



Lawyer Absolved in Contempt Case

In a recent judgment of a division bench of the Karnataka High Court it has been held that writing of a letter to the Chief Justice, in his administrative capacity, by a practicing lawyer about certain grievances against puisne Judges does not amount to contempt of Court. Mr. N. Vasudevan, an Advocate from Bangalore who was facing criminal contempt has been discharged by the court. The order of the division bench has a good academic value besides serving as a precedent.

The facts leading to initiation of criminal contempt case are that the advocate wrote a letter dated 16-11-94 to the Chief Justice of the High Court bringing to the latter's notice that a puisne Judge of the court comes to the court without scrutinising the case papers sent to him the previous day and preparing himself. It was also pointed out that another puisne Judge who is entrusted with the task of dealing HRRP cases is biased in favour of the landlords as a result of which the tenants are unable to secure any relief from the Judge. The Chief Justice had directed that criminal contempt case be registered against the advocate on the basis of his letter dated 16-11-94. The advocate personally defended the case.

Their lordships have held that the action of writing letter is genuinely constructive, bonafide and addressed

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Chief Justice enjoys supreme power - Apex Court

In a significant ruling a two Judge bench of the Supreme Court comprising Justice S. Saghir Ahmed and Justice G.B. Pattanaik has held that a Judge of the High Court individually or all the Judges collectively as in full court cannot either alter the constitutional provisions or the Rules made by the Chief Justice of a High Court. The judgment delivered on February 19, 98 on an appeal by the Rajasthan High Court has defined the administrative powers of the Chief Justice of a High Court under Article 229 and held that the Judges of the High Court have no jurisdiction even to suggest any constitutional amendment or amendment to the Rules made by the Chief Justice.

Describing Judges as hermits the court said that they have to "live and behave like hermits who have no desire or aspiration having shed it through penance. Their mission is to supply light and not heat. This is necessary so that their latent desire to run the High Court administration sprout before time, atleast, in some cases".

It is pertinent to state here that the Judges of the Rajasthan High Court had issued direction to the Registrar to prepare a report as to whether the posts to which the officers belonging to Rajasthan Judicial Service were appointed could be manned by the High Court staff so that the full court could discuss the report and arrive at a decision thereof. In the appeal before the Supreme Court the High Court contended that the impugned directions was contrary to the provisions of Article 229 and purports to undermine the authorities of the Chief Justice. It was also contended that Article 229 has made the Chief Justice the supreme authority in the matter of appointments of High Court officers and servants, confer rule making power for regulating the conditions of service of officers and

servants of the High Court except the salary, allowances, leave or pension which require the Governor's approval.

While setting aside the direction of the Judges the Supreme Court said that "the Chief Justice has been vested with powers to run the High Court administration independently so as not to brook interference from any quarter". Thus it is made clear that the brother Judges can't usurp CJ's powers.

Interim Relief Announced

Bangalore, February 5 : The First National Judicial Pay Commission has recommended the grant of interim relief from 35 to 75% of basic and dearness allowance to judicial officers across the country where fifth pay commission recommendation have not been implemented. The interim award has suggested to give effect to this recommendation from January 1, 1996.

Announcing interim package the Commission's Chairman Justice K. Jagannath Shetty told media persons

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Around the Courts

□ **Sec. 2[j] of the Industrial Disputes Act, 1947-AIR and DD are industries :**

A division bench of the Supreme Court comprising Justice S.B. Majumdar and Justice M. Jagannadha Rao in its judgment dated 12-2-98 held that All India Radio [AIR] and Doordarshan [DD] were industries within the meaning of Sec. 2[j] of the I.D. Act. The four page judgment, while rejecting the contention of AIR and DD that they are discharging sovereign functions of the State and therefore they could not be considered as industries, observed that "the functions which are carried on by AIR and DD cannot be said to be confined to sovereign functions as they carry on commercial activities for profits by getting commercial advertisements broadcast or telecast through their various stations and kendras by charging fees. Day in and day out advertisements are being telecast on payment of appropriate charges on which there cannot be any dispute and same is the case with AIR."

The Judges held that by looking at the functions of DD and its setup, from the extracts of DD manual, it cannot be said that the function carried on by it are purely of sovereign nature. The Judges dismissed the plea of AIR challenging the order of regularisation of certain terminated employees passed by the Industrial Disputes Tribunal which was later confirmed by a judgment by the Patna High Court with a rider that the terminated employees be reinstated within six weeks.

□ **Privileges of office bearers of trade unions vis-a-vis other workmen:**

By a judgment dated 9-2-98 Justice R.J. Babu of Madras High Court dismissed a writ petition of Tamil Nadu Civil Supplies Corporation [TNCSC] Anna Staff Union seeking

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Lo, in this pond be fishe and froggis bothe.

-Sir Thomas More

Provide Minimum Facilities

It is more than two months since the canteen facility at the City Unit of the AAB is withdrawn. The cafeteria functioning in the High Court Unit stopped functioning years ago resulting in the functioning of an ad hoc ramshackle eating/drinking arrangement above the portico of the High Court. It is most unhygienic besides being a disgraceful arrangement. It is high time that the Lawyers and the litigants must get befitting canteen facility in both these Units.

Needless to state the canteen facility is a minimum requisite for the Lawyers who stay away from their houses for almost half the day. Need to have a good canteen is more acute in the case of junior members of the bar since they cannot afford the luxury of visiting hotels and restaurants. This facility cannot be denied to them indefinitely.

The necessity to have proper canteen includes hygienic environs of properly run canteens at affordable prices. Therefore it goes without saying that the management of canteens should

be entrusted to experienced persons with liberty to run the canteens with least interference from the authorities. This would not only ensure the functioning of better canteens with a fair amount of longevity of their functioning.

As an adjunct the authorities must also ensure continuous supply of hygienic drinking water including cool water during summer to the Lawyers/litigants in the Court and Association precincts. So far no attempt has been made in this regard and the Lawyers/litigants are made to make their own arrangements to secure drinking water.

Lack of hygienic toilets in Court and Association precincts has compounded the travails of the Lawyers/Litigants. The existing toilets have infact become health hazards. The authorities have to attend to these problems without loss of further time. Keeping in view the dignity of the profession and expected efficiency of the Lawyers the authorities should forthwith ensure the availability of these facilities.

Book Released

Under the auspices of Lahari Advocates Forum Mr. Justice A.J. Sadashiva released the book titled "Guilty or not Guilty" written by Sri H.R. Shankaranarayana [Ha Ra] in a simple function held at AAB Auditorium on 19-2-98. The book containing four mock trials is a satire and prized Rs. 30/-.

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Writ Against Bar Council

A division bench of the high court ordered notice to the Karnataka State Bar Council and the Advocate General on 4-2-98 on a petition filed by an advocate seeking help from the advocates welfare fund. Advocate Seshagiri Rao has complained in the writ petition that his application dated October 27, 1997 seeking medical assistance from the welfare fund kept pending on the ground of pre-occupation of the Advocate General. The petitioner stated that the welfare assistance should be provided immediately as otherwise it will defeat the objective of the fund.

Advocates Held

On 4-2-98 Seshadripuram police arrested Bapu Heddur Shetty, Advocate, on a complaint lodged by his wife Vidyalakshmi [45] who is serving as a Lecturer in a Bangalore College. According to the complainant Mr. Shetty was harassing her to gain the custody of their adopted child [8] even while a case seeking judicial separation is pending before the Family Court. The complaint also states that Mr. Shetty was in the habit of beating the complainant mentally torturing her.

On 4-2-98 Upparpet police arrested advocate V. Manjunath on the ground of alleged cheating of a Coimbatore based company Elgi Finance. The advocate was released on bail by the Court of Addl. CMM. In its complaint before the police the company alleged that it had entrusted the advocate certain cases. By misusing his position as the company's lawyer he had misappropriated court fee stamps worth Rs. 1.91 lakhs besides parting with certain original documents to opposite parties for financial consideration.

Chickpet Police arrested Ms. Kamala Venkatesh, a lady advocate from Bangalore, alongwith her two accomplices recently. The lady lawyer was released on bail. One Mahendra Mehta complained to the police that he gave Rs. 8,00,000/- to the Lawyer to purchase 12 acres of land on his behalf. The advocate alongwith two other persons fabricated title documents of the alleged purchase of land and thereby cheated him of money.

Seminar on Alternate Grievance Redress Mechanism

A seminar on "Arbitration, Mediation, Conciliation and the Role of Lawyers" jointly organised by the Karnataka State Commission of Jurists and Belgaum Bar Association was inaugurated by Mr. Justice Y. Bhaskar Rao, Judge, High Court of Karnataka on Saturday the January 31, 1998 at Jawaharlal Nehru Medical College Auditorium, Belgaum. Justice Bhaskar Rao called upon the lawyers to play an effective role in the implementation of arbitration, mediation and conciliation mechanisms in expeditiously settling the grievance of the litigants.

Mr. Justice R.V. Raveendran, Judge, High Court of Karnataka, who delivered the key note address said that due to inordinate delay involved in the disposal of cases by the law courts litigants are losing confidence in the efficacy of judicial process. The situation is leading to unhealthy practices including litigants approaching anti-social elements to settle scores against their opponents. His Lordship pointed out that it is a dangerous situation and if it is allowed to drift further it is bound to bring in chaos and anarchy. Therefore it was suggested by the speaker that other alternate grievance redress mechanisms such as arbitration, mediation and conciliation should be given a fair chance by the lawyers to settle disputes. The increased success in settling the disputes through these means would also result in decreasing the pressure on law courts. His Lordship pointed out. He also further pointed out that with the liberalisation of economy and increase in international trade relations law of Arbitration assumes greater significance.

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Around the Courts

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injunction to restrain the TNCSC from withdrawing concessions granted to certain workmen who were office bearers of trade unions who had been given the benefit of attendance without actually working, as not maintainable. In the writ petition the union had contended that such benefits were given to other unions and the same was denied to the office bearers of the petitioner union. It was held that the petitioner was not entitled to such concession as the provision of Industrial Disputes Act did not recognise such right and becoming an office bearer was no ground for claiming such right. The judgment said that working for the union is not the same thing as working in the industry and performing the duty attached to the post to which the person is appointed. An observation was also made that the employer instead of ensuring maximum production and enhancement of productivity had been a party to wastage of public funds by allowing its employees to claim benefits without doing any work.

□ **Sec. 36 of the Representation of people Act, 1951. The power of the returning officer to revise his decision to reject an accepted nomination :**

A division bench of the AP High Court by its judgment dated 12-2-98 dismissed a writ petition filed by a person who had submitted his nomination paper to contest the election to the twelfth lok Sabha from Nalgonda Parliamentary Constituency. The case of the petitioner was that after scrutiny the returning officer had held his nomination to be valid but subsequently revised his decision and rejected the nomination of the petitioner on the ground that after the acceptance of the nomination the returning officer had learnt that the petitioner had served two years sentence in a criminal case. The judgment held that the returning officer is empowered to revise his decision on established facts even after acceptance of the nomination paper since the petitioner is disqualified from the inception to file his nomination.

Mere laws won't protect women

Mere enactment of laws protecting women's rights is not sufficient but what is required is the will of the society to safeguard the women, said Chief Justice R.P. Sethi. Justice Sethi was inaugurating a workshop on "Women welfare schemes and laws regarding dowry" at the KEB Auditorium of Cauvery Bhavan in Bangalore on February 21st 1998. Justice Sethi said that the society was changing gradually and there is a need to broaden its outlook towards women.

In his key note address Justice A.J. Sadashiva said that there is a need for introspection amongst the women as it was women who are responsible for atrocities on other women. He said that their education could improve the quality of their life while laws could give them confidence but not change their lives. Several other participants also spoke on the workshop which was presided over by Ms. Bharathi Nagesh. The workshop was jointly organised by the Karnataka State Legal Services Authority, Indian Federation of Women Lawyers, Karnataka Branch and the Lioness Council of District 324-D1.

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to the authority empowered to carry out the correction it could not be possible to construe it as an offence. It is also held that the advocate concerned had written the letter with a full sense of responsibility, a constructive and bonafide intention that too confidentially with the sole purpose of ensuring rectification. As such he cannot be punished.

Office Bearers Elected

The following Advocates have been unanimously elected as the office bearers of the Advocates' Association, Hoskote, for the year 1997-98.

Mr. H.V. Ramachandra-President; Mr. K.M. Devegowda-Vice President; Mr. K.G. Ramakrishnaiah-Secretary; Mr. C.M. Chinnappa-Joint Secretary; Ms. Shantha-Treasurer; Mr. P.S. Manjunatha, Mr. Y.N. Satyanarayana Rao and Mr. M.R. Amarnath-Committee Members.

Interim Relief Announced

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in Bangalore that the interim award would benefit about 11,000 judicial officers including 600 in Karnataka. It is pertinent to point out here that Gujarat, Madhya Pradesh and Goa and the Union Territories of Daman Diu had announced interim relief to the judicial officers prior to the interim award announced by the National Judicial Pay Commission. The award has granted 40% interim relief to judicial officers in J & K, Himachal Pradesh, Maharashtra and the N.E. States. The relief granted to them will be effective from July 1, 1996.

Justice Shetty pointed out that the interim award was necessitated to ensure parity in the salary of judicial officers throughout the country.

The award has recommended to grant interim relief to the judicial officers who retired prior to July 1, 1996 at the rate of 40% of the basic pension. It is pertinent to state that the interim relief announced by the Commission will not include HRA, CCA and Encashment of Leave facility for the purpose of pay fixation.

Kolar Diary

On 23-1-98 a farewell function was organised by the Kolar Advocates Association to Mr. Shambulingappa, I Addl. District Judge, Kolar, who has been appointed as the Chairman, District Consumer Redressal Forum, Mercara.

On 2-2-98 Mr. P.N. Krishna Reddy, Advocate, opened his law chamber at Nalini Nivas, ↓ Floor, KFCS, Behind SNR Hospital, Kolar. Phone: 24809 [O], 24548 [R].

On 19-2-98 Rame Gowda, Advocate, passed away at Kolar.

literary Union

□ Renowed singer Smt. Ratnamala Prakash and Sri Y.K. Muddu Krishna, Director, Department of Kannada and Culture, Bangalore, provided a musical programme in the AAB Auditorium on 9-2-98.

Seminar on Alternate Grievance Redress Mechanism

In the working session papers were submitted by S/s. S.S. Naganand and S.N. Hatti from Bangalore Bar and S.M. Kulkarni, A.R. Vijay Kumar, A.G. Mulawadmath and Gokakar from Belgaum Bar. The Seminar was presided over by Mr. Justice P.P. Bopanna, Retired Judge of the High Court of Karnataka and President of the Jurists Commission. In the beginning Mr. C.G. Anvekar, President of the Belgaum Bar Association welcomed the participants. In the end Ms. P.G. Gouri Kuranga, Secretary of Jurists Commission proposed the vote of thanks. the seminar also adopted resolutions suggesting certain amendments to the Arbitration Act.

Report : T.S. Mahanthesh



Advocates team from Bangalore seen trekking on sea shore near Kasargod.

Tribute to E.S. Venkataramaiah

Excerpt of reference read by Mr. Kapil Sibal, President, Supreme Court Bar Association in memory of late Mr. Justice E.S. Venkataramaiah.

Yet, the true reflection of his personality and his perception of what he expected of a judge is reflected in his decision in S.P. Gupta's case [1981 (supp) SCC p. 87 at p. 196] when he stated thus:

"We are made to realise that we are all mortals with all the human frailties and that only a few know in this world the truth behind the following statement of Michel De Montaigne: 'When I not to follow the straight road for its straightness, I should follow it for having found by experience that in the end it is commonly the happiest and the most useful track'..... But if the judiciary should be really independent something more is necessary and that we have to seek in the Judge himself and not outside. A Judge should be independent of himself. A Judge is a human being who is a bundle of passions and prejudices, likes and dislikes, affection and will, hatred and contempt and fear and recklessness. In order to be a successful Judge these elements should be curbed and kept under restraint and that is possible only by education, training, continued practice

and cultivation of a sense of humility and dedication to duty. These curbs can neither be bought in the market nor injected into human system by the written or unwritten laws. If these things are there even if any of the protective measures provided by the Constitution and the laws go the independence of the judiciary will not suffer. But with all these measures being there still a Judge may not be independent. It is the inner strength of Judges alone that can save the judiciary. The life of a Judge does not really call for great acts of self-sacrifice, but it does insist upon small acts of self-denial almost every day. The following 'sloka' explains the true traits of men with discretion which all Judges should possess:

Let men trained in ethics or morality, insult or praise; let lakshmi (wealth) accumulate or vanish as she likes; let death come today itself or at the end of a yuga (millennium), men with discretion will not deflect from the path of rectitude.

This is only an ideal. It is difficult to attain it but every Judge should atleast endeavour to set his eye on that goal."

News Focus

- On 3-2-98 Mr. Steven Handers, Judge, Second Judicial Circuit, New York, addressed the members of AAB in the High Court Unit.
- On 4-2-98 Students of V.V. Puram Law College gave a cultural programme in AAB, City Unit.
- On 6-2-98 Sri C.K. Jaffer Sharief, Congress [I], Sri C. Narayana Swamy, Janatha Dal and Dr. Jeevaraja Alva, Lokshakti, Candidates for Bangalore North Parliamentary Constituency, addressed the members of AAB in the High Court Unit.
- On Saturday the 7th February 98, judicial work was taken up in High Court.
- On 9-2-98 Sri Anantha Kumar, Bharatiya Janatha Party, Sri V. Somanna, Janatha Dal, Prof. S.V. Ramanna, RJD and Sri Abbas Ali Bohra, KVP, Candidates for Bangalore South Parliamentary Constituency addressed the members of AAB, City Unit.
- On 16-2-98 High Court and Sub-ordinate Courts in Bangalore, and other 17 Parliamentary Constituency where elections were held, did not function.
- On 23-2-98 Mr. Kishore Mallya, Advocate, addressed the members of AAB, High Court Unit, on the subject "Obligation of filing income tax returns" Mr. Justice V.P. Mohan Kumar was the Chief Guest.

Foreign Tour

- On 11-2-98 renowned singer Shimoga Subbanna left Bangalore for six weeks tour of USA on the invitation from Kannada Associations of USA & as a part of cultural delegation sponsored by government of Karnataka. Mr. Subbanna will be visiting Arizona, Chicago, Houston, Los Angeles, New York, Phoenix, Sanfransisco and Washington DC.

Humour in courts

- An Advocate's house warming ceremony was in progress. Invitee advocates were being served with the lunch. The host came to the dining hall to entreat the invitee advocates.

Host: You have a onerous task of cross examining several witness [pointing to the items served]. You can go methodically.

Invitee Lawyer: Well Sir, we will do full justice.

Host: Don't forget that you have a right to recall the witness!

News Panorama

- Recently Orissa High Court banned *paan* chewing from its prescinets. Just before such ban their Lordships weathered a shower of *paan* particles emanating from a litigant's mouth.

Obituary

- On 7-2-98 Sundara Murthy [58], Advocate, passed away at Bangalore.
- On 23-2-98 A.T. Noorulla, Advocate passed away at Bangalore.