



From

Registrar General
High Court of Uttarakhand
Nainital.

To

All the District Judges,
Principal Judge/
Judges, Family Courts
State Judiciary,
Uttarakhand

C.L. No. ²⁵ /UHC/XVII-10/D.R.(I)/2014 dated: November , 2014

Sub: Strike by the Advocates in the State of Uttarakhand.

Sir /Madam,

In continuation of this Court's C.L. No. 6/2001 dated 16.03.2001 on the above noted subject, I have been directed to inform you that it has been experienced that the incidents of strike and abstention of work by lawyers have increased in the recent past in different District Courts & other Subordinate Courts which is paralysing the Court work and is illegal and amounts to professional misconduct on the part of lawyers in view of pronouncement of Apex Court in Lt. Col. S.J.Chaudhary v/s State (Delhi Administration) reported in (1984) 1 SCC 722; Mahabir Prasad Singh v/s Jacks Aviation Private Limited reported in (1999) 1 SCC 37, Ramon Services Pvt. Ltd. V/s Subash Kapoor & others, reported in (2001) 1 SCC 118 and Ex. Capt. Harish Uppal v/s Union of India & another reported in (2003) 2 SCC 45.

In this regard, Hon'ble Court has issued following directions:

1. The court is not obliged to adjourn a cause because of the strike call given by any association of advocates of a decision to boycott the courts either in general or any particular court. It is the solemn duty of every court to proceed with the judicial business during court hours. No court should yield to pressure tactics or boycott calls or any kind of browbeating.
2. The decision of Hon'ble Supreme Court, which is the law of land as per Article 141 of the Constitution of India and as delivered in Ex-Captain Harish Uppal vs Union of India; 2003(2) SCC 45 must be followed by all Courts and lawyers in true spirit and sense.

You are therefore requested to inform all concerned accordingly and ensure that the Presiding Officers of different Courts and lawyers must comply with the above directions in true letter and spirit.

Yours faithfully,

(D.P.Gairola)

5412
No. /UHC/XVII- /D.R.(I)/2014 dated: November ¹¹, 2014

1. Director, Uttarakhand Judicial and Legal Academy, Bhowali, Nainital.
2. Officer-in-charge, NIC, High Court.
3. Guard File.

Harish Uppal
11.11.2014
Registrar General



From

Registrar General
High Court of Uttarakhand
Nainital.

To

All the District Judges/
Principal Judge/
Judges, Family Courts
State Judiciary,
Uttarakhand

5411 //
No. /UHC/XVII- /D.R.(I)/2014 dated: November , 2014

Sub: Strike by the Advocates in the State of Uttarakhand.

Sir /Madam,

On the above noted subject, I have been directed to inform you that it has been experienced that the incidents of strike and abstention of work by lawyers have increased in the recent past in different District Courts and other Subordinate Courts which is paralyzing the Court work and is illegal and amounts to professional misconduct on the part of lawyers in view of pronouncement of Apex Court in Lt. Col. S.J.Chaudhary v/s State (Delhi Administration) reported in (1984) 1 SCC 722; Mahabir Prasad Singh v/s Jacks Aviation (P) Limited reported in (1999) 1 SCC 37, Ramon Services Pvt. Ltd. V/s Subash Kapoor & others, reported in (2001) 1 SCC 118 and Ex. Capt. Harish Uppal v/s Union of India & another reported in (2003) 2 SCC 45.

Accordingly, Hon'ble Court has directed that paragraph 35 from the judgment of Ex. Capt. Harish Uppal v/s Union of India & another reported in (2003) 2 SCC 45 and decision dated 19.2.2014 of Hon'ble Full Court of High Court of Uttarakhand be communicated to each Bar Association of your district:

“35...Lawyers have no right to go on strike or give a call for boycott, not even on a token strike. The protest, if any is required, can only be by giving press statements, TV interviews carrying out of the Court premises banners and/or placards, wearing black or white or any colour arm bands, peaceful protest marches outside and away from Court premises, going on dharnas or relay facts etc. It is held that lawyers holding Vakalats on behalf of their clients cannot not attend Courts in pursuance to a call for strike or boycott. All lawyers must boldly refuse to abide by any call for strike or boycott. No

Amish Kumar

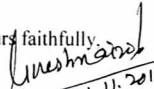


lawyer can be visited with any adverse consequence by the Association or the Council and no threat or coercion of any nature including that of expulsion can be held out. It is held that no Bar Council or Bar Association can permit calling of a meeting for purposes of considering a call for strike or boycott and requisition, if any, for such meeting must be ignored. It is held that only in the rarest of rare cases where the dignity, integrity and Independence of the Bar and/or the Bench are at stake, Courts may ignore (turn a blind eye) to a protest abstention from work for not more than one day. It is being clarified that it will be for the Court to decide whether or not the issue involves dignity or integrity or Independence of the Bar and/or the Bench. Therefore in such cases the President of the Bar must first consult the Chief Justice or the District Judge before Advocates decide to absent themselves from Court. The decision of the Chief Justice or the District Judge would be final and have to be abided by the Bar. It is held that Courts are under no obligation to adjourn matters because lawyers are on strike. On the contrary, it is the duty of all Courts to go on with matters on their boards even in the absence of lawyers. In other words, Courts must not be privy to strikes or calls for boycotts. It is held that if a lawyer, holding a Vakalat of a client, abstains from attending Court due to a strike call, he shall be personally liable to pay costs which shall be addition to damages which he might have to pay his client for loss suffered by him." (Ex. Capt. Harish Uppal v/s Union of India & another reported in (2003) 2 SCC 45)

Decision of Hon'ble Full Court:

- (a) The strike by Bar Council of Uttarakhand, Bar Associations and Advocates is totally illegal and amounts to professional misconduct on their part.
- (b) The Court will take all appropriate steps against lawyers, whose cases are listed before the Courts and yet who abstain from attending those cases, because of the strike call given by Bar Council or Bar Association.

You are therefore requested to comply with the direction of Hon'ble Court and inform all concerned for strict compliance.

Yours faithfully,

(D.P. Gairola) 11.11.2014