

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

WP No. 7295 of 2023

(IN REFERENCE (SUO MOTO) Vs THE CHAIRMAN AND OTHERS)

Dated : 02-11-2023

Shri Vikas Upadhyay and Shri Satyam Agrawal - Advocates for respondent Nos.1,3,4 and 6 to 236.

Shri Sanjay Verma - Advocate for respondent No.2.

Shri Anil Khare and Shri Manoj Sharma - Senior Advocates with Shri Priyank Agrawal - Advocate for respondent No.5.

Shri Yogesh Singh Baghel - Advocate for respondent Nos.23 & 24.

Shri Udayan Tiwari - Advocate for respondent No.237.

Shri Prem Singh Bhadoriya, Chairman of the Madhya Pradesh State Bar Council is present. He has made submissions. He submits that he may be granted leave to withdraw the counter affidavit filed vide document No.14653 of 2023 by him on his behalf and also on behalf of respondent Nos. 3, 4 and 6 to 236.

2. Consequently, the order dated 01.11.2023 accepting the said affidavit is recalled. At his request, the counter affidavit is also dismissed as withdrawn.

3. The respondent No.2, who is the President of Madhya Pradesh High Court Bar Association, Jabalpur has filed his affidavit dated 15.10.2023, which reads as follows :

“1. The respondent number 2, who is the President of the Madhya Pradesh High Court Bar Association, Jabalpur, has received a notice in WP number 7295 of 2023.

2. *This honorable court initiated a suo moto Public Interest Litigation on March 24, 2023, against the Chairman of the State Bar Council and all Presidents of bar associations throughout Madhya Pradesh. The court directed the resumption of work.*
3. *The Chairman of the State Bar Council of Madhya Pradesh issued a letter dated March 20, 2023, addressed to the Hon'ble Chief Justice. In the letter, he stated that unless the scheme related to the disposal of 25 identified cases every quarter is not withdrawn by March 22, 2023, they would take the issue seriously.*
4. *The State Bar Council of Madhya Pradesh issued a call to advocates across Madhya Pradesh to abstain from work from March 23, 2023.*
5. *In the present matter, this honorable court laid out the entire sequence of events and directed all advocates in Madhya Pradesh, as well as the Presidents of all bar associations, including the Chairman of the State Bar Council of Madhya Pradesh, to resume work henceforth, effectively revoking the prior call for abstaining from work.*
6. *The State Bar Council, through its general body, issued a subsequent call for abstaining from work from March 27, 2023, directing advocates and bar associations to follow this call. As the State Bar Council of Madhya Pradesh is the governing body, all advocates are bound to follow its directions.*
7. *The respondent number 2 humbly submits that advocates are bound to follow the directions of this Hon'ble court and the Hon'ble Apex Court of India. The Bar Council of Madhya Pradesh, along with its Chairman, issued*

directions regarding the abstain from work after the order of this honorable court. The directions, as well as subsequent notifications, state that the Bar Council will be responsible for all consequences. Copies of the subsequent notices are annexed as R1/1 and R1/2.

8. *The advocates of Madhya Pradesh are well-known, and they find themselves in a difficult situation. Although they are willing to follow the judicial order, they are compelled to abstain from work because the General Body of the State Bar Council of Madhya Pradesh has resolved to continue abstaining from work, and the Chairman has shared a video on social media.*
9. *The Madhya Pradesh High Court Bar Association Jabalpur, as well as all bar associations, are governed by the statutory body under the Advocates Act. All practicing advocates in Madhya Pradesh are enrolled under the Advocates Act, and they are bound by all directions and guidelines issued by the State Bar Council of Madhya Pradesh. The State Bar Council of Madhya Pradesh has initiated various welfare schemes for advocates and their families. If they do not follow the State Bar Council's directions, they risk losing all the benefits provided under the welfare schemes. Therefore, advocates have no choice but to heed the calls of the State Bar Council of Madhya Pradesh.*
10. *The responding respondent humbly submits that their intention is not to disobey the order. They had no alternative. Furthermore, the Chairman of the Bar Council of Madhya Pradesh, namely Mr. Prem Singh Bhadauria, shared a video on social media stating that advocates would abstain from work, and this message reached the majority of advocates in Madhya Pradesh.*

11. *The responding respondent submits that starting on March 27, all benches of the Hon'ble High Court of Madhya Pradesh initiated contempt proceedings against advocates who did not appear in proceedings. Contempt proceedings have also been initiated against advocates in Madhya Pradesh.*
12. *As the President, I tender an unconditional apology on behalf of all advocates in Madhya Pradesh because we have unintentionally violated the directions and orders of this hon'ble court under the compulsion of the State Bar Council's call and its General Body's decision. It is my humble request to this Hon'ble court to kindly drop all pending contempt proceedings stemming from the order of this hon'ble court dated March 24, 2023.*
13. *As the President of the High Court Bar Association Jabalpur, I am willing to take full responsibility if this Hon'ble court believes that we have committed contempt.*
14. *The responding respondent once again implores this Hon'ble court to consider dropping all contempt proceedings against individual advocates who did not appear due to the State Bar Council's directions.*
15. *An affidavit in support of this reply is filed herewith.*

PRAYER

It is, therefore, prayed that this Hon'ble court kindly drop all pending contempt proceedings arising from the order of this Hon'ble Court dated March 24, 2023."

4. The respondent No.5, who is the President of High Court Advocates Bar Association, Jabalpur has also filed a reply dated 28.10.2023, which reads as follows:

- “1. *By order dated 24.03.2023 passed in the above referred matter suo motu public interest litigation was initiated as a result of the communication by the Chairman of the State Bar Council, asking the entire lawyer community in the State of Madhya Pradesh to abstain from court work with effect from 23.03.2023. The entire sequence of events has been unfolded in the said order dated 24.03.2023. After considering the circumstances enumerated therein, various directions were issued by this Hon’ble court.*
2. *At the outset it is respectfully submitted that, the answering respondent and the members of the respondent No.5 association are committed to the rule of law and to protect the dignity and decorum of this Hon’ble Court or any other court. The answering respondent as well as the members of the association would never intend to disobey any of the order or direction passed by this Hon’ble Court or by any other court.*
3. *It is submitted that the call for abstaining from work was given by State Bar Council of Madhya Pradesh and the same was communicated and it was in these circumstances that the lawyers were put in a difficult situation. It is submitted that the Bar Council subsequently took up the responsibility of defending the various notices of contempt issued to the individual lawyers of all the associations. Copy of such letters and communications have already been filed as Annexures R-1 and R-2, with the reply of respondent no.2.*
4. *The answering respondent and the members of the association were under an obligation to comply with the orders passed by this Hon’ble Court. However, since the State Bar Council had given a call and had resolved to continue by abstaining from work, the lawyers within the state were put in a difficult situation.*

5. *It is submitted that the advocates within the state of Madhya Pradesh are governed by the statutory body under the Advocates Act. All practicing advocates in Madhya Pradesh are enrolled under the Advocates Act, and they are bound by all directions and guidelines issued by the State Bar Council of Madhya Pradesh. The State Bar Council of Madhya Pradesh has initiated various welfare schemes for advocates and their families. If they do not follow the State Bar Council's directions, they risk losing all the benefits provided under the welfare schemes. The advocates therefore had no choice but to abide by the calls of the State Bar Council of Madhya Pradesh.*
6. *It is submitted that the members of the association were apprehensive that they may not lose the benefits, extended by the bar council, it was under these circumstances that the respondent went with the call of the bar council. The intention was not to disobey or to flout the orders of this Hon'ble Court.*
7. *As the president of the respondent no.5 association, I tender an unconditional apology on behalf of the members of the respondent No.5 association. The act was because of the call given by the State Bar Council.*
8. *It is most respectfully submitted that proceedings of contempt have been intimated against the individual lawyers/members who did not appear after passing of the order dated 24.03.2023, in their respective cases.*
9. *The said proceedings may kindly be dropped so as to secure their future.*
10. *The respondent no.5, being the President of the Advocates' Bar Association, takes the responsibility, in case this Hon'ble Court deems that any contempt has been committed.*

11. *At the cost of repetition, the respondent No.5 once again tenders an unconditional apology and submits that the notice issued against it, may kindly be dropped.*

An affidavit of the President of the High Court Advocates' Bar Association, Jabalpur is being filed herewith."

5. The Chairman of the Bar Council has already filed a reply to the main petition. Today, he submits that he tenders his apology and submits that in his best judgment the mode adopted by him in calling for the strike was justified. Therefore, he submits that he being the Chairman of the State Bar Council was under a duty to deal with the situation and therefore, the call for the strike was imminent. Notwithstanding his plea regarding the main petition, he submits that so far as the instant affidavits filed by the President of Madhya Pradesh High Court Bar Association, Jabalpur and President of High Court Advocates Bar Association, Jabalpur are concerned, he submits that they may be accepted.

6. Heard learned counsels.

7. In terms of the various orders passed by the Benches at Jabalpur, Gwalior and Indore, show cause notices were issued to some of the individual lawyers to show cause as to why proceedings for contempt should not be initiated. In other cases proceedings for contempt were directly initiated by separate contempt petitions and in certain cases contempt notices were issued to the Chairman of the Bar Council, the Members of the State Bar Council and the office bearers.

8. By the order of this court dated 12.09.2023 all the petitions before the Benches at Indore and Gwalior were directed to be listed before this Court for consideration together.

9. A note has been prepared by the Registry indicating 2624 contempt petitions were registered against the advocates vide Annexure-A. That 1938 show cause notices were issued to the advocates in terms of Annexure-B. That a list of 176 criminal contempt cases have been registered against the office bearers of the Bar Associations and Bar Council in terms of Annexure-C. Presently, we are concerned with the applications and affidavits that have been filed by the High Court Bar Association, Jabalpur and the High Court Advocates' Bar Association, Jabalpur. The consideration of these petitions with reference to the Chairman and Members of the State Bar Council and the President of the various Bar Associations will be made at a later stage.

10. In the affidavit filed by the High Court Bar Association, Jabalpur it is stated that as the State Bar Council of Madhya Pradesh is the governing body, all the advocates are bound to follow the directions so issued by the Bar Council. Specific directions were issued by the Chairman directing them to abstain from court work. Under these circumstances, they were compelled to abstain from court work. Furthermore, in case the advocates did not follow the directions of the State Bar Council, they would run the risk of losing certain benefits as provided under the welfare schemes of the State Bar Council. This would directly affect their livelihood.

Furthermore, a video was shared by the Chairman of the State Bar Council stating that all the advocates should abstain from court work. It is further stated that they had no intention at all to disobey any judicial order. That it is only for the aforesaid reason that they were compelled to abstain from court work. Therefore, as a President of the High Court Bar Association, Jabalpur an unconditional apology has been furnished. That the President of the High Court Bar Association is willing to take full responsibility in case this Court were to come to the conclusion that a contempt has been committed. Therefore, it is pleaded that the proceedings for contempt against the individual lawyers may be dropped.

11. In the affidavit filed by the President, High Court Bar Association, Jabalpur, it is indicated that the call for abstaining from court work was issued by the State Bar Council and therefore, the lawyers were put in a difficult situation. That the Bar Council subsequently took upon the responsibility of defending the contempt proceedings on behalf of all the lawyers. That since they were under an obligation to comply with the order passed by this Court on the one hand and a call was given by the State Bar Council to abstain from court work on the other hand, the lawyers in the State were put in a difficult situation. That, they are bound by the directions and guidelines issued by the State Bar Council of Madhya Pradesh. That they would lose certain benefits provided by the State Bar Council in case the guidelines were not followed. Therefore, the advocates had no choice but to abide by the call of the State Bar Council.

12. Under these circumstances, an unconditional apology has been filed on behalf of the members of the respondent No.5 Association. That, the President of the High Court Advocates Bar Association takes responsibility in case this court were to come to the view that a contempt has been committed. Therefore, while furnishing the apology it is pleaded that the proceedings for contempt be dropped against the individual lawyers.

13. So far as merits are concerned, the material on record would indicate that the advocates abstained from work commencing from 23.03.2023. The courts passed orders on 23rd and 24th March, 2023 keeping in mind the absence of the lawyers. However, this Court passed a detailed order on 24.03.2023 by issuing various directions with regard to the advocates appearing in the courts. It was also mentioned that in case of disobedience, strict view would be taken. The details can be found in the relevant order of this Court dated 24.03.2023. However, even on 25.03.2023 the advocates did not appear notwithstanding the judicial orders passed on 24.03.2023. This Court by its order dated 27.03.2023 came to the view that even though a judicial order was passed on 24.03.2023 directing the advocates to appear in the courts, there may be a possibility that the order may not have been in the knowledge of each and every lawyer. Therefore, notwithstanding the directions issued on 24.03.2023, no action was taken on 25.03.2023 with the hope that the order dated 24.03.2023 would be complied with. Notwithstanding the same, the lawyers continued to abstain from work on 27th and 28th March,

2023. Under these circumstances, show cause notices for contempt in certain cases and institution of proceedings for contempt in other cases were initiated on 27.03.2023. The same was also done for an additional reason that the Bar Council of India has issued a direction to the State Bar Council to recall the abstaining from work which the State Bar Council disobeyed. In the totality of the circumstances, it is quite evident that the directions issued by this Court on 24.03.2023 have been grossly violated. In spite of the judicial orders being passed, the advocates refrained from attending the courts. There cannot be an excuse for the same. Therefore, keeping in mind the judicial order passed on 24.03.2023 and the continued absence of the advocates from 27.03.2023 onwards, it is a fit case where proceedings for contempt require to be proceeded.

14. The dignity and decorum of the court including complying with the judicial orders of the court requires to be maintained and upheld by the advocates. The advocates being officers of the court are duty bound to protect the dignity and decorum of the court. If a judicial order is disobeyed by an advocate, it affects the faith and trust between the Bar and the Bench. Such acts of disobedience affect the very fabric of the institution. The Bar and Bench have always been considered as partners in the dispensation of justice. However, when either one of them fails what suffers is justice, dignity of the court etc. An act of protest by one against the other damages the institution. The relationship between the Bar and the Bench and their mutual trust gets vastly damaged. It is for this

reason that the Bar and the Bench must have mutual respect for one another. Acts such as these are fatal. Any act which damages the institution can never be pardoned.

15. We have considered the affidavits filed by respondent No.2 and respondent No.5. On considering the same it would appear that there was no deliberate intention to disobey the judicial order. That they were in a quandary with regard to abstaining from court work due to the call given by the Chairman of the State Bar Council. Not only was a call given but there were various posts in the social media compelling the advocates to abstain from court work. It would appear that there is an error of judgment committed by the individual lawyers in abstaining from court work. It is needless to state that an order of the court would supersede any order or direction issued by the Chairman of the State Bar Council or by any office bearer of any Association. An individual lawyer cannot state that the demand of the Bar Council requires to be complied with and not a judicial order. However, we also find from the affidavit that the advocates have realized the blunder committed by them. They reiterate the position that the Court order requires to be complied with under any circumstances whatsoever even in the face of the direction issued by the Chairman of the Bar Council or any other authority.

16. In a proceeding for contempt, one of the factors to be considered is whether there was any deliberate disobedience and whether the accused have intentionally disobeyed an order of the court. Reading of the affidavit does not indicate any deliberate

disobedience. It would indicate the fickleness in the mind of the advocates with regard to the compliance of the court order vis-à-vis the direction issued by the Bar Council. Since the advocates have now realized the futility in complying with the direction of the State Bar Council vis-à-vis a judicial order, we do not find that there is any deliberate disobedience of the court order dated 24.03.2023.

17. Furthermore, the question with regard to initiation of the proceedings against the Chairman of the State Bar Council, Members of the State Bar Council, the President and the office bearers of the Associations, are matters that would be decided at a later stage. Therefore, keeping in mind the dignity and decorum of the court and our conclusion that there is no deliberate disobedience of the court order dated 24.03.2023, we are of the considered view that the proceedings for contempt should be dropped. The statements made by the deponents in the affidavits with regard to they accepting the guilt of disobeying the court order, would be considered at a later stage. Therefore, for the present, in view of our finding that there is no deliberate disobedience by the individual lawyers, we deem it just and necessary to drop the proceedings against the individual lawyers.

18. As a consequence whereof, 2624 contempt petitions registered against the individual advocates vide Annexure-A and 1938 show cause notices issued to the advocates in terms of Annexure-B are dropped. All contempt proceedings shall remain closed. The 176 criminal contempt proceedings against the office bearers of the

Association and Bar Council in terms of Annexure–C would be considered at a later stage.

19. We also wish to clarify that in view of the peculiar circumstances involved it shall not be construed that any case for contempt has been registered against any one of the individual advocate. It should be read that no case has been registered against any advocate. We wish to explain this by stating that in a given case where an application is made for any position which contains a column as to whether any court case etc. has been registered against the advocate, the concerned advocate would be entitled to state “No”. Therefore it has to be understood that no case has been registered against any advocate as mentioned in Annexures A and B.

20. We also wish to place on record the sincere efforts made by Shri Sanjay Verma and Shri Paritosh Trivedi, the President and Secretary respectively of the High Court Bar Association and so also the efforts made by Shri Anil Khare, the President of the High Court Advocates Bar Association, Jabalpur. They have put their position at a risk while filing such affidavits. In the affidavit they have stated that they are willing to face the contempt proceedings in case the Court would order so. There is every possibility of this Court taking a view against their interest. Notwithstanding the same they have put the interest of the individual lawyers ahead of the respective positions they hold. The exemplary act as displayed in taking the contempt proceedings onto themselves while making an attempt to help the lawyers requires to be noted.

21. The Registry is directed to retain a copy of this order in each file. The contempt petitions vide Annexure-A disposed off by this order be consigned to the record of the concerned Benches. The main matters vide Annexure-B to be dealt with on merits before the concerned Benches as per roster.

22. Call after four weeks to hear on criminal contempt proceedings in terms of Annexure-C

(RAVI MALIMATH)
CHIEF JUSTICE

(VISHAL MISHRA)
JUDGE