



APPEAL TO THE MEMBERS OF THE BAR

You are all well aware that due to the Covid-19 pandemic, the Courts in the state could not function normally for few months and it caused hardship and sufferings to the litigants and also to the members of the Bar. The High Court of Karnataka took all possible steps to restore the normal functioning of the Courts in a phased manner and now it is nearing complete normalcy. It is distressing to note that even under these circumstances, the members of some of the Bar Associations have resorted to acts of abstaining from or boycotting the Court for various reasons. Such acts of abstaining from the Courts cause interference in the administration of justice. Such acts also cause inconvenience and prejudice to the litigants. During the pandemic, notwithstanding the challenges, the District and Trial Courts in the State have started functioning. But certain Bar Associations have taken recourse to illegal method of boycotting Courts. Such a step will adversely affect the members of the Bar.

Recently we have received reports from the District Courts informing about the resolutions passed by the Bar Associations in Mandya and Davangere districts calling upon the members of the Bar to abstain from court proceedings for various reasons.

Dr. B.R.Ambedkar in his famous last speech in the Constituent Assembly 25th November 1949 stated as follows:-

*"If we wish to maintain democracy not merely in form, but also in fact, what must we do? **The first thing in my judgment we must do is to hold fast to constitutional methods of achieving our social and economic objectives. It means we must abandon the bloody methods of revolution. It means that we must abandon the method of civil disobedience, non-cooperation and Satyagraha. When there was no way left for constitutional methods for achieving economic and social objectives, there was a great deal of justification for unconstitutional methods. But where constitutional methods are open, there can be no justification for these unconstitutional methods. These methods are nothing but the Grammar of Anarchy and the sooner they are abandoned, the better for us.**"*

(emphasis supplied)

It is a settled position of law that the acts of abstaining from Court work or boycotting the Court proceedings and the acts of the office bearers of the Bar Associations calling upon the members of the Bar to abstain from the Court work or to boycott the Court proceedings amounts to interference with administration of justice.

Advocates are the officers of the Court and enjoy special status in society. They have obligations and duties to ensure smooth functioning of the Court.



The constitution bench of the Hon'ble Supreme Court of India, in the matter of **Ex-Captain Harish Uppal vs. Union of India and others**, reported in **(2003) 2 SCC 45**, has held as follows:-

"35) In conclusion it is held that lawyers have no right to go on strike or give a call for boycott, not even on a token strike. The protest, if any is required, can only be by giving press statements, TV interviews, carrying out of Court premises banners and/or placards, wearing black or white or any colour arm bands, peaceful protest marches outside and away from Court premises, going on dharnas or relay fasts etc. It is held that lawyers holding Vakalats on behalf of their clients cannot refuse to attend Courts in pursuance of a call for strike or boycott. All lawyers must boldly refuse to abide by any call for strike or boycott. No lawyer can be visited with any adverse consequences by the Association or the Council and no threat or coercion of any nature including that of expulsion can be held out. It is held that no Bar Council or Bar Association can permit calling of a meeting for purposes of considering a call for strike or boycott and requisition, if any, for such meeting must be ignored. It is held that only in the rarest of rare cases where the dignity, integrity and independence of the Bar and/or the Bench are at stake, Courts may ignore (turn a blind eye) to a protest abstention from work for not more than one day. It is being clarified that it will be for the Court to decide whether or not the issue involves dignity or integrity or independence of the Bar and/or the Bench. Therefore in such cases the President of the Bar must first consult the Chief Justice or the District Judge before Advocates decide to absent themselves from Court. The decision of the Chief Justice or the District Judge would be final and have to be abided by the Bar. It is held that Courts are under no obligation to adjourn matters because lawyers are on strike. On the contrary, it is the duty of all Courts to go on with matters on their boards even in the absence of lawyers. In other words, Courts must not be privy to strikes or calls for boycotts. It is held that if a lawyer, holding a Vakalat of a client, abstains from attending Court due to a strike call, he shall be personally liable to pay costs which shall be in addition to damages which he might have to pay his client for loss suffered by him.

36) It is now hoped that with the above clarifications, there will be no strikes and/or calls for boycott. It is hoped that better sense will prevail and self restraint will be exercised. The Petitions stand disposed off accordingly."

(emphasis supplied)

Further, the Hon'ble Supreme Court of India, in the matter of **Krishnakant Tamrakar vs. State of Madhya Pradesh**, reported in **(2018) 17 SCC 27**, has held as follows:-

"50. Accordingly, we consider it necessary, with a view to enforce fundamental right of speedy access to justice under Articles 14 and 21 and law laid by this Court, to direct the Ministry of Law and Justice to present at least a quarterly report on strikes/abstaining from work, loss caused and action proposed. The matter can thereafter be considered in its contempt or inherent jurisdiction of this



Court. The Court may, having regard to the fact situation, hold that the office bearers of the Bar Association/Bar Council who passed the resolution for strike or abstaining from work, are liable to be restrained from appearing before any Court for a specified period or until such time as they purge themselves of contempt to the satisfaction of the Chief Justice of the High Court concerned based on an appropriate undertaking/conditions. They may also be liable to be removed from the position of office bearers of the Bar Association forthwith until the Chief Justice of the High Court concerned so permits on an appropriate undertaking being filed by them. This may be in addition to any other action that may be taken for the said illegal acts of obstructing access to justice. The matter may also be considered by this Court on receipt of a report from the High Courts in this regard. This does not debar report/petition from any other source even before the end of a quarter, if situation so warrants."

Hence, I hereby appeal to all the members of all the Bar Associations in the state to refrain from abstaining from the Court work or from boycotting the Court proceedings, irrespective of the genuineness of the cause and not to indulge in such illegalities. I appeal to the members of the Bar to co-operate with the court for disposal of maximum number of cases.

February 3, 2021


(ABHAY SHREENIWAS OKA)

To:

The Chairman,
The Karnataka State Bar Council

The Presidents & Office Bearers of
Bar/Advocates Associations in
Karnataka