyers on strike, he submits that he is willing to go to jail. The views expressed by the President, Kanpur Bar Association, have been duly endorsed and supported by the other office bearers present in the Court along with the President, Kanpur Bar Association. The other office bearers, present in the Court, namely, Sri Anup Kumar Shukla and Sri Ajay Pratap

Singh Chauhan, submit that the strike has been called by the General Body and any decision can only be taken by the General Body. However, they are also willing to go to jail.

The Chairman, Bar Council of Uttar Pradesh, present in the Court, has categorically stated that he is not supporting the call of strike by the Kanpur Bar Association and appropriate disciplinary proceedings would be initiated against those who are actively involved in the strike. He submits that some time be given to him to call a meeting and to inform this Court about the decision taken by the Bar Council, Uttar Pradesh.

Sri Ankaj Mishra, another Member of the Bar Council of Uttar Pradesh, present in the Court, also supports the view expressed by the Chairman of the Bar Council of Uttar Pradesh.

While placing reliance upon the judgement of the Supreme Court in **Ex. Capt. Harish Uppal vs. Union of India and another, AIR 2003 SC 739** and also the judgement of the Gujarat High Court in the case of **Yatin Narendra Oza vs. High Court of Gujarat, AIR 2021 SC 5578**, learned Advocate General submits that strike is not permissible in any manner and he is deadly against the said strike.

After hearing the aforesaid noticees as well as the other office bearers of the Kanpur Bar Association and the Lawyers' Association, it appears that though the notices were served upon the noticees yesterday (6.4.2023) by 1:00 pm in pursuance of the orders passed by this Court on 6.4.2023, no general body meeting has been called by the office bearers of both the Associations at Kanpur Nagar till they appeared in the Court today and the directions issued by this Court yesterday to resume the judicial work forthwith and to purge the contempt, have been flouted. Further, upon the direction issued by this Court on 6.4.2023 that all the lawyers of the district judgship at Kanpur Nagar would resume their judicial work forthwith, as per report of the District Judge dated 6.4.2023, a hand written notice dated 6.4.2023 under the signatures of General Secretary, Kanpur Bar Association and the Lawyers' Association, Kanpur Nagar has been affixed on the notice board wherein the resolution dated 25.3.2023 of the Kanpur Bar Association

and the Lawyers' Association, Kanpur Nagar to continue with strike and abstain from the judicial work has been reiterated. In addition to this a warning has also been given to the Advocates in the aforesaid notice dated 6.4.2023 that they would not perform any judicial work, administrative work or registration of cases and in case, any lawyer is found to be working as against the decision of the general body, his membership from the Kanpur Bar Association and the Lawyers' Association, Kanpur Nagar would be terminated and a recovery of Rs.5,000/- as penalty would be made from such lawyers. A note has also been added in the said notice that the lawyers are requested to remain present at the *dharna sthal* on 7.4.2023 at 10:00 am to give force and support to the strike. At the end of the said notice, it is stated that the cooperation of all the lawyers is needed.

We may also take note of a previous notice of similar nature dated 28.3.2023.

Contents of both the aforesaid notices, which are in Hindi language, read as under:

“सूचना

दि० 06.04.23

जिला जज कानपुर नगर के खराब आचरण एवं दुर्व्यवहार के कारण बार एसो० एवं दिलायर्स एसो० के संयुक्त निर्णयानुसार दि० 25.3.23 से अनिश्चितकालीन न्यायिक कार्य से विरत रहने का निर्णय लिया गया है यह भी निर्णय लिया गया है कि कोई भी अधिवक्ता न्यायिक एवं प्रशासनिक तथा निबन्धन का कार्य नहीं करेगा यदि कोई अधिवक्ता आम सभा के निर्णय के विपरीत कोई भी कार्य करता पाया जाएगा तो उसकी सदस्यता बार एवं लायर्स एसो० से समाप्त कर दी जाएगी तथा उस अधिवक्ता से पाँच हजार रुपये का अर्थदण्ड वसूल किया जाएगा।

नोट:- सभी अधिवक्ताओं से निवेदन है कि कल दिनांक 7.4.2023 को आंदोलन को गति देने के लिए प्रातःकाल 10 बजे प्रत्येक अधिवक्ता धरना स्थल पर हरहाल में उपस्थित होने की कृपा करें।

सहयोग की अति आवश्यकता है।

भवदीय

महामंत्री

कानपुर बार एवं दिलायर्स एसो.

सूचना

दि० 28.3.23

जिला जज कानपुर नगर के खराब आचरण एवं दुर्व्यवहार के कारण बार एसो० एवं दिलायर्स एसो० के संयुक्त निर्णयानुसार दि० 25.3.23 से अनिश्चितकालीन न्यायिक कार्य से विरत रहने का निर्णय लिया गया है यह भी निर्णय लिया गया है कि कोई भी अधिवक्ता न्यायिक एवं प्रशासनिक तथा निबन्धन का कार्य नहीं करेगा। यदि कोई अधिवक्ता आम सभा के निर्णय के विपरीत कोई भी कार्य करता पाया जाएगा तो उसकी सदस्यता बार एव लायर्स एसो० से समाप्त कर दी जाएगी तथा उस अधिवक्ता से पाँच हजार रुपये का अर्थदण्ड वसूल किया जाएगा।

ऐसी जानकारी प्राप्त हुई है कि कुछ अधिवक्ताओं ने कल दि० 27.3.2023 को निर्णय के विपरीत निबन्धन कार्यालय में रजिस्ट्री करायी है उनके नाम चिन्हित किए जा रहे हैं। नाम चिन्हित होने पर उनके विरुद्ध उपरोक्तानुसार कार्यवाही की जाएगी।

भवदीय

अध्यक्ष/महामंत्री

कानपुर बार एवं दिलायर्स एसो.”

The video recording of the strike, as made available by the District Judge, shows that the agitating lawyers indulged in slogan shouting, using abusive and derogatory language against the entire district judiciary, including the District Judge.

In view of the above, we find that the aforesaid noticees and the other office bearers, present in the Court today, prima facie, are in deliberate and wilful contempt of this Court by interfering in the administration of justice, calling illegal strike since 16.3.2023 and thereby paralysing the judicial work in the district judgeship at Kanpur Nagar and they have made themselves liable to face contempt proceedings.

In the light of aforesaid, the following charges are framed against the aforesaid noticees as well as other office bearers present in the Court today.

1. You the noticees, Sri Naresh Chandra Tripathi, President, Kanpur Bar Association, Sri Anurag Srivastava, General Secretary, Kanpur Bar Association, Sri Sharad Kumar Shukla, General Secretary, the Lawyers' Association Kanpur Nagar and Sri Sarvesh Yadav, Vice President, the Lawyers' Association, Kanpur Nagar (in the capacity of

President, the Lawyers' Association, Kanpur Nagar) and other office bearers present in the Court, namely, Sri Anoop Kumar Shukla, Vice President, Kanpur Bar Association and Sri Ajay Pratap Singh Chauhan, Secretary, Kanpur Bar Association, by your conduct, have wilfully and deliberately committed the contempt of Court by interfering in the administration of justice, calling illegal strike since 16.3.2023 and thereby paralysing the judicial work at the District Judgeship at Kanpur Nagar.

2. You the noticees, Sri Naresh Chandra Tripathi, President, Kanpur Bar Association, Sri Anurag Srivastava, General Secretary, Kanpur Bar Association, Sri Sharad Kumar Shukla, General Secretary, the Lawyers' Association Kanpur Nagar and Sri Sarvesh Yadav, Vice President, the Lawyers' Association, Kanpur Nagar (in the capacity of President, the Lawyers' Association, Kanpur Nagar) and other office bearers present in the Court, namely, Sri Anoop Kumar Shukla, Vice President, Kanpur Bar Association and Sri Ajay Pratap Singh Chauhan, Secretary, Kanpur Bar Association, by your conduct and statements, have wilfully and deliberately committed the contempt of the order dated 6.4.2023 of this Court, by restraining the lawyers from performing the judicial work in the district Court at Kanpur Nagar, affixing a hand written notice dated 6.4.2023 reiterating the resolution dated 25.3.2023 for an indefinite strike, and threatening the lawyers with adverse consequences in case any one of them attends the court proceedings.

3. You the noticees, Sri Naresh Chandra Tripathi, President, Kanpur Bar Association, Sri Anurag Srivastava, General Secretary, Kanpur Bar Association, Sri Sharad Kumar Shukla, General Secretary, the Lawyers' Association Kanpur Nagar and Sri Sarvesh Yadav, Vice President, the Lawyers' Association, Kanpur Nagar (in the capacity of President, the Lawyers' Association, Kanpur Nagar) and other office bearers present in the Court, namely, Sri Anoop Kumar Shukla, Vice President, Kanpur Bar Association and Sri Ajay Pratap Singh Chauhan, Secretary, Kanpur Bar Association, by using abusive

unparliamentary language and outrageous behaviour during the strike period in district court, Kanpur Nagar, scandalized and lowered the authority of the Court and undermined the sanctity of the Institution and the dignity of the entire district judiciary, have committed the contempt of Court.

Office to register the proceedings of contempt as a separate case and obtain orders from the Hon'ble Chief Justice on the administrative side, for its listing before the appropriate Bench.

The aforesaid noticees and the other office bearers to file their reply/defence.

Order Date :- 7.4.2023

RK/RKK

(Pritinker Diwaker, C.J.)

(Sunita Agarwal, J)

(Surya Prakash Kesarwani, J)

(Manoj Kumar Gupta, J)

(Anjani Kumar Mishra, J)

(Dr. Kaushal Jayendra Thaker, J)

(Mahesh Chandra Tripathi, J)