

Communique

NEWS LETTER FOR PRIVATE CIRCULATION AMONG THE LEGAL FRATERNITY.

Volume 8

November 1996

Part 8

IV Addl. CMM Tenders Apology

A Division Bench of the Karnataka High Court comprising Justice M.F. Saldanha and Justice H.N. Narayan accepted an unconditional apology tendered by Mr. P.V.Singri, IV Addl. CMM, Bangalore in a contempt case while refraining from passing any punitive order against him. A retired General Manager of Canara Bank Mr.S.Venkataraman had filed this contempt petition against the Metropolitan Magistrate alleging that he had defied the High Court direction to entertain the petition filed by the complainant and dispose of the same in accordance with law.

While passing strictures against the Metropolitan Magistrate the Judges observed that "The impugned order (passed by the Magistrate) ought never to have been passed in so far as it is an order that not only conflicts with but even goes to the extent of overriding the order passed by the High Court." The Court also observed that "This Court will never take a lenient view or for that matter condone situations wherein instances of the present type take place and where precious judicial time is wasted and where cases are unnecessarily dilated."

Justice Saldanha Complains

An instance of a complaint having been lodged by Justice M.F.Saldanha to the Deputy Conservator of Forests, Bangalore Urban Division, against a couple who live in a flat in the same apartment where he lives for having committed various offences under the Karnataka Forest Act has been reported. Alleging that the couple had chopped down several trees planted by him in the compound during his absence from Bangalore Justice Saldanha has also volunteered to give evidence in the case when it goes for trial.

Apex Court slaps Hefty Fines Against Capt. Sharma & Sheila Kaul.

By an order dated November 4,96 a Division Bench of the Supreme Court comprising Justice Kuldeep Singh and Justice Faizanuddin directed former Union Petroleum Minister Satish Sharma to pay exemplary damages of Rs.50 lakhs to the exchequer for allotting retail outlets of Petroleum products from his discretionary quota to a select few in a wholly illegal, arbitrary and malafide manner. The court further directed that in the event of Mr.Sharma failing to pay damages within nine months from the date of the order the same would be realised from him as arrears of land revenue. By this order the Apex Court created a new precedent by holding that the Ministers who deal with public property during their tenure are liable to pay damages for any loss caused by them due to their illegal actions.

Earlier the court had issued a show cause notice directing Capt.Sharma as to why action should not be taken against him for the questionable allotment of the 15 petrol pumps during his tenure as the union Minister. Capt.Sharma was present in the Court and his Counsel Mr.Harish Salve was heard by the Bench before passing the order directing Mr.Sharma to pay exemplary damages. The court placed on record an Affidaint filed by Mr.Sharma in reply to the show cause notice.

The court also directed the CBI to investigate into these allotments within 3 months and launch prosecution against Mr.Sharma for criminal breach of trust or any other offence. A public interest litigation filed by Mr.H.D.Shourie heading Common Cause has questioned the illegal and arbitrary sanctioning of petrol pumps by Mr.Sharma during his tenure as the Union Minister for petroleum and natural gas in which the above order came to be passed.

Sheila Kaul Fined

On the heels of the above judgement another Division Bench comprising Justice Kuldeep Singh and Justice B.L.Hansaria passed an order on November 8, 96 directing the former union Housing and Urban Development Minister Ms.Sheila Kaul to pay exemplary damages of Rs.60 lakhs to the exchequer for her arbitrary, unconstitutional and malafide action in allotting 52 shops and stalls in prime locations in the Capital to chosen persons, which included her grandsons and friends,

in violation of the norms. The court further directed that on her failure to pay the damages within nine months from the date of the order in the office of the Union Finance Secretary the same shall be recovered by the government as arrears of land revenue.

The judges in their order said that Ms.Kaul was prima facie guilty of flouting her own policy on allotment of shops and stalls laid down in 1994 which required calling for tenders, Rejecting her plea of innocence and the assertion that she has no knowledge that two of the allottees of the shops were her own grand children the court observed that "In this aspect Capt.Satish Sharma has been bold by taking the stand that he had made the allotments of petrol pumps and he stood by them in view of the fact that he had granted them under a discretionary quota policy in existence before he came to head the Petroleum Ministry". But the stand taken by Mr.Kaul was surprising in as much as she was prepared to disown her grand children to save her skin.

The former Union Minister's counsel Dr. Rajeev Dhawan was heard before the order providing for payment of damages was passed. Interestingly by this order was also passed in a public interest litigation challenging the validity of the allotment of shops and stalls by way of discretionary allotments made by Ms.Kaul during her tenure of office as the Union Minister for HUD.

Judicial probe sought into Attack on City Advocate

A Special General Body Meeting of the AAB held on 28.10.1996 adopted a resolution demanding judicial probe into the alleged brutal attack on Mr.A.C.Anantha Swamy, a former General Secretary of the Association, by the Circle Inspector of Giri Nagar Police Station. The resolution also demanded the suspension of the Circle Inspector and providing suitable protection to Mr .A.C.Anantha Swamy and his family members. A delegation of Advocates lead by AAB President Mr.K. N. Subba Reddy called on Sri.J.H.Patel, the Chief Minister of Karnataka on 31.10.1996 seeking his intervention in the matter when Sri.Patel reportedly assured that action would be taken against the police officer for his misbehaviour with the Advocate.

Lahari Foundation

In response to the Foundations Appeal the following donations have been received :

Mr.B.N.Dayananda Rs. 1,000/-,
Mr.P.G.C. Chengappa Rs. 1,000/-,
Mr. K.P.Poovanna Rs. 500/-

Humour in Courts

Overheard at the lawyer's office
"How old was your departed aunt?"
"Ninety six"
"And was she of sound mind?"
"We'll see tomorrow when we open her will."

K. R. Dinakar, Advocate.



**Diwali
Greetings to
All the
Readers**

But the character of every act depends upon the circumstances in which it is done.

- Oliver Wendell Holmes.

Cause for Worry List

The inventor of the cause list, a simple method of notifying the Lawyers/litigants about listing of cases before the court, could not have imagined that it could be the cause for anxiety, hyper tension and sleepless nights to Advocates. Factually the category of cause list "Until disposed of" being issued by the Karnataka High Court has resulted in creating confusion and problems for Advocates. A lot of resentment is expressed at the Bar against this practice.

The main difficulty with this list is that it expects the Advocates to watch each day the stage of their cases before the court and be ever ready to argue the cases as and when they reach. In some courts there is a practise that a specified number of cases found in "until disposed of" list is taken out and those cases incorporated in the daily list. This practice, undoubtedly a welcome step, is not uniformly followed by all the courts. As a result the lawyers will be in dark as to when their cases would reach before a particular court. Needless to state that on account of this they are unable to adjust their work and have to stay back even while the chances of their cases reaching on any given day are bleak.

There appears to be no special advantage in issuing such lists. Since daily lists are issued by the court a specified number of cases may be listed in the daily list itself. Alternately weekly lists may be issued showing specified number of cases having been listed on specified dates. Since on four or five lists are issued with regard to some courts on given dates having one more list of the above said category would only add to confusion. It could be avoided by listing the hearing matters in the daily list itself Naturally it would

result in a saving of the stencil paper and better utilisation of the staff.

It is earnestly hoped that the Hon'ble Chief Justice would consult the office bearers of the Advocates Association and others to know the pros and cons of retaining "Until disposed of" lists and thereby giving relief to the Lawyers with regard to this vexed issue at the earliest

Advocate in Judicial Custody

Tension prevailed in Raichur on 14.11.96 following the arrest of an Advocate in connection with a case of attempt to murder. As the news of arrest spread businessmen downed shutters of their establishments following violence. According to the police the local Advocate Mr.N.Bhanuraj alongwith Raju @ Katukara Raja and Randhir attacked one Khaleel with sickle and all the three accused having been arrested were produced before the CJM by the police. Since Mr.Bhanuraj was unwilling to get bail as the bail plea of other two accused was not considered simultaneously, the CJM remanded Mr.Bhanuraj till November 28.

Lahari Foundation Appeal

Lahari Foundation, Bangalore, seeks donations for augmenting its financial base. This foundation is providing assistance to lawyers for health reasons. The donations you make now will be of immense help to some one who needs it.

- Trustee

COPYRIGHT

A. R. Srinivasa Rao, Advocate.

(Continued from last issue)

CopyRight Societies are formed to license the works of owners of copyright to those interested in the re-production, performance or communication to public of the works. They are authorised to do the service by the owners on payment of suitable fees. They are also authorised to watch out for infringement of copyright and take appropriate legal action against the infringers.

For Registration of Copyright Society application is to be made to the Registrar of Copyrights who will after scrutiny forward it to the Central Government. Having regard to the ability and professional competence of the applicant, Central Government will register such society.

In Indian Performing Rights Society Ltd, Vs. Eastern India Motion Pictures Association and others {1977 Sc. 1443}. the Society contended that composers of lyrics and music who were its member and they had assigned the copyright in them and anyone performing them in public can only do so under and in accordance with a license granted by it for which fee, charges or royalties laid down in the tariff had to be paid, and claimed the same from the producers of Cinematograph films represented by the Respondents Eastern India Motion Pictures Association. The latter objected to the imposition of proposed tariff contending that they are the first copyright holders of the Cinematograph films including the musical work contained in the sound track. Court held in favour of the film producers rejecting the claim of performing Society.

Infringement : If any person, without a license granted by the owner of the copyright does anything the exclusive right to do which is by the Act conferred upon the owner and or makes for sale or hire or sells or offers for sale or lots for sale. or imports into India any

infringing copies of the work, -is deemed to have infringed the copyright.

A suit for infringement of copyright lies to the District Court or High Court within whose jurisdiction the Plaintiff resides or carries on business, or place of business of the defendant, or where the cause of action arises.

In R.G.Anand Vs Delux Films {1978 SC. 1613} plaintiff filed the suit for damages for violation of copyright work of plaintiff in the drama "Hum Hindustani" by production of the motion picture entitled "New Delhi". The suit failed, It was held that though the theme, namely, "Provincialism" was the same. It was presented and treated differently so that the subsequent work became a completely different work, and hence no violation of copyright. Supreme Court observed : that unlike a stage play a film has a much broader perspective, wider field and a bigger background where the defendants can by introducing a variety of incidents give a colour and complexion different from the manner in which the copyrighted work has expressed the idea.

In Penguin Books Limited Vs India Book Distributors {A 1985 Delhi 29}, Penguin filed the suit for injunction to restrain IBD from infringing Penguin's territorial copyrights License in twenty three books by importing the parallel American editions of the twenty three titles in India Court held : the importating, sale and public distribution of American editions constitute infringement of copyright of the exclusive license. The exclusive right of Penguins to print publish and sell these titles in India would extend to the exclusive right of imported copies into India for the purpose of selling. This is the true meaning of the word "Publish" as used in Sec.14(1)(a)(ii). Injunction was granted.

(Continued to next issue)

Kolar Lawyers Skip Courts

On 19.11.96 Advocates in Kolar abstained from attending Court in protest against the alleged assault on Mr. Malur Ramaiah, an Advocate, by the Malur PSI Mr.Nagaraj. The Advocates also took out a procession in protest against the assault and demanding suspension of the PSI by the Government. Advocates of Mulbagal and Srinivasapura town also abstained from Court expressing their solidarity with Advocates of Malur.

Compensation Awarded

In a judgment delivered during the second week of November 1996, a Division Bench of the Orissa High Court has directed the Orissa Government to pay compensation of Rs .1,50,000/- to a lady on account of the inability of the police to trace the whereabouts of her husband after he was taken to custody by the police. The lady filed a Habeus Corpus Petition before the High Court. The Court has given time till October 1997 to trace the whereabouts of the Petitioner's husband and if they fail to trace him within that period to pay compensation of the amount awarded.

Amicus Curie Appointed

The state public prosecutor has appointed the following Advocates to the panel of Amicus Curie for representing undefended Accused in criminal Appeals : S/s K.S.Ramanathan, J. Chandra shekaraiah, A.S. Bellary, S.Vishwamurthy, Dayanand S. Patil, R. Poornachandra, Somashekara Angadi, B.Nagaraj, A.N. Radhakrishna, B.Anand, Raja Subramanya Bhat, M.B. Rajashekar, I.M.Devaiah and Smt. Manjula, Kamadolli.

Campus Watch

☒ On 19.11.96 Mr.Justice M.F.Saldanha inaugurated the activities of the Students' Council of the University Law College, Bangalore, Prof. K.R.Nagaraja of Centre of Kannada Studies, Bangalore University addressed the gathering. Prof.K.M. Hanumantharayappa, Dean, Faculty of Law, Bangalore University presided over the function.

☒ A Students Lok Adalat of V.V.Puram Law College in association with the Karnataka Legal Aid Board was recently held on 23.11.96 at Devanahalli, About 62 cases were settled during the Lok Adalat, Smt. T.N.Manjula Devi, Advocate, participated as a Conciliator, Mr. K. Krishnappa, President of V.V. Puram Law College, presided over the function. Prof.J.Y. Martin was the project co-ordinator of the Student's Lok Adalat.

Clarification

With regard to the news item of the Human Rights Association published in the September 96 part of Communique it is clarified that the name of the person killed has been wrongly mentioned as Konappa Reddy when it should have been mentioned as Gopalappa. It was an inadvertent error -

Editor.

News Focus

➤ On 14.11.1996 AAB had arranged a Symposium on Bangalore City Traffic System. The Speakers included Mr .Justice M.F. Saldanha, Judge, High Court of Karnataka, Mr.R. Roshan Baig, Karnataka's Home Minister and Mr. S.C.Burman, Commissioner of Police, Bangalore. Mr.K.N.Subba Reddy, President of AAB presided over the Symposium.

➤ 22-11-96 Sri.J.H. Patel, the Chief Minister of Karnataka, addressed the members of AAB, City Unit, Law and parliamentary Affairs Minister Sri. M.C.Nanaiah and the Advocate General Sri S.Vijayashankar were present on the occasion AAB president Sri.K.N. Subba Reddy presided over the function.

➤ On 30-11-96 Second General body meeting of Lahari was held at Bangalore, Mr.N.S.Satyanarayana Gupta was unanimously elected as the president of the forum.

Seminar on Reservation for women

On 29.11.96 a Seminar on Reservation for Women in legislatures was held at Gandhi Bhavan, Bangalore under the , auspices of Dr.Ambedkar institute of International Affairs, Karnataka Minister of State for Animal Husbandry Sri.B.B.Ningaiah who inaugurated the seminar justified the proposed 33 percent reservation for women in Legislative. Justice M.Ramakrishna, Chief justice of J & K High Court presided over the Seminar. Dy.Chairperson of Karnataka legislature council Smt .Rani Satish was the Chief Guest Other speakers included Smt. P.G.Gouri, Sri.M.T.Nanaiah, Advocates & Sri.F.K. Jakkappanavar, educationist Chairman of the institute Sri, S.N.Hatti welcomed the participants Sri, J.D.Elangovan, Secretary, proposed vote of thanks.

Justice J.S.Verma the new CJI

Speaking on a private television on 1-12-92 the Union Law Minister Mr.Ramakant. D. Khalap announced that the Senior most Supreme Court Judge Justice J.S.Verma will be the next Chief Justice of India.

C.H.Hanumantharaya Elected as the President

In the elections to the Bangalore Literary Union on 24.11.96 Sri.C.H.Hanumantharaya was elected as the President .While Sri.C.R.Gopalaswamy was elected as the Secretary Sri.M.C.Narayana was a selected as the Treasurer Ms . K . Vidya ,Ms.K.P. Sumangala, Mr.K.R.Dinakar ,Mr.K.N.Mohan Rao, and Mr. H.A. Kumaraswamy were elected as the Executive Committee Members.

Letters to the Editor

Dear Sir, Apropos to the news item the Special General Body Meeting of the Bangalore Literary Union held On 7.10.96 published in the October 96 part we wish to write as follows: Most members of the Bangalore Literary Union are not aware of the Special General Body Meeting was held on 7.10.196 and it is not communicated to all members as required under Rule 25 of the Union Bye Law. As verified by us no Memorandum with requisite number of members was submitted to the Secretary of the Union requestng him to call for the Special General Body Meeting and we do not know who called this Special Meeting. Further we came to know that most of the Executive Committee Members were absent on that day. Since the alleged Special General Body meeting was held on 7.10.1996 in the absence of the Executive Committee Members and most of Union Members the said Meetint is illegal and all the Resolutions passed on that day are not binding on the members and the same is to be recalled and cancelled. Yours faithfully,
H.Somashekaraiah,
C.Srinivas, and 14 others.

Read
Communique

Kayaking Expedition

River Netravati in Dakshina Kannada had so far remained an unrun river not exposed to voyage. A solo Kayaking Expedition undertaken by Mr. Harikishore, an Advocate from Bangalore on river Netravati on 17th and 18th October 1996 covered a stretch of about 40 KMs between Nidagal and Uppinangadi. Being the first person ever to traverse Netravati, Mr. Harikishore will be adding to the series of firsts which the Limca Book of Records credits him with.

Foreign Tours

→ Mr. K.C. Jolly, Advocate, returned to Bangalore on 22.10.1996 after 4 weeks tour of Australia via Singapore.

→ Mr. B.S. Narayan, Advocate, left Bangalore on 24.10.1996 for ten weeks visit to USA.

Shares Alloted

By the Committee Resolution dated 14.11.96 Bangalore, Advocates Co-operative Society Ltd, as admitted 1,152 Advocates as Share holders of the Society. Each of the 1,152 Applicants have been alloted 5 shares.

District Conference

Kolar District level Lawyer's Conference is scheduled to be held on Sunday the 22nd December 96 at Gouribidanur.

MISCELLANY

⊕ Former Chief Justice of India E.S. Venkataramaiah was amongst the 54 prominent persons for whom Rajyotsava Awards were conferred during this year. Justice Venkataramaiah was selected for the Award on the basis of his outstanding contributions to judiciary.

⊕ On 14.10.1996 Mr. S.K. Ramesh, Advocate, opened his law chamber in Room No.7, 2nd Floor, Maruthi Lodge, Park Road (Near Chiklallbagh), Bangalore-560 053.

⊕ On 21.10.96 S. Rathnamala, Advocate and Addl. Standing Counsel for Central Government, opened her Chamber at 172/24, Kilari Road, Near Avenue Road, Bangalore - 560 053, Phone No: 2282061.

⊕ On 23-10-96 Mr. Udaya Holla, Advocate, shifted his chamber to 102, Embassy Center, 148, Infantry Road, Bangalore - 560 001. Phone Nos: 2257330, 2256119, 2258884, Fax - 080-2256119.

⊕ On 26.10.1996 AIR Bangalore Station Broadcast a talk titled "Grihasta Dharma" delivered by Mr H.R. Shankaranarayana, Advocate.

⊕ On 16.11.96 KPCC(I) Legal Cell had organised a function to felicitate Sri. Dharam Singh, the newly appointed President of the Karnataka Pradesh Congress Committee.

⊕ On 21.11.96 Mr. J.G. Chandra Mohan, Advocate, opened his new Chamber at No. 92/2, 2nd Floor, Cubbonpet Main Road, Bangalore-560 002.

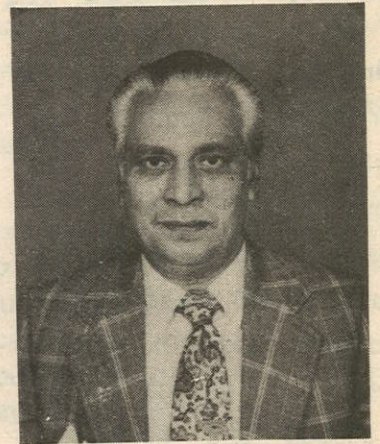
⊕ In the recently held elections to the Bangalore City Corporation Smt. Sumangala Chandrashekar W/o. G. Chandrashekar, Advocate, has been elected on BJP ticket from Gayathrinagar Constituency.

LAHARI PAYS HOMAGE TO M.S. BHUJANGA RAO

M.S. Bhujanga Rao was a renowned Advocate of his time. Recently he passed away. His death has caused a big void amongst his friends, colleagues and the legal fraternity.

Even though he was the son of N.B. Subramanya, an Advocate of Madhugiri, Bhujanga Rao did not straight away take up legal practice. He was a renowned teacher in Fort High School, Bangalore. Later he studied law at Kolhapur. He had a lucrative practice and a large clientele. Many Advocates who worked in his chamber have come up in the profession and they are doing well. Bhujanga Rao is survived by his wife, a son and five daughters. His daughter Manasa and her husband Mr. Viswanath are practicing Advocates.

During his student days Bhujanga Rao was a good sportsman. He represented with distinction the Mysore University in Volley Ball and Foot Ball. He was also associated with educational institutions, trusts and social organisations. Bhujanga Rao was the President of the Model Education Society and A.V. Education Society of Jayanagar. He was also the President of Ganavahini Trust, a



society for propagation of classical music under the Aegis of Vijaya College of Music, Jayanagar. He was a life Member of Lahari.

Bhujanga Rao served as the President of Advocates' Association, Bangalore, Bangalore Legal Practitioners' CO-Operative Society Ltd., member later the Chairman of the Karnataka State Bar Council. He was also instrumental in organising the All India Lawyers' Conference held in Bangalore in 1979. Participated in the All India Bar Council Conference at Darjeeling Jeeling which decided amongst other aspects the proposal to set up the National Law School of India at Bangalore.

Lahari joins other organisations and individuals in deeply mourning the demise of M.S. Bhujanga Rao. His contribution to the cause of the Bar and upholding the dignity of the Bar will be long remembered.

Lahari

☑ On 8.11.1996 Prof. P.K. Ponnappa delivered a Lecture on the Indian Evidence Act.

Obituary

☉ On 20.10.1996 K.S. Venkatasubbaiah (78), Advocate, passed away at Bangalore.