

**IN THE HIGH COURT OF MADHYA PRADESH**

**BENCH AT GWALIOR**

**DATED:27/3/2023:**

Today also the lawyers are abstaining from appearing before the Court on, yet another call given by the Madhya Pradesh State Bar Council.

2. The strike has been going on since the 23<sup>rd</sup> of March, 2023 on an issue that could have been resolved on the basis of consultation with the Chief Justice of Madhya Pradesh. On 24/03/2023, a Division Bench headed by Hon'ble the Chief Justice and Hon'ble Justice Vishal Mishra passed an elaborate order in **W.P. No. 7295/2023 (In reference [Suo Moto] Vs. Chairman, State Bar Council of M.P & Ors.)**. In paragraph 4, the Ld. DB referred to the lack of support from the Bar Council of India and also referred to its direction in the letter dated 23/03/23 which asked the State Bar Council to withdraw the call for abstinence from work. However, despite the said letter of the BCI, the Chairman and members of the State Bar Council have enforced the call for strike.
3. In paragraph 9 of the aforementioned order, the Ld. DB has copiously referred to paragraph 19, 20 and 21 of the judgement passed by this Court in **Writ Petition No. 8078**

**of 2018 (Praveen Pandey Vs. State Bar Council of Madhya Pradesh)** wherein this Court had held that the State Bar Council had no authority to prevent or compel an Advocate to abstain from work even for a single day and declared the call by the State Bar Council to abstain from work as “Illegal, unconstitutional and against the statutory provisions as well as contrary to the judgements of the Supreme Court”.

4. The Ld. DB also referred to paragraph 35 of the Judgement passed by the Supreme Court in **Ex-Capt. Harish Uppal Vs, Union of India – (2003) 2 SCC 45**, which held that “.....lawyers have no right to go on strike or give a call for boycott, not even on a token strike”. In a situation such as the present one where the call for strike has been given by the State Bar Council, the Supreme Court held that “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”.
5. Today i.e., 27/03/23, the strike called by the Chairman and the elected members of the State Bar Council in brazen defiance of the order passed by the Division Bench in

W.P.No. 7295/2023 on 24/3/2023 which *inter alia* required lawyers to resume their work. The issue against which the Bar Council has called for the strike has been dealt with in paragraph 2 and 3 of the said order. The Chief Justice on his part had called for the suggestion of the Ld. Members of the Bar but instead, the Chairman and the elected members of the State Bar Council have, by their intransigence, unnecessarily precipitated the matter by declaring strike. The State Bar Council, instead of resolving the issue in consultation with the Chief Justice and knowing fully well that has the option to challenge on the judicial side, the administrative order passed by the Hon'ble the Chief Justice, chose the path of confrontation without justifiable cause and attempted to bring the functioning of the entire High Court and the District Judiciary to a standstill.

6. The plight of the Bar, specially the Junior Bar is well known and they find themselves in a “between the devil and the deep sea” situation are helplessness to go against the illegal diktat of the State Bar Council and are compelled to abstain from work despite their unwillingness, and are equal victims of the capricious action of the State Bar Council as the litigants are.

7. The action on the part of the Chairman of the Madhya Pradesh State Bar Council and its elected Members amounts to Criminal Contempt as defined under Section 2(c)(ii) or (iii). **Therefore, the Registry is directed to register a contempt case (criminal) against the Chairman of the State Bar Council and every elected member of the State Bar Council and issue notice to them as to why this Court ought not to prosecute them for criminal contempt of court on account of them having compelled the lawyers to abstain from judicial work which is interfering and obstructing the administration of justice in the State.**
8. Any attempt by any person in restraining a counsel to appear before the Court shall also render them liable to be tried for an offence under Section 341 of IPC.
9. As counsels are not appearing on account of the strike, list this case, on a date after 21/8/2023, without the right of early hearing/mentioning.

**(Atul Sreedharan)**  
**Judge**