

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P. (Civil) No. of 2019

IN THE MATTER OF A PUBLIC INTEREST LITIGATION

IN THE MATTER OF:

Amish Aggarwala Petitioner

Versus

Registrar General,

Delhi High Court Respondent

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Note: Vakalatnama not required since Petition filed by Party in Person

FILED BY:

NEW DELHI

.09.2019

(AMISH AGGARWALA)

PARTY IN PERSON

Ch. 464, Delhi High Court, 9953401701

SYNOPSIS / LIST OF DATES AND EVENTS:-

The Petitioner has in his few years of practice observed that Advocates, litigants and witnesses suffer extreme hardships due to mismanagement in court affairs.

One prime hardship is that parties are not given sufficient notice of leave obtained by a Ld. Judicial Officer.

The Petitioner has on the contrary observed that Hon'ble Judges of this Hon'ble Court inform the Registry well in advance, and consequently when the Final Causelist is uploaded for the next day, Advocates, litigants and other individuals are well informed if a Ld. Judge is on leave.

This Petition merely seeks that courts of Delhi Judicial Service merely follow the footsteps of this Hon'ble Court and timely notice of Ld. Officers' leave may be intimated to the public.

Hence this Petition.

3. Class of Persons for whose benefit PIL filed: The Petitioner through the present Petition seeks relief for the approximately 30,000 Advocates enrolled with the BCD, for the lakhs of litigants they represent, and for the thousands of members of the public who appear as witnesses on any given day before the Ld. Courts. The above members of the public suffer silently, among other shortcomings of the judicial system, the present narrated grievance. Litigants and witnesses suffer on account of ignorance, and even otherwise would dare not complain, for fear of adverse consequences. Advocates themselves privately lament this situation but do not approach the Court to address this grievance for fear of displeasing Ld. Judicial Officers.
4. Affected/Impleaded Respondents: Directions are sought from this Hon'ble Court to mandate certain changes in functioning of Delhi District Courts. Hence the Registrar General of this Hon'ble Court is the proper and necessary party to give effect to the directions sought in the present Petition. The Petitioner also certifies that no other individual or institution is likely to be affected by this Petition.
5. Background of Petitioner: The Petitioner is an Advocate enrolled with the BCD since 2013. The Petitioner appears regularly before all Courts and Tribunals in Delhi. The Petitioner has consistently observed the various shortcomings of the judicial system which cause extreme hardship to litigants, Advocates and witnesses, including the present grievance. Therefore the Petitioner is competent to file the present PIL.
6. Representation to Respondent: An Representation was filed on 6.9.2019 (Annexure-B) by the Petitioner but no response has been received yet.
7. Every day in the 250 days that Courts in Delhi assemble, thousands of litigants leave their work, their homes, their children, and travel long distances to attend court proceedings. Some appear on Court mandate, some just wish to attend Court and observe their proceedings. Thousands of Advocates, briefed by the said litigants, prepare their case briefs, spending hours on each

brief. Many of them sacrifice sleep, meals and peace of mind to ensure that they reach court in time and with good preparation. Thousands of witnesses, summoned by Courts, also travel from all across the country to fulfill their obligations to testify before the Ld. Courts. Most of these individuals check the Judges on Leave section of the official website of the Delhi District Courts, and confirm that the concerned Judicial Officer's name does not feature on the said list for that particular day.

The above members of the public travel through arduous means of transportation, spend hours in commute, only to find, among other obstacles of the system, that the Ld. Judicial Officer is on leave.

A few hours later, but certainly not before 11 a.m., if the Judges on Leave section is checked again, the name of the Ld. Judicial Officer then appears on the list.

On several occasions, the Judges on Leave list mentions remarks such as "Training at DJA", "Jail visit", etc. These are other occasions when a Ld. Judicial Officer has to absent himself from presiding over Court. However, the aggrieved parties resign themselves to adjournments granted by the Court staff.

On several occasions, the Judges on Leave list mentions the remark "half day leave" or "short leave". On these days, the Court of the said Ld. Judge assembles at later times of the day. This is also not informed to the aggrieved parties, who wait hours for the Ld. Judge.

8. On the contrary, Hon'ble Judges of this Hon'ble Court inform the Registry well in advance, and consequently when the Final Causelist is uploaded for the next day, Advocates, litigants and other individuals are well informed if an Hon'ble Judge is on leave.
9. The Petitioner, highlighting the above facts, prays for appropriate directions on the following

GROUND

- A. Litigants: The Hon'ble Supreme Court in the case of Ex-Capt. Harish Uppal v. UOI and Ors. (2003) 2 SCC 45, discussed

rights of litigants to a speedy trial as a fundamental right under Article 21. It is submitted that right to timely notice of leave by Ld. Judicial Officers is an integral part of such fundamental right of fair trial of a litigant.

In criminal matters, accused and complainant both are mandated by law to appear on every hearing. Exemptions from appearance are allowed often, but cannot be claimed as a matter of right. On days that they have to appear before an empty courtroom, fundamental rights under Article 19 (1)(d) and (g), and Article 21, are thus violated.

Right to fair legal representation for a litigant also suffers, when Advocates who juggle with multiple cases in a day, and therefore focus on one case at the cost of attention to another, find out only after they reach Court that a Ld. Judge is on leave.

B. For advocates:

Article 19 (1)(g) of the Constitution and Section 30 of the Advocates Act give Advocates the right to practice law. Advocates prepare their case briefs, spending hours on each brief. Many of them sacrifice sleep, meals and peace of mind to ensure that they reach court in time and with good preparation. Often an Advocate finds himself running from Court to Court to attend hearing before different Courts. After immense dedication of time and effort, and after rushing to Court during morning rush hour, Advocates reach and find the Judge on Leave, with all their preparation on arguments over the past several hours down the drain.

Lack of timely intimation to Advocates about a Judge on Leave violates their rights under Article 19 (1)(g).

The Hon'ble High Court of Patna in Anju Mishra and Ors. V. High Court of Judicature at Patna and Ors., AIR 2015 Pat 179 (FB), observed:

“The Hon'ble Supreme Court and various High Courts took the view that the right of advocates to practise law comes

within the ambit of Article 19(1) (g) of the Constitution of India and thereby assumes the character of fundamental right, in addition to being a statutory right."

The following was held in the case of Anandi Mukta Sadguru Shree Mukta JeevanDasswami Suvarna Jaya v. VR Rudani AIR 1989 SC 1607: "*Article 226 confers power on the High Courts to issue writs for enforcement of the fundamental rights as well as non-fundamental rights.*" Thus even if it is argued by the Respondent that the relief sought is not in the nature of fundamental right, Article 226 empowers this Hon'ble Court to enforce the above statutory right of Advocates.

C. For witnesses:

Witnesses are bound by law to attend court proceedings and thus travel from all over the country to depose.

Citizens who are not government servants leave their work, their families, their pursuits in life, in order to assist justice. Appearing before a court with an absent Judge has been a grouse of many witnesses on a daily basis. Their fundamental rights under Article 19 (1)(d) and (g) and Article 21 are thus violated when they are not informed in time that they need not appear before a Ld. Court on a particular day for which they were summoned.

Government servants constitute a large chunk of the witnesses appearing before Courts. They appear before the Courts in their official capacities as Police Officers, Medical Practitioners, keepers of official records, etc. to testify. It is often seen that the government servant skips on a whole day of work at office, to report to Court at sharp 10 am, only to find himself waiting to have his presence marked and sent back home to await further summons.

Though this Hon'ble Court has directed that testimony of witnesses in criminal cases ought to be recorded by the Link Judge, it has been observed by the Petitioner and other

members of the Bar that the Link Judge, already burdened with work of his own court, always declines to record testimony of witnesses present in Court.

If witnesses are informed in a timely manner, at least 12 hours in advance, of the Ld. Judge taking a leave of absence, thousands of hours of Government manpower will be saved from wastage.

- D. Progress of Access to Justice Through Digital Means: Courts in India have been taking progressive steps to ensure better access for citizens through online portals. Recently the Hon'ble Supreme Court in the case of Pravasi Legal Cell v. Union of India, WP (C) No. 1040/2019, issued notice in a PIL, wherein Petitioner sought setting up of online RTI portals for all States, to ensure that RTI applications can be filed easily online. The relief sought in the present Petition shall ensure easier access to court information through digital means.
- E. Because minor changes in the present system of online case information shall achieve the desired results. Advocates already receive automated emails (ecourts-del@indiancourts.nic.in) and text messages (VKDDCSMS) from the website of the court system informing them about next dates of hearings in their matters. A few programming changes can ensure that litigants, advocates and witnesses can also be informed of the Presiding Officer of a Court being on leave by the same system.
10. This Hon'ble Court **has the jurisdiction** to deal with the matter since this Hon'ble Court has supervisory jurisdiction over all Courts in Delhi.
 11. That **no similar petition / writ has earlier been filed /** pending for the same relief either before any court by the Petitioner.
 12. The present **petition is maintainable** as the same is in Public Interest and in compliance of the rules of as described in

NOTIFICATION No. 451/ Rules / DHC Dated 25.11.2010 and
Delhi High Court (Public Interest Litigation) Rules, 2010.

PRAYER

That the Petitioner in view of the above requests this Hon'ble Court
to consider the requests / suggestions:

1. Directions to Ld. Judicial Officers of the Delhi District Courts
to inform the District and Sessions Judge 24 hours in
advance of their intention to take a leave of absence.
2. Directions that Judges on Leave section of the website
delhidistrictcourts.nic.in to be updated at least a day prior.
3. Directions that parties, Advocates and witnesses be informed
via mobile phone call/text message/email a day prior or at the
earliest possible, of a Ld. Judge on leave.

Any other order(s) which this Hon'ble Court deem fit and
proper in the facts and circumstances of the case may also be
passed in public interest.

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information which may have enabled this Court to form an opinion whether to entertain this Petition or not and / or whether to grant any relief or not.

6. That the contents of the annexed Petition are true and correct to the best of knowledge and belief of the deponent.
7. The contents of the annexed Petition may kindly be read as part and parcel of the said Affidavit.

DEPONENT

VERIFICATION:-

Verified at Delhi on September, 2019 that the contents of the above affidavit are true and correct to the best of my knowledge and nothing material has been concealed therefrom.

DEPONENT