

SUPREME COURT BAR ASSOCIATION (Regd.)

SUPREME COURT OF INDIA, TILAK MARG, NEW DELHI-110001 (INDIA)

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Ms. Seema Patnaha
Ms. Nandani Gupta

2nd March, 2021

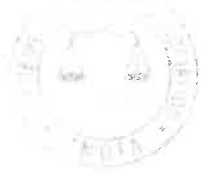
Shri Sharad Arvind Bobde
The Chief Justice of India
Supreme Court of India
New Delhi - 110001

Sub: Resumption of physical hearing in the Supreme Court

Dear Sir,

You will appreciate that hearing in open Court is both the convention and the constitutional requirement in the Supreme Court. An indication of the same can be got by a reading of Article 145 which talks of open hearing. Virtual hearing was only a stop-gap/interim substitute to open hearing only to keep the wheels of justice moving during the pandemic. The virtual hearing adopted by the Supreme Court cannot by any stretch of imagination be equated to open hearing for the following reasons.

- i. The right of the Registry to mute and unmute lawyers at will is completely contrary to the concept of open hearing. There are instances galore where lawyers are not unmuted when their matters are called out or where a matter is adjourned without it being called out and without unmuting the lawyers.
- ii. The quality of voice and video transmission has not been upto the mark resulting in lack of adequate communication between the counsels and the Judges.
- iii. Twice it has happened in my case that I was appearing in a matter which was shown at a particular serial number whereas another matter was called out and obviously I



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was not unmuted and upon a mentioning made by a law officer during the same hearing, my matter was adjourned thus depriving me the opportunity to make submissions. At both occasions I had something urgent to say and wanted some interim directions to be passed.

- iv. There has been no mentioning in the Supreme Court because of the technical glitches in virtual hearing since the pandemic has hit, which has never been barred in the history of this Court. In fact, there has been a practice in this Court for mentioning in the Chief Court which has been completely denied to the Bar and also a practice of mentioning matters before judges in respect of matters which have already been listed before a particular Judge which also has not been permitted in this virtual platform created for the Supreme Court.
- v. In batch matter hearings, invariably all counsels are not unmuted and hence a very many times the counsels are unable to make submissions.
- vi. Even in the platform being used by the Delhi High Court there is no right reserved with the Registry to mute lawyers and the right to mute or unmute is exclusively vested with the counsels appearing in that Court.

The pandemic in the country has been very much in control in the last 6-8 weeks as the positivity rate in the city has hovered around 0.3% during this time. The position in Delhi as on 24.02.2021 as far as Covid bed-occupancy is concerned is that in hospitals, out of 5751 Covid beds only 437 are occupied. In dedicated Covid Care Centre, out of 7392 beds, only 1 bed is occupied and in the dedicated Covid Health Centre, of the 307 beds, all beds are unoccupied. The total active Covid cases in the whole of Delhi as of today is around 1400 persons. Even the Supreme Court on the judicial side has made observations in



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certain cases that the pandemic is on the decline and has greatly diminished while passing orders in relation to holding of examinations and refusing to extend bail for persons who were granted bail earlier due to the pandemic.

Further as per the latest notification issued by the Ministry of Home Affairs even marriage functions upto 200 persons in enclosed spaces has been permitted. Sir, you will appreciate that in a wedding, the attendees take off their masks as there are food and beverages being served, making the said relaxation even more significant. On the other hand, in the Courts, the lawyers and other staff members would definitely wear their masks at all times.

In these circumstances there is no justification to not open the Supreme Court for physical hearing completely. As far as safety is concerned, it can be ensured that the lawyers continue to wear their masks and maintain as much practicably possible social distance so that we are not compromising the safety of the lawyers. Adequate thermal checks can be made at entry point for lawyers and litigants entering the Supreme Court and hand sanitizers can be placed outside each Courtroom. These steps are enough for starting full physical hearing in Supreme Court which is the only way this institution is supposed to function.

As I had mentioned in my earlier letters, the younger members of my Bar are suffering greatly due to the current virtual system coupled with truncated listings, hence now, in view of the fact that we have practically overcome the pandemic, at least in Delhi, there is no justification to continue with the same system and full physical court hearing ought to resume at the earliest in the larger interest of the Bar.

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Looking forward to a positive step in this regard.

Thanking you.

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