

PETITIONER:
COMMON CAUSE, A REGD SOCIETY

Vs.

RESPONDENT:
UNION OF INDIA

DATE OF JUDGMENT 11/01/1994

BENCH:
AHMADI, A.M. (J)
BENCH:
AHMADI, A.M. (J)
PUNCHHI, M.M.
SINGH N.P. (J)

CITATION:
1994 SCC (5) 557

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. This petition, brought under Article 32 of the Constitution, raise vital issues in regard to the duties and obligations of the members of the legal profession relating to the judicial system in general and the litigating public in particular and seeks the Court's intervention to arrest the harm allegedly caused to the image and dignity of the judiciary and the interest of the litigants on account of the members of the Bar proceeding on strike from time to time in different parts of the country. The petitioner contends that the lawyers constitute the intelligentsia of the country and their striking court work on one pretext or the other, sometimes on trivial matters, thereby paralysing the judicial system results in untold misery to the litigants both in terms of avoidable harassment and expenses. By striking work, contends the petitioner, lawyers fail in their professional duty to appear and conduct cases

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for which they are engaged and paid and thereby interfere with the course of justice. Since litigants have a fundamental right to speedy justice as observed in Hussainara Khatoon v. Home Secy., State of Bihar it is essential that cases must proceed when they appear on board and should not ordinarily be adjourned on account of the absence of the lawyers unless there are cogent reasons to do so. If cases get adjourned time and again due to cessation of work by lawyers it will in the end result in erosion of faith in the justice delivery system which will harm the image and dignity of the Court as well. On this refrain the petitioner has sought certain directives from this Court as enumerated in paragraph 15 of the petition. These include laying down of guidelines, standards of professional conduct and permitting non-lawyers to appear as provided by Section 32 of the Advocates Act, 1961.

2. Besides the Union of India and the Attorney General of India, the Bar Council of India and the Bar Association of Delhi, New Delhi and the High Court of Delhi as well as the Bar Association of India are made parties to the petition. However, since the malaise of strikes is spread all over the country and is more pronounced in the subordinate courts; it was thought desirable to issue a public notice in the nature of a notice under Order 1 Rule 8, Civil Procedure Code, so that the opinion of a cross-section of the members of the profession would be available. That would also make this petition representative in character and any order made therein should be binding on all concerned. Since the Bar Association of India is already a party it would ordinarily have sufficed but Mr Nariman fairly stated that it is desirable that every Bar Association should have notice of the present proceedings before further action is taken. Of course the carriage of proceedings will have to be in the hands of a few only as will be determined by the Court hereafter.

3. In view of the above we direct a public notice in the nature of one under Order 1 Rule 8, CPC to issue intimating all concerned and in particular the Bar Associations and State Bar Councils all over the country of the pendency of the present petition. Copies of the notice will be sent to the Registrars of all High Courts to place them on their notice-boards for the information of the members of the Bar. Response, if any, to the petition should be forwarded to the Registrar (Judicial) of this Court through the President of the High Court Bar Association who will collect and collate the same and forward the same with a short synopsis of the points raised. This should be done not later than ten weeks from the date of publication of the notice in the Press. Notices may be printed in English newspapers with circulation all over India as may be determined by the Registrar-General of this Court. The expense for the notice will be borne by the Supreme Court Registry.

4. Let the matter be called on three weeks after the period of ten weeks allowed earlier has elapsed.

1 (1980) 1 SCC 81 : 1980 SCC (Cri) 23 : AIR 1979 SC 1360
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5. Copies of notices may also be given to counsel who have entered appearance, if demanded. Court Masters