

VIKAS SINGH

Senior Advocate

Former President

Supreme Court Bar Association

Former Additional Solicitor General of India

Supreme Court of India

Office : B-50, Defence Colony,
New Delhi-110024

Tel. No. : +91 11 4709 9900 - 49

Mobile : +91 98110 77353

E-mail : singh.vikas60@gmail.com

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Shri Sharad Arvind Bobde
Hon'ble the Chief Justice of India
Supreme Court of India
New Delhi

Sub: Resumption of normal Supreme Court functioning

Respected Sir

As a Member of the Supreme Court Bar Association (SCBA) and as former President, SCBA, I am deeply concerned with the non-resumption of normal functioning of this institution. Bar and Bench are the two main pillars on which the system of justice stands, however, recent turn of events have created a situation whereby the interests of the Bar are being neglected and the Bench is taking unilateral decisions with regard to the functioning of the institution.

The term of the present Executive Committee (EC) of the SCBA was to come to an end on 13.12.2020, however, only on 04.12.2020 (i.e., one week before the term was ending) the EC meeting was held wherein it was unanimously decided to conduct elections for the term 2020-21 through online mode ("*by an appropriate mode e.g. the NSDL*") in the 2nd week of January, 2021. Even this delayed decision was brought out in the public domain only on 10.12.2020 and the same was communicated to the Election Committee on the said date itself. Even though the electoral rolls are prepared well in advance, however, this year time was given till 04.01.2021 to complete the electoral roll and now when the elections have been announced for 29.01.2021, Mr. Dushyant Dave, President, SCBA surprisingly called for an EC meeting to approve the expenditure for online voting, which was uncalled for as the Executive Committee itself unanimously decided to conduct elections online, preferably through NSDL. While the Election Committee headed by Mr. Jaideep Gupta, Senior Advocate, is not bound by the decision of the Executive Committee of not approving the expenditure as now the entire responsibility for conducting the elections is on them and what expenditure is to be incurred for a free, fair and smooth election is entirely the call of the Election Committee but still it appears that every effort is being made to stall the elections.

With regard to the Open Court hearing, it has been reported in the Press that you mentioned during one of the virtual hearings that the same is not being supported because of the pandemic. In my view when the entire country is opening up, of course with sufficient safeguards, I see no reason why the Supreme Court which is the foundation of our democratic polity should not resume full normal functioning by putting in place sufficient safeguards for the said opening. While the Judges and the Court staff are completely protected being away from the

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areas where the lawyers, litigants and media come, till date no effort has been made to even think of a method whereby the number of people entering the Court is restricted and normal functioning of courts starts on that basis.

I had filed an Application as early as April, 2020 for creating cubicles in the Annexe building in front of Court No. 11 for online hearing and I have also in my last letter of 16 December, 2020 addressed to your goodself suggested that online hearing only through LAN cable (Local Area Network) could also be provided, apart from the cubicles, to the lawyers chambers so that lawyers with co-morbidities are not compelled to appear in court and could appear in the cubicles or in the lawyers chambers and in that manner full court functioning could resume. I have also suggested that in a normal working day of the court comprising of 4.5 hours, matters could be assigned by the hour so that a person whose matter is in the second hour need not crowd the court in the first hour and so on and so forth so that there is neither any crowding inside the court nor any crowding outside the court. After every hour, the court could rise for a short 2-3 minutes break in which time the court room could be sanitised for the next batch of lawyers/litigants to enter the court room. These are extraordinary times and accordingly require extraordinary measures. The largest stakeholders in the functioning of the Supreme Court are the litigants for whose benefit this entire institution has been created and while the issue of the pandemic is looming large in this country, the litigants cannot be ignored by the non-functioning of the Supreme Court in a proper manner.

You will appreciate that mentioning is a very important activity with regard to the accessibility of the Supreme Court at all times and the said activity has never been denied in the functioning of this Court right from the inception. It is a method by which urgent matters which need immediate attention can be brought to the notice of the Court for immediate remedial action. When I took upon this issue with yourself, I was informed that there are band-width issues for allowing mentioning. I personally feel that any technological shortcoming cannot be an impediment in this vital activity. There are always ways and means to overcome the same. As the CJI court has sat at 12 noon through most of the pandemic, an hour of exclusive sitting for the mentioning could have been provided before the CJI's court from 10:30 am onwards, which is the normal functioning time of the Supreme Court, in which the lawyers/litigants who have matters listed during the day need not be given access and the entire system be used for the purpose of mentioning only. In this way it could easily be ensured that matters which need urgent attention are not made to wait unnecessarily and if required, urgent orders can also be passed during mentioning.

It is also surprising that the AOR examination was deferred by this Court, depriving the young members of the Bar the opportunity to clear the said

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examination in the last year whereas all other examinations were compelled to be held by orders of this Court notwithstanding the pandemic and any effort to defer any examination has always been thwarted by this court.

The young lawyers of this court are the worst sufferers as many of them have taken to alternative professions or even re-located to their home towns to survive in this pandemic as being without work for so long has been traumatic for them. The Supreme Court lawyers are at a disadvantage as they have to appear only by reference from the High Courts and with the online system of working the High Court lawyers appear from outside thus obviating the need for engagement of young lawyers in the Supreme Court. On the contrary Senior Advocates are being engaged all over the country sitting in Delhi which facility is not available to the young members of the Supreme Court Bar.

I would therefore request you to take all necessary safety measures at the earliest for re-opening of the Supreme Court and ensure that the justice delivery comes back to almost the same level as it was prior to the outbreak of the pandemic.

Yours sincerely



(Vikas Singh)

Cc: Hon'ble Mr. Justice N.V. Ramana
Hon'ble Mr. Justice R.F. Nariman
Hon'ble Mr. Justice Uday Umesh Lalit
Hon'ble Mr. Justice A.M. Khanwilkar
Hon'ble Dr. Justice D.Y. Chandrachud
Hon'ble Mr. Justice L. Nageswara Rao
Mr. Sanjeev S. Kalgaonkar, Secretary General, Supreme Court of India
Mr. Jaideep Gupta, Senior Advocate, Chairperson, Election Committee, SCBA
Mr. Harin P. Raval, Senior Advocate, Member, Election Committee, SCBA
Mr. Nakul Dewan, Senior Advocate, Member, Election Committee, SCBA