

(1991) 03 AHC CK 0146

Allahabad High Court

Case No: Contempt Case No. 466 of 1991

Nirdosh Chaturvedi, Advocate,
General Secretary, Bar
Association

APPELLANT

Vs

The High Court of Judicature at
Allahabad

RESPONDENT

Date of Decision: March 28, 1991

Acts Referred:

- Constitution of India, 1950 - Article 215

Citation: (1991) 15 ACR 314

Hon'ble Judges: Ravi S. Dhavan, J

Bench: Single Bench

Final Decision: Disposed Of

Judgement

Ravi S. Dhavan, J.

An outlying court within the judgeship of Bareilly Tahsil Aonla became vacant when its Presiding Officer was promoted and posted as an Additional Civil Judge, Gorakhpur on 7-2-1991. Two days before this the registry of the High Court already started processing the matter relating to the appointment of a Presiding Officer at this Court.

2. While this matter was in progress a letter was received from the Bar Association, Aonla through its President. Patron and General Secretary drawing the attention of the High Court to the vacant court. The letter was received on 27-2-1991. It was placed before the Administrative Judge on the same day. On this the Administrative Judge made the following endorsement:

Registrar:

Kindly take a notice of the void at the Munsif's court Aonla, and place your suggestions during the week of 4 March.

Sd. R.S.D.

27-2-1991.

3. The search for a successor for this Court is on. In the meantime the District Judge, Bareilly, by a letter of 15-3-1991 intimated the Registrar, High Court, that the members of the Bar Association, Aonla, have struck work and have locked up the Munsif's court since 13-3-1991, to press their demand for a Munsif's posting at Aonla.

4. The General Secretary of the Bar Association met the Registrar, High Court, yesterday to present a representation of the Bar Association and seek a meeting with the Administrative Judge. The Registrar, High Court, on the representation of Bar Association made the following endorsement:

Hon"ble A.J.-5:

A delegation of Bareilly Bar has come to meet your Lordship in this connection. The District Judge, Bareilly vide letter dated 15-3-91 has also informed that members of the Bar Association, Aonla have locked the court rooms at Aonla.

Submitted.

Sd. A.S. Tripathi

Registrar

27-3-91.

On this the Registrar was intimated that the Administrative Judge is discussing this very matter with the Additional Registrar, and that the delegation may meet the Administrative Judge on 28 March, 1991, the next day at 10 a.m.

5. It may be set on record that after the court rose for the day, yesterday the Additional Registrar had a meeting with the Administrative Judge, and was to draw out a list of judicial officers whose tenure is ripe for being transferred so that one of them may be posted to man the Munsif's court at Bareilly.

6. Locking a court is interference with and obstructing the course of public justice.

7. The General Secretary of the Bar Association was given the appointment sought with the Administrative Judge, today at 10 a.m. in chambers. Nothing was kept away from him and the entire record in the matter relating to the process of finding an incumbent to the Munsif's court at Aonla was placed before him with the Additional Registrar, High Court, present. The General Secretary of the Bar Association was satisfied that the High Court was equally concerned that the void at the Munsif's court without a presiding officer, be filled and, in fact, even before the Bar Association concerned itself about this matter.

8. The Bar Association taking upon itself to lock the doors of the Munsif's court at Aonla, Bareilly, the Administrative Judge, told the General Secretary, was obstructing the administration of justice. The High Court, under Article 215 of the Constitution of India was a court to record. Being told by the District Judge, Bareilly that the Bar Association has locked the courts, and the Bar Association itself announcing that it has done it, is precipitation on record of a Court of Record that the administration of justice has been obstructed. This is contempt, and everyday the situation continues, it is contemptuous. The General Secretary, of the Bar Association, Aonla Bareilly, Mr. Nirdosh Chaturvedi, Advocate, was put under notice to give his, or his Associations explanation in arranging to seal the court of Munsif. Aonla. The explanation, on a notice of motion by the Administrative Judge, was to be given in court, as the situation now was a matter arising out of a contemptuous situation, and consequentially a judicial proceeding.

9. In Court, at the Bar, the General Secretary, the Bar Association, Aonla, Mr. Nirdosh Chaturvedi, was given the opportunity to address the court on his explanation, and was provided with aid of Counsel. Mr. Navin Sinha, Advocate at the suggestion of the Court volunteered to assist Mr. Nirdosh Chaturvedi.

10. The High Court's concern was indicated to the General Secretary Bar Association.

11. Putting locks on the court and telling the High Court that a Presiding Officer be sent to sit in court is theatricalism. It is threat to the High Court. No judicial officer can go to locked court. This threat, carried out will be a bad precedent in impairing the independence of the judicial officer. If a Presiding Officer can be locked within and out this may also impair the quality, rationality and the independence of his judicial decision making in an atmosphere of threat, blackmail and belligerence. This may set another vicious circle. Today the lawyers have locked their only court to welcome an incoming judge to a sealed court. Tomorrow, a Munsif may decline to go to it. Will the lawyers' strike and bolt the doors and lock the court again? And, who will resolve such issues? The concept of outlying courts at the tahsil level, if such situations continue to happen, may have to be abandoned.

12. These are peoples' courts, not for the lawyers or of the judges. But, of a republic to resolve disputes between people and to arrange for the acceptability of decisions as part of an organised public justice system, an organ of the State known as the judicature. Bringing working institutions, meant to function, under the Constitution to a grinding halt is not liberty nor freedom, it is anarchy. A court may be brought to close today for one pretext or another, but its functional utility is put into a coma. Then, a word of caution. A Judge's writ, will not rule and lawyers must not expect it to. Waiting and watching behind the curtains are forces, there always have and will be, which want institutions like the judiciary and the legislatures not to function. These are the infections which take over when the institutional fabric is weak. These are forces which do not surfer democracy and the rule of law. The judicial system is

the first victim. No liberty is secure without a court to uphold it and an apprehension always lurks today that those who rule may have taken powers which at any moment could be turned into naked government by (Decree C.K. Allen, in the foreward to Mrs. Margnerite A. Sieghart, LL.B. Dr. Jur, Government by Decree-Stevens and Sons Limited London, 1950).

13. The aspect of closing courts is already a phenomenal disease. It has spread from the door step courts to apex. It has bred a holiday syndrome in lawyers, court staff and judges, alike. The proposition is resisted but a reality. This is in short, with many matters yet not mentioned, the ills and ugly aspects of the reality in locking up the peoples" courts. In the district of Bareilly alone, the working days lost by strike in the last five years were:

Years	Gazetted Holidays/ Vacations	Court remained closed due to unusual features	Worki
1986	107	44	2
1987	111	33	2
1988	114	59	1
1989	114	75	1
1990	114	44	2

The position at the Allahabad High Court was thus:

Years	Total No. of strike days by Advo- cates	Total No. of strike days by emp- loyees	Total No. of days due to sad demise	Holidays demanded by Bar/ staff in lieu of assurance to work on other day but assurance not kept	Total	Holi- days/ vaca- tions	Tot No. actua worki days durin the year
1986	37	17	2	2	58	157	208
1987	7	18	3	-	28	155	210
1988	13	3	5, 1/2	2	23, 1/2	158	208
1989	46	17	11	3	77	158	207

14. Keeping the courts functioning, as opposed to having them closed by being locked, is the control a court exercises through "the Judge as a Judge in the course of judicial administration. Judicial administration is an integral function of the judge and cannot suffer any dissection so far as maintenance of high standards of rectitude in judicial administration is concerned. The whole set up of a court is for the purpose of administration of justice, and the control which the judge exercises over his assistants has also the object of maintaining the purity of administration of justice. These observations apply to all courts of justice in the land whether they are regarded as superior or inferior courts of justice."

"Courts of justice have, in accordance with their constitution, to perform multifarious functions for due administration of justice. Any lapse from the strict standards of rectitude in performing these functions is bound to affect administration of justice which is a term of wider import than mere adjudication of causes from the seat of justice." [Shri Baradakanta Mishra Vs. The Registrar of Orissa High Court and Another](#), .

15. The court then explained to the General Secretary of the Bar Association Aonla, that in the matter of expressing concern on obstructing the administration of justice, the Supreme Court has made observations more than three decades ago that "It cannot be disputed that in regard to matters of contempt, the members of a Bar Association do not occupy any privileged or higher position than ordinary citizens." [Brahma Prakash Sharma and Others Vs. The State of Uttar Pradesh](#),

16. Mr. Navin Sinha, Advocate, assisting Mr. Nirdosh Chaturvedi, General Secretary Bar Association, Aonla made a request to adjourn the matter for some time so that he could explain the perspective to the General Secretary Mr. Nirdosh Chaturvedi on what he has to explain to the court in the context of Article 215 of the Constitution of India. The indulgence was granted.

17. On recall when the matter was taken up again, Mr. Navin Sinha, Advocate, submitted that he had explained to the General Secretary, Aonla Bar Association that putting locks on the doors of the Munsif's court cannot be justified under any circumstances. Mr. Navin Sinha, Advocate, assisting the General Secretary, under notice, submitted that after he had discussion with the General Secretary, he was given to understand and he was satisfied that Mr. Nirdosh Chaturvedi, acting as General Secretary, and the Bar Association at Aonla collectively, at the tahsil of Aonla had not consciously, deliberately or premeditatedly planned to obstruct the course of justice or interfere with it. The Bar Association in what it did activated itself more than was necessary to resort to locking the Munsif's court and it had no idea that the matter of transfer and posting an officer was already being processed and that an incumbent was almost being finalised between procedures prescribed. Mr. Navin

Sinha, Advocate in the presence of Mr. Nirdosh Chaturvedi, at the Bar pleaded that in the circumstances, an unqualified apology, without reservations, on behalf of Mr. Nirdosh Chaturvedi, Advocate and the Tahsil Bar Association, Aonla, be considered. Mr. Navin Sinha, Advocate, also submitted that he has instructions from Mr. Nirdosh Chaturvedi to submit to the court and to assure the High Court that as soon as the General Secretary, Mr. Nirdosh Chaturvedi, Advocate, returns to Aonla, the locks on the doors of the Munsif's court shall be taken off.

18. Mr. Navin Sinha, Advocate, took the court's permission to make a suggestion. He submitted that should as outlying court become vacant for whatever be the reason, the District Judge, concerned, should step in to make a temporary arrangement until the High Court makes a substantive arrangement. The court of the Administrative Judge indicated to Mr. Sinha, that subject to the availability of a judicial officer at the district, his suggestion will be conveyed to the Registrar, High Court, to be worked, as a matter of policy within the High Court Rules. Let the outlying court at tahsil Aoula, Bareilly be made assessable to the people. On the assurance given to the court that it would, this Court discharges the notice issued, with appreciation of Mr. Navin Sinha, Advocate in guiding the Bar Association, Aonla, to a correct perspective.

19. Notice discharged.

20. Consign to the record.