

**Court No. - 4**

**Case :-** MATTERS UNDER ARTICLE 227 No. - 7814 of 2021

**Petitioner :-** Raman Gupta And Another

**Respondent :-** Vinod Kumar Gupta

**Counsel for Petitioner :-** Vinayak Mithal, Shruti Taneja

**Hon'ble J.J. Munir, J.**

The Court is convened via video conferencing.

2. Heard Mr. Vinayak Mithal along with Ms. Shruti Taneja, learned Counsel for the petitioners.

3. Perused the report submitted by the Additional District Judge, Court No. 4, Meerut dated 06.01.2022, in compliance with the order dated 03.01.2022. The relevant part of the report is extracted :

पी०ए० अपील संख्या 119/2020 के विलम्बित होने के सम्बन्ध में इस पत्रावली के अवलोकन से प्रकट होता है कि यह विविध अपील दिनांक 24.11.2020 को संस्थित हुई एवं इसमें दिनांक 25.11.2020 को विपक्षी की ओर से आपत्ति दाखिल हुई। दिनांक 21.12.2020 को प्रार्थना पत्र 9 ग अन्तर्गत धारा 23 प्रोविजनल स्मॉल क्रॉस एक्ट एवं प्रार्थना पत्र 10 ग अमीन द्वारा निरीक्षण कराये जाने के आशय से प्रस्तुत किया गया, जिसमें दिनांक 23.11.2020 को प्रत्यर्थी की ओर आपत्ति दाखिल हुई और आपत्ति पर क्रॉस ओब्जेक्शन के लिये समय चाहा गया। दिनांक 24.12.2020 को अपीलार्थी की ओर से स्थगन प्रस्तुत हुआ तथा अपीलार्थी की ओर से प्रार्थना पत्र 17 ग प्रस्तुत किया गया। दिनांक 04.01.2021 को प्रार्थना 9 ग, 10 ग, व 13 ग पर सुनवाई हुई एवं दिनांक 08.01.2021 को उनके सम्बन्ध में आदेश पारित हुआ। दिनांक 14.01.2021 को अपीलार्थी की ओर से स्थगन प्रार्थना पत्र प्रस्तुत हुआ। दिनांक 22.01.2021 को विद्वान अधिवक्तागण न्यायिक कार्य से विरत थे और तत्कालीन पूर्व पीठासीन अधिकारी वार्षिक निरीक्षण में व्यस्त थे। दिनांक 01.02.2021 को अधिवक्तागण श्री एम०पी० गुप्ता का वकालतनामा प्रस्तुत हुआ और समय मांगा गया। दिनांक 10.02.2021 को प्रार्थना पत्र 36 ग अन्तर्गत आदेश 41 नियम 27 सी०पी०सी० प्रस्तुत हुआ। दिनांक 25.02.2021 को तत्कालीन पूर्व पीठासीन अधिकारी निरीक्षण में व्यस्त थे। दिनांक 10.03.2021 को आपत्ति 30 ग दाखिल हुई एवं रिजवोइण्डर के लिये समय चाहा गया। दिनांक 18.03.2021 को पत्रावली अपर जिला एवं सत्र न्यायालय, कक्ष सं० 15 के न्यायालय में स्थानान्तरित हुई।

पूर्व पीठासीन अधिकारी, अपर जिला एवं सत्र न्यायाधीश, कक्ष सं० 15, मेरठ के न्यायालय में दिनांक 12.04.2021 को पक्षकार उपस्थित नहीं थे। दिनांक

19.04.2021 को कोविड-19 के सम्बन्ध में बार के प्रस्ताव के कारण नियमित कार्य नहीं हुआ तत्पश्चात् कोविड-19 के कारण न्यायालय बन्द रहे। दिनांक 28.06.2021 व 08.07.2021 को अधिवक्तागण न्यायिक कार्य से विरत रहे तथा दिनांक 09.07.2021, 20.07.2021, 27.07.2021 व 04.08.2021 को कोविड-19 के कारण बार के प्रस्ताव से न्यायालय में नियमित कार्य नहीं हुआ। दिनांक 10.08.2021 में भी कोई कार्य नहीं हुआ। दिनांक 21.08.2021 को अधिवक्तागण न्यायिक कार्य से विरत रहे। दिनांक 02.09.2021 को प्रार्थना पत्र 26 ग की सुनवाई कर आदेश पारित हुआ। दिनांक 17.09.2021 को पूर्व पीठासीन अधिकारी प्रशासनिक कार्य में व्यस्त थे। दिनांक 01.10.2021 को पूर्व पीठासीन अधिकारी अवकाश पर थे। दिनांक 06.10.2021 को अधिवक्तागण न्यायिक कार्य से विरत रहे। दिनांक 11.10.2021 को पूर्व पीठासीन अधिकारी प्रशिक्षण हेतु न्यायिक प्रशिक्षण एवं अनुसंधान संस्थान, लखनऊ गये थे। दिनांक 19.10.2021 को अधिवक्तागण न्यायिक कार्य से विरत थे। दिनांक 27.10.2021 को पूर्व पीठासीन अधिकारी अवकाश पर थे। दिनांक 11.11.2021 को अधिवक्तागण न्यायिक कार्य से विरत रहे। दिनांक 18.11.2021 व 02.12.2021 को पीठासीन अधिकारी अवकाश पर थे। दिनांक 09.12.2021 को अधिवक्तागण न्यायिक कार्य से विरत रहे। तत्पश्चात् जिला एवं सत्र न्यायाधीश, मेरठ के आदेश दिनांकित 10.12.2021 के द्वारा यह पी०ए० अपील संख्या 119/2020 न्यायालय अपर जिला एवं सत्र न्यायाधीश, कक्ष सं० 15 के न्यायालय से स्थानान्तरित होकर मेरे न्यायालय अपर जिला जज, कक्ष सं० 04, मेरठ में प्राप्त हुई और इसमें दिनांक 03.01.2022 को प्रथम तिथि मेरे न्यायालय में थी।

इस प्रकार मेरे न्यायालय में पी०ए० अपील संख्या 119/2020 स्थानान्तरण द्वारा प्राप्त हुई जिसमें दिनांक 03.01.2022 प्रथम नियत तिथि थी और अभी तक की एकमात्र नियत तिथि थी। इस एक मात्र नियत तिथि दिनांक 03.01.2022 के दिन मेरे न्यायालय में कुल 86 पत्रावलियों तथा 05 जमानत प्रार्थना पत्र सम्बन्धित कार्यवाही हेतु नियत थे, जिसके सम्बन्ध में यह उल्लेख किया जाना समीचीन है कि उपरोक्त 86 पत्रावलियों में से कुछ पत्रावली मेरे न्यायालय में चल रही नियमित पत्रावलियों थी एवं अधिकतर पत्रावलियों अपर जिला एवं सत्र न्यायाधीश, कक्ष सं० 5 के रिक्त होने के कारण वहाँ से स्थानान्तरित होकर प्राप्त हुई। अतः अत्यधिक पत्रावलियों व कार्य की अधिकता के दृष्टिगत अग्रिम नियत तिथियों पर न्यायालय के कार्य को व्यवस्थित एवं विनियमित करने के लिये कार्यवाही की गयी, जिस कारण पी०ए० अपील संख्या 119/2020 में अग्रिम नियत तिथि दिनांक 28.01.2022 नियत हुई। इसके अतिरिक्त दिनांक 03.01.2022 को 02 सिविल अपीलों, 01 आपराधिक पुनरीक्षण में विस्तृत बहस सुनने व 03 जमानत प्रार्थना पत्र की सुनवाई व आदेश पारित करने तथा माननीय उच्च न्यायालय द्वारा निश्चित समयबद्ध सीमा के अन्दर तय किये जाने सम्बन्धी निर्देश वाली एक पत्रावली में कार्यवाही करने के कारण प्रार्थी न्यायिक कार्य में भी व्यस्त रहा। उपरोक्त परिस्थितियों में मेरे न्यायालय में पी०ए० अपील संख्या

119/2020 में एकमात्र नियत दिनांक 03.01.2022 को कोई कार्यवाही नहीं हो सकी और किसी भी पक्षकार द्वारा सुनवाई हेतु बल भी नहीं दिया गया। अतः मेरे स्तर पर किसी भी प्रकार के विलम्ब के लिये प्रार्थी, क्षमाप्रार्थी है।

4. A reading of this report leaves this Court utterly dissatisfied with the manner in which this appeal has been conducted before the various Presiding Officers in whose Court it has been assigned or taken up. The report shows that like many civil causes, this appeal, which arises from summary proceedings under Section 21(1)(a) of the Act, has become the victim of typical casual handling of civil causes. It must also be observed that proceedings during the year 2020 show delay occasioned on account of a very typical cause, and that is interlocutory motions to delay decision of the appeal. While interlocutory motions cannot be prohibited, it is the duty of the Court to dispose them of as soon as they are made, or as soon as they can be decided. This dispatch is not evident from the course of events that the report submitted by the learned Additional Judge recounts. The year 2021 shows a different complexion of events contributing to the delay. The case has been adjourned frequently on account of strike resolutions by the Members of the Bar or resolutions asking Members of the Bar to abstain from judicial work. In this connection, reference may be made to the decision of the Supreme Court in **District Bar Association, Dehradun through its Secretary v. Ishwar Shandilya and others**<sup>1</sup>. The relevant part of the directions of their Lordships in **District Bar Association, Dehradun v. Ishwar Shandilya** (*supra*) are extracted :

"14. In spite of the law laid down by this Court in the aforesaid decisions, this Court time and again deprecated the lawyers to go on strikes, the strikes were continued unabated. Even in the present case, the advocates have been boycotting the courts on all Saturdays, in the entire district of Dehradun, in several parts of the district of Haridwar and Udham Singh Nagar district of the State of Uttaranchal. Because of such strikes, the ultimate sufferers are the litigants. From the data mentioned in the impugned judgment and order, things are very shocking. Every month on 3-4 Saturdays, the Advocates are on strike and abstain from working, on one pretext or the other. If the lawyers would have worked on those days, it would

have been in the larger interest and it would have achieved the ultimate goal of speedy justice, which is now recognized as a fundamental right under Articles 14 and 21 of the Constitution. It would have helped in early disposal of the criminal trials and therefore it would have been in the interest of those who are languishing in the jail and waiting for their trial to conclude. When the Institution is facing a serious problem of arrears and delay in disposal of cases, how the Institution as a whole can afford such four days strike in a month.

15. Now, so far as the submission on behalf of the petitioner that to go on strike/boycott courts is a fundamental right of Freedom of Speech and Expression under Article 19(1)(a) of the Constitution and it is a mode of peaceful representation to express the grievances by the lawyers' community is concerned, such a right to freedom of speech cannot be exercised at the cost of the litigants and/or at the cost of the Justice Delivery System as a whole. To go on strike/boycott courts cannot be justified under the guise of the right to freedom of speech and expression under Article 19(1)(a) of the Constitution. Nobody has the right to go on strike/boycott courts. Even, such a right, if any, cannot affect the rights of others and more particularly, the right of Speedy Justice guaranteed under Articles 14 and 21 of the Constitution. In any case, all the aforesaid submissions are already considered by this Court earlier and more particularly in the decisions referred to hereinabove. Therefore, boycotting courts on every Saturday in the entire District of Dehradun, in several districts of Haridwar and Udham Singh Nagar district in the State of Uttarakhand is not justifiable at all and as such it tantamounts to contempt of the courts, as observed by this Court in the aforesaid decisions. Therefore, the High Court is absolutely justified in issuing the impugned directions. We are in complete agreement with the view expressed by the High Court and the ultimate conclusion and the directions issued by the High Court. Therefore, the present Special Leave Petition deserves to be dismissed and is accordingly dismissed. We further direct all concerned and the concerned District Bar Associations to comply with the directions issued by the High Court impugned in the present SLP in its true spirit. It is directed that if it is found that there is any breach of any of the directions issued by the High Court in the impugned judgment and order, a serious view shall be taken and the consequences shall follow, including the punishment under the Contempt of Courts Act.

16. As observed hereinabove, in spite of the decisions of this Court in the cases of Ex-Capt Harish Uppal (supra), Common Cause, A Registered Society (supra) and Krishnakant Namrakar (supra) and despite the warnings by the courts time and again, still, in some of the courts, the lawyers go on strikes/are on strikes. It appears that despite the strong words used by this Court in the aforesaid decisions, criticizing the conduct on the part of the lawyers to go on strikes, it appears that the message has not reached. Even despite the resolution of the Bar Council of India dated 29.09.2002, thereafter, no further concrete steps are taken even by the Bar Council of India and/or other Bar Councils of the States. A day has now come for the Bar

Council of India and the Bar Councils of the States to step in and to take concrete steps. It is the duty of the Bar Councils to ensure that there is no unprofessional and unbecoming conduct by any lawyer. As observed by this Court in the case of Ex-Capt. Harish Uppal (supra), the Bar Council of India is enjoined with a duty of laying down the standards of professional conduct and etiquette for Advocates. It is further observed that this would mean that the Bar Council of India ensures that advocates do not behave in an unprofessional and unbecoming manner. Section 48 of the Advocates Act gives a right to the Bar Council of India to give directions to the State Bar Councils. It is further observed that the Bar Associations may be separate bodies but all advocates who are members of such associations are under disciplinary jurisdiction of the Bar Councils and thus the Bar Councils can always control their conduct. Therefore, taking a serious note of the fact that despite the aforesaid decisions of this Court, still the lawyers/Bar Associations go on strikes, we take suo moto cognizance and issue notices to the Bar Council of India and all the State Bar Councils to suggest the further course of action and to give concrete suggestions to deal with the problem of strikes/abstaining the work by the lawyers. The Notices may be made returnable within six weeks from today. The Registry is directed to issue the notices to the Bar Council of India and all the State Bar Councils accordingly."

5. Thus, any adjournment of the case on account of strike by Members of the Bar or their abstinence from judicial work is absolutely illegal. The Members of Bar have no business to hold up the functioning of the Court, and if they do, orders are to be made in accordance with law. It further appears that during the year 2021, the case was adjourned on a few dates on account of the Presiding Officer being busy with administrative work. This, again, is absolutely unacceptable. A Judge's first duty and commitment is to do judicial work, and he cannot forsake it for his administrative obligations. Some adjournments have been occasioned by the Presiding Officer staying on leave. In a hard-pressed situation, where dockets in Courts are over-flooded and litigants suffering, leave by Presiding Officers is to be eschewed and not availed, merely because it is available in the leave account. There is a higher responsibility placed on the shoulders of Judicial Officers, and Presiding Officers concerned must stay alive to that obligation. All the events have happened in the Court of Presiding Officers prior to the current incumbent, in whose Court the case appears to have been transferred under orders of the District Judge dated

10.12.2021. Here, the case has been adjourned and fixed for 28.01.2022. Now, there is again an upsurge in the CoViD-19 infection, where the normal functioning of Courts will logically be impacted.

6. In the circumstances, the learned District Judge will make a further report, within a week, about the modality currently available to hear civil cases, given the CoViD-19 proliferation. In the making of that report, the learned District Judge will bear in mind that merely because normal functioning of Courts is affected, it does not mean that the Courts will not or ought not to function at all. It is only that modalities of functioning would change for some time, that the upsurge in the CoViD-19 infections is there. The District Judge will make a report about the manner in which this appeal may be heard expeditiously, by the next date fixed.

7. List this matter again on **19.01.2022**, along with the District Judge's report, as directed.

8. Let this order be communicated to the District Judge, Meerut by the Registrar (Compliance), **within next 24 hours**.

**Order Date :-** 10.1.2022

I. Batabyal

(J.J. Munir, J.)