

Volume 9

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Part 7

Chief Justice to name Successor

The United Front Government has made it clear that it would strictly go by the recommendation of the Chief Justice of India on the question of appointment of his successor. Union Law Minister Ramakanth. D. Khalap announced this fact in New Delhi on 12-10-97. Chief Justice J.S. Verma will lay down the office in January 1998 and an announcement of his successor is expected to be made later this year. In the backdrop of raging controversy about the differences in perception about the appointment of Justice M.M. Punchhi as the next Chief Justice of India lot of attention is drawn in this regard.

High Court yet to clear

Union Law Minister Mr. Ramakanth Khalap has said that the government is still awaiting clearance from the Karnataka High Court to establish the High Court Bench at Hubli. He also said that Hubli should have the Bench and he is all for it. On 5-10-97 he was speaking to the press persons at Panaji [Goa]. In the meanwhile the Chief Minister Mr. J.H. Patil has said that he would lead a delegation of MLAs and MLCs to the Central Government to urge for the establishment of the High Court Bench.



Chief Minister Sri J.H. Patel and Chief Justice Mr. R.P. Sethi jointly lighting the lamp at the Golden Jubilee Celebration of the Bangalore Advocates Co-operative Society Ltd., while S/s S.S. Patil Minister for Co-operation, M. Lokesh President of the Society and M.C. Nanaiah Minister for Law look on. Report on Page two.

Sorabjee Gets UN Assignment

Eminent jurist Soli J. Sorabjee has been appointed as the Special Rapporteur on the situation of Human Rights in Nigeria by the United Nations. Mr. Sorabjee, former Attorney General of India and an expert in Constitutional Law and Human Rights, succeeds Mr. T. Maluwa of Malawi. According to a statement issued by the UN, Sorabjee will have direct contacts with the Nigerian Authorities and the people of the country and report to the Commission on Human Rights.

Nittoor Gets State Award

Former Chief Justice Nittoor Srinivas Rao is amongst 51 persons who have been chosen for this years Rajyotsava Award to be conferred by the State Government.

No CL For Judges

In a sudden and surprise move the Union Ministry of Law and Justice has notified the Registrars of High Courts and the Accountant Generals that the High Court Judges are not entitled for availing fifteen days casual leaves in an year. The two paragraph circular states that no casual leave is permissible to the High Court Judges as the High Court Judges [Conditions of Service] Act, 1954 does not provide for it. While making this clarification it is clarified that it will take retrospective effect and states that wherever casual leave has already been availed by a Judge of the High Court it may be regularised by treating it as leave on full allowances or half allowances, as the case may be and leave account may be suitably debited so as to avoid audit objections.

PF Claims

By a Notification dated 26-8-97 the government has brought into force an amendment to the Employees Provident Fund Scheme, 1952 to provide for complete settlement of Provident Fund claim within thirty days from the date of the receipt of the claim. The Labour Ministry has further specified that in case of incomplete claim it requires the EPF Authorities to communicate the Applicant the reasons for non settlement of his claim within thirty days. It is noteworthy that the PF Commissioner has been personally held responsible for the amended scheme being implemented. It is also clarified that in case the PF Commissioner fails to settle the claim in all respects he would be personally liable for the delay beyond the stipulated period and penal interest at the rate of twelve percent per annum on the benefit amount might be charged and recovered from his salary.

City Lawyers to meet Veerappan

President of AAB, Mr. K.N. Subba Reddy has announced that he would lead a group of Lawyers to meet forest brigand Veerappan and prevail upon him to surrender before the Authorities. Mr. Reddy said that the delegation comprises about twenty Lawyers from Bangalore and it will comprise Mr. Venugopal, an Advocate from Mysore. He also said that assistance of BSF Commandant [Retd.] Major Muthu Kumar has been sought by the Association.

**Wish You
Happy
DIWALI**

It follows as a common law of nature that every man esteem and treat another as one who is naturally his equal and who is a man as well as he.

-John wise

Whose Welfare Any way?

Apex Court ruled that entry of law graduates aged above forty five years into the profession, cannot be prevented by the Bar Council notwithstanding the objective sought to be achieved by such prohibition. This ruling should have been sufficient for the Bar Council to stop discrimination of lawyers in any other form based on the age factor. However, it is obvious that the premier body of the lawyers seems to have not learnt any lessons from the observations of the Supreme Court.

It has been officially clarified by the Secretary of the Karnataka State Bar Council that with the coming into force of the Amendment Act of the Karnataka Advocates Welfare Fund Act, w.e.f. 02-04-1997 an advocate referred to under the proviso to sub-section(5) of Section 16 of the Act, which include in its ambit advocates enrolled on their retirement or dismissal from service or employment after the age of forty years, are not eligible to be admitted to the membership of the Welfare Fund and the membership already collected from such advocates is being returned to them. The official clarification states that however non-admission to the Welfare Fund does not exempt them from affixing the Welfare Fund stamp on the Vakalath or Memo of Appearance to be filed by such advocates before the courts or tribunals. This rigour reduces the concept of welfare to a mockery.

If at all welfare assistance is needed naturally the senior citizens should get primacy considering their responsibility towards their dependants and other related circumstances. Altogether to deny them the benefit of welfare assistance even while compelling them to affix them the welfare fund stamp is nothing

short of coercing them to contribute for the welfare of the privileged members of the profession who could enrol as lawyers during their young age. It is not clear the grounds on which the senior citizens who enrolled at a later stage have been denied the benefits of the welfare fund. It would be helpful if the Bar Council publishes the basis on which it arrived at such a decision.

The concept of welfare fund is based on a class action and is not intended to benefit only a section of such class. For that matter there are a large number of lawyers who do not need the pittance of welfare assistance the fund is expected to provide. But then they have no option but to be members of the welfare fund scheme. Expecting the ineligible members of the profession to affix welfare fund stamps for the alleged benefit of the privileged members of the Bar is nothing short of adding insult to the injury caused to them by making them ineligible for membership. The Amendment Act is tyrannical besides being oppressive in nature on a large section of lawyers and no right thinking person could support such outrageous amendment. There is no rationale to deny a section of the lawyers the benefits of the welfare fund scheme. Would the Bar Council review its decision in the light of the discriminatory nature of the Amendment Act vis-a-vis the under privileged lawyers? This is the minimum that could be done by the Bar Council to ameliorate the legitimate grievances of those lawyers without subjecting them to hostile discrimination.

**Read
Communique**

Society Celebrates its Golden Jubilee

Bangalore October 17 : It was a red letter day for the Bangalore Advocates Co-operative Society Ltd. When the Golden Jubilee Celebration of the Society went underway in the glittering Banquet Hall of the Vidhana Soudha. It was a moment of pride for all the members to see the dignitaries on the dais who had assembled there to participate in the glittering ceremony. The function lasting for about ninety minutes was marked by pomp and pageantry.

It was an invigorating invocation by the National Awardee for playback singing Sri Shimoga Subbanna which set the tone for the events to follow. In his welcome speech President of the Society Mr. M. Lokesh said that it was indeed a great occasion for the Society to celebrate its Golden Jubilee co-inciding with the all important Golden Jubilee year of India's Independence. This was followed by the report of the Society and its progress from the period it was established fifty two years ago. Vice-President of the Society Mr. S. Srinivasa Murthy who presented the report, graphically explained the achievements of the Society which has been classified in 'A' class with a strength of 3427 share holders. He announced that the management of the Society had decided to present each of the share holders a HMT [Swarna] wrist watch to commemorate the occasion.

Chief Justice R.P. Sethi, who inaugurated the celebration, in his short speech lauded the role played by the Directors in achieving all round development of the Society. He said that the Co-operative Society can thrive only by mutual co-operation and dedication. Mr. S.S. Patil, Minister for Co-operation, after releasing the Souvenir, appreciated the manner in which the Society is functioning. He also suggested that another Co-operative Society can be formed by the Advocates to render help to the litigants.

Mr. M.C. Nanaiah, Minister for Law and Parliamentary Affairs, in his speech said that there are about twenty two thousand co-operative Societies in Karnataka having membership of more than one lakh fifty five thousand with a capital outlay of Rupees five thousand crores. He complemented the Advocates Co-operative Society for being one of the best Societies serving for the cause of its members and this Society could be a role model for other Societies to emulate. While pleading for raising the loan limit from Rs. 25,000/- to a higher denomination, Mr. Nanaiah said that he would strongly recommend the Government to lease the land for ninety nine years to the AAB so that with the help of the Society a new building could be constructed thereon. He also assured that his Ministry would recommend to the Government to raise the limit of sale of non-judicial stamp papers by the Society to the tune of Rupees five lakhs as it would not cause any loss to the Government.

Mr. J.H. Patel, in his speech, lauded the achievements of the Society under its present Directors. Mr. Patel dwelt at length the backdrop in which the co-operative movement took shape as a mode of management of capital and human resource to achieve maximum benefit to the share holders. Initially it was *laissez-faire* economy which was resisted by the *Marxian Doctrine*. India adopting mixed economy encouraged large scale public sector undertakings even while allowing private *entrepreneurship*. Side by side co-operative movement started functioning. However, the system came to be *deride* as one which encouraged corruption and nepotism. Mr. Patel said that *per se* co-operative movement is not bad even though lot of mischief has been played by the co-operators. He said that Bangalore Advocates Co-operative Society is a shining example as to what co-operative movement can achieve and needs to be achieved on the basis of its tract record.

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Narayanan Hailed

President K.R. Narayanan upheld the democratic norms by returning the Union Governments recommendation to impose President's rule in Uttar Pradesh and dissolve the Legislative Assembly. The mandate given by the people should under no circumstances be taken away by invoking Article 356 of the Constitution even while the ruling party/coalition had established its majority on the floor of the House. This Constitutional position has been vindicated by the Presidential action, said Justice V. Gopala Gowda, Judge of the Karnataka High Court, in Bangalore on 24-10-97.

Justice Gopala Gowda was presiding over a seminar on "Fifty years of Independence and the role of Lawyers", organised by the All India Lawyers Union [AILU], also observed that a new trend had emerged in the country's judicial system with Lawyers taking up several socio-economic issues.

Mr. G.V. Shantharaju, Advocate, recalled the role played by the Lawyers in the freedom struggle and asserted that even now the Lawyers are playing a vital role in the Society. Mr. Ravi Varma Kumar, Advocate, exhorted young lawyers to fight against corruption and environmental pollution. A large number of Advocates participated in the seminar.

Society Celebrates its Golden Jubilee

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A large number of High Court Judges, Senior members of the profession and other professional members who helped the Society to achieve its present position were honoured by the Society on this solemn occasion by presentation of Shawls, Garlands and Mementos. At the end Treasurer of the Society Mr. Aswatha proposed vote of thanks. Mr. B.K. Sampath Kumar, Director of the Society compered the programme. The function ended with melodious songs of Sri Shimoga Subbanna and Bharathanatyam recital by Kum. Chitra Manjunath followed by the dinner.

Views and Vignettes

Mr. R. Rajagopalan, Advocate is of the view that affixing of ten rupees CF on certified copies by the Copying Branch of the High Court even when the number of pages is less than ten on the ground that stamps of smaller denomination is not available is not justified since it involves payment of higher court fee stamps than the prescribed amount of rupee one per page. He is also of the view that the High Court must take corrective measures in this regard.

Campus Watch

National Law School of India University [NLSIU] is planning to produce a "Country paper" on the problems of child labour in India. This expensive research work is undertaken by NLSIU in co-ordination with twenty six selected Non Government Organisations [NGOs] from various parts of the country. The country paper form basis for deliberations to be held at the South Assan Association for Regional Co-operation [SAARC] labour workshop being organised by the NLSIU in Bangalore during the early part of 1998.

Communique Classifieds

Advocate with three years experience able to handle cases independently and assist the Senior may write to Mr. P.A. Kulkarni, Advocate, No. 47, II Floor, 57-A Cross, IV Block, Rajajinagar, Bangalore-560 010. Phone : 3304331.

Walk in or telephonically contact between 5-30 and 8-00 p.m.

News Focus

- ◆ On 7-10-97 Justice Ashok Bhan was sworn in as a Judge of the Karnataka High Court. Prior to his transfer to Karnataka Justice Bhan was a Judge of P & H High Court.
- ◆ On 8-10-97 Justice T.N. Vallinayagam addressed the members of AAB, Magistrates Court Unit on the topic "Why not we change the Criminal Procedure Code and conceive a new child?"
- ◆ On 9-10-97 Justice S. Venkataraman took over as the Vice Chairman of Central Administrative Tribunal, Bangalore.
- ◆ On 14-10-97 Mr. L. Revanasidiah, the Commissioner of Police, Bangalore City, addressed the members of the AAB Magistrates Court Unit on the topic "Crime and Criminals".
- ◆ On 15-10-97 Justice M.F. Saldanha released a book "Law of Environment Protection" written by Mr. P.B. Sahasranaman, Advocate, from Ernakulam in a simple function held at city Auditorium of AAB. Justice V.P. Mohan Kumar was the guest of honour in the function presided over by Mr. K.N. Subba Reddy.
- ◆ On 16-10-97 Dr. A.S. Hegde, Neuro Surgeon, Manipal Hospital, addressed the members of AAB, City Unit on the topic "Brain Injury."
- ◆ On 22-10-97 Justice M.F. Saldanha released Law Base-97, an exclusive software for legal professionals at the High Court Unit of AAB. Justice G.C. Bharuka and Mr. H.K. Vasudeva Reddy, Advocate were the Chief Guests. Mr. K.N. Subba Reddy, President of AAB presided over the function.
- ◆ On 23-10-97 Mr. R. Mahesh

Chandra Guru and Mr. A.R. Khan, Advocates, were unanimously elected as the President and Secretary of Kanakapura Bar Association.

- ◆ On 24-10-97 BSF Commandant (Retd.) Major. Muthu Kumar addressed the members of AAB, City Unit, on the topic "Why Veerappan could not be caught?"
- ◆ On 25-10-97 Chief Justice R.P. Sethi inaugurated building to house the Court of Munsiff and JMFC at Aland in Gulbarga District.

Around the Courts

Sec. 125 Cr.P.C. liability of the muslim husband to pay alimony to his divorced wife and minor child after the expiry of the period of iddat.

By a Judgment dated 24-10-97 the Full Bench of P & H High Court comprising Justice Harpal Singh Brar, Justice Swatanter Kumar and Justice K.S. Kumaran has held that the muslim husband is not absolved of his liability to pay maintenance to his divorced wife and minor child even after the period of iddat [a period of four months after formal divorce following which the divorced wife can re-marry]. The sixty three page Judgment, while rejecting the plea of the revision petitioner [husband Kaka] that he has no liability to pay the maintenance after the period of iddat, directed him to pay maintenance to the divorced wife [Husan Bano] and the minor child within three months from the date of the Judgement alongwith costs of Rs. 2,500/- The Court observed that the liability of the father to maintain his minor child, in any case, was finally settled by the Supreme Court in Noor Saba Khatoon case.

Crisis Averted

A virtual confrontation between the Judiciary and the Executive buildup since August 97 was staved off on 31-10-97 with the announcement of Mr. Nawaz Sharif, the Prime Minister of Pakistan, that his government will appoint five more Supreme Court Judges suggested by the Chief Justice of the Supreme Court Mr. Justice Sajjad Ali Shah. All along the Prime Minister was refusing to elevate the five High Court Judges recommended by the Chief Justice since the latter was appointed during the former PM Ms. Benazir Bhutto's period. Mr. Nawaz Sharif had gone to the extent of getting a Presidential ordinance proclaimed to reduce the strength of the SC Judges from seventeen to twelve. Peeved by this attitude of the PM the Chief Justice had arranged to get a contempt case registered against the PM apart from seeking the intervention of the Pakistani President Mr. Farooq Ahmed Leghari. In fact the President had directed the PM to obey the SC direction. The battle of wits seems to have temporarily suspended and a truce has come into force with the Prime Minister's reluctant acceptance of the CJ's nominees for appointment.

Obituary

- On 4-10-97 B. Mahabalesh [36], Advocate, passed away.
- On 13-10-97 former Advocate General M.R. Janardana passed away at Bangalore.
- On 14-10-97 H. Narasimha Murthy [39], Advocate, expired at Bangalore.
- On 17-10-97 Mirle L. Krishnamurthy [75], Advocates passed away at Bangalore.
- On 24-10-97 Rama Murthy, Advocate of Srinivasapura Bar, (Kolar Dist.) passed away.
- On 26-10-97 K.V. Vasanth [80] Advocate, passed away at Bangalore.
- On 26-10-97 Justice [Retd.] B. Jagannatha Hegde [65] passed away at Bangalore.
- On 30-10-97 H.S. Reju, Advocate, passed away at Bangalore.

Cultural Fete

Lahari Advocates Forum has organised Festival of Gujarat as a part of its cultural activities. The festival is intended to acquaint the Lawyers fraternity in Bangalore with the folk dance forms of Gujarat particularly 'Garba' and 'Dandiya Raas' forms. Renowned artist Ms. Nandini K. Mehta and her troop will be presenting the dance forms. Chief Justice of the Karnataka High Court Mr. Justice R.P. Sethi has consented to inaugurate the festival which is scheduled to be held in the City Auditorium on Friday the October 7, 1997 at 5-00 p.m.

Helmet Compulsory

Wearing of helmets by two wheeler drivers as well as pillion riders has been made compulsory in Delhi with effect from 1-11-97 pursuant to the directions of Delhi High Court. Nonwearing of helmet would result in a fine of Rs. 100/-

Literary Union

- On 16-10-97 Appagere Thimmaraju and Friends sung folk songs.
- On 28-10-97 Dharieswara Yakshagana Mandali [D.K.] gave a yakshagana performance titled Sudhanvarjuna.

Foreign Tour

On 11-10-97 Mr. B.A. Satyanarayana, Advocate, left Bangalore to Chicago [USA]

**READ
COMMUNIQUE**

Miscellany

- ◆ With effect from 6-10-97 Mr. H.S. Rukkoji Rao, Advocate, shifted his chamber to No. 65/1, First Floor, Near Syndicate Bank, 2nd Cross, IV Main Road, Gandhinagar, Bangalore-560 009.
- ◆ Mr. N.L. Narayana, Advocate, has been elected as the Director of Sri Yoginayana Credit Co-operative Society Ltd., Cubbonpet, Bangalore-560 001 for the period 1997-2000.
- ◆ With effect from 15-10-97 Mr. P.V. Kittoor and Mr. V. Ravindra, Advocates, shifted their chamber to No. 272, II Floor, 20th Cross, II Block, Rajajinagar, Bangalore-560 010.
- ◆ On 17-10-97 Mr. N. Udayakumar and Mr. G. Manjunath, Advocates, opened their law chambers at No. 754, 8th Cross, Opp. Mariyan English School, M.C. Layout, Vijayanagar, Bangalore-560 040.

Lahari Advocates Forum

- On 24-10-97 Justice H. Rangavittalachar released the book "Humour In Courts" published by the Forum. Mr. S.R. Gautham, Advocate, gave his review about the book. Mr. G.Y. Hublikar renowned Cartoonist, was the guest of honour.

Lahari Foundation

- The Foundation has received Rs. 1,000 from Mr. Paras Jain, Rs. 1,001 from Mr. Mallappa H. Motigi and Rs. 2,000 was paid to Mr. L. Krishnamurthy, Advocate, as financial assistance.

Dist. Judges Selection

It is reliably learnt that interviews for selection of advocates for appointment of District Judges will commence from December 7, 1997.

Humour In Courts

- Read from the Association Notice Board :
"Emission test for Lawyers only!"
- The Munsiff had noticed a newly enrolled lawyer sitting through the day in his court. At the end of the day the Munsiff wanted to ascertain the reason from the Counsel.
Munsiff : Counsel why are you sitting in my court, since morning?
Lawyer : Your Honour, the court officer remarked during first hearing "await summons"!
- The Magistrate wanted to confirm that the Accused before him was a major.
Magistrate : Are you a major?
Accused : No your Honour, I am a miner!
- A Counsel wanted to get a longer date on behalf of the Judgment Debtor and wanted to stall issue of delivery warrant on the ground that his lady client was pregnant.
Counsel : Your Honour, my client is in an advanced stage of pregnancy hence I pray for time.
Judge : Time refused. Issue delivery warrant.
Counsel : No your Honour. She is only six months and under no circumstances delivery can be effected within the next month!

Undertrials attack the Judge

Notorious gangster Surla and his accomplices, accused in the Chandralakha acid attack case, attacked the IV Addl. Sessions Judge of Chennai Mr. P.N. Krishnamurthy by jumping over the railings and picking up chairs. The incident which occurred on October 28, 1997 paralysed the work in the civil court premises. The Advocates and litigants present on the spot overpowered the attackers and severely beat them up even while the police were seen to be callous. The extra-ordinary General Body Meeting of the Lawyers Association convened in the evening resolved to stay away from the court work on October 29, 1997 in protest against the inadequate security arrangements in the court premises.