

***THE HON'BLE SRI JUSTICE V.V.S. RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

TAKEN UP WRIT PETITION No.23065 OF 2010

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% 07.12.2010

In Re

1. Government of Andhra Pradesh, rep.by it's the Chief Secretary, Secretariat, Hyderabad.
2. The High Court of Judicature of Andhra Pradesh, Hyderabad, Rep. by the Registrar General
3. The Principal Secretary, Home Department, Government of A.P., Hyderabad.
4. The Director General & Inspector General of Police, Hyderabad.
5. The Commissioner of Police, Hyderabad.
6. The Bar Council of A.P., Hyderabad, rep.by its Secretary, High Court Buildings, at Hyderabad.
7. A.P.High Court Advocates Association, Hyderabad, Rep. by its Secretary.

...Respondents

Whereas the Taken up Petition under Article 226 of the Constitution of India to issue an Order, direction, or a Writ, more particularly one in the nature of Writ of Mandamus directing the Respondents 1 to 5 to take steps forthwith to regulate to entry of Advocates and litigant public into the High Court premises;

Counsel for Respondent Nos.1, 3 to 5 : Sri D.V.Sitarama Murthy,
Advocate General

Counsel for Respondent No.2: Smt M.Bhaskara Lakshmi

Counsel for Respondent No.6: Sri A.Ajay Reddy

Counsel for Respondent No.7: Sri G.Vidya Sagar

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? CITATIONS:

1. 287 US 45 (1932)
2. 2001 (1) Law Summary 13
3. Indian Council of Legal Aid and Advice v Bar Council of India, (1995) 1 SCC 732
4. (1995) 5 SCC 716
5. 493 US 411 : 107 L.Ed., 2d 851 (1989)
6. (2006) 9 SCC 295 : (1995) 1 SCALE 6
7. (2001) 1 SCC 118 : AIR 2001 SC 207
8. (2003) 2 SCC 45 : AIR 2003 SC 739
9. (2006) 9 SCC 295 : AIR 2005 SC 2442
10. (2009) 8 SCC 106
11. AIR 1988 SC 1883
12. AIR 1967 SC 1
13. 475 US 560 (1986)
14. 544 US 622 (2005)
15. 1 Wheat 363
16. 135 US 1 (1890)
17. Nand Lal Balwani, In Re ((1999) 2 SCC 743)
18. Leela David (6) v State of Maharashtra ((2009) 10 SCC 337)

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**THE HON'BLE SRI JUSTICE V.V.S.RAO
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ORDER (Per Hon'ble Sri Justice V.V.S.Rao)

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I

Prologue

This 'matter extraordinaire' is an extraordinary case. It stands apart from many peculiar cases that have been resolved by this summit Court of Judicature, Andhra Pradesh, in its more than five decades long journey in striving to dispense justice with constitutional vision. The adjudication in this case is concerned with the protection of life and liberty of people and property. Hence, we shall deal with competing concerns with delicate touch. To enter a caveat, though we are seriously concerned; the standard of judicial review is neither strict scrutiny nor is it a dialogic. It is only the deferential judicial review, to find solution, at least, for the present.

Indian democracy can neither survive nor sustain without an independent judiciary. A well administered, organized and managed hierarchical Court structure and user friendly judicial management system is *sine qua non* for democratic polity which "solemnly resolved" the Constitutional rule of law. To promote such rule, there has to be thus no nonsense 'Court Security System' with 'battlefit preparedness' as mission and firmly established confidence invoking special security processes and procedures as vision. It is necessary that all judicial participants and stakeholders – Judges, advocates/their clerks, Court staff, Government Pleaders, Public Prosecutors, Treasury officials, prison officials and not the least citizens in legal distress; can trust and have faith in the judicial branch. There is no gainsaying that the right to seek redressal in an independent judicial forum is a human right recognized by International Bill of Human Rights and the Constitution of India (Article 8 of the Universal Declaration of Human Rights (UDHR), Article 2(3) of International Covenant on Civil and Political Rights, Sections 2(d) and 2(f) of Protection of Human Rights Act, 1993 and Articles 14, 21, 32 and 226). This case thus in way is an

opportunity to instill the confidence in the people that the High Court of the State would nurture and nourish that belief, by protecting the people seeking justice when it is denied or delayed by other two great organs of the State.

II The Genesis

In the third quarter of this year, a group of lawyers (a *sui generis* Joint Action Committee or JAC) started agitation. They demanded that 42% of the positions of Government counsel must go to the advocates coming from nine Telangana Districts. Three of their members commenced hunger strike. This led to surcharged emotions among JAC supporters. They gave a call for boycotting the High Court. That, as per the law of the land, lawyers have no right to abstain or boycott the Courts is a different matter. 'Law' and 'Rule of Law' take a backseat when agitations turn violent. Reason subordinates to emotion and "no holds barred" bug inflicts maverick front liners fighting for the cause of perceived inadequate justice. This manifested on 14th, 15th and 16th of September, 2010 AD. All the Judges holding the Court have had to rise as the lawyers were coerced to go out of the Court. Three Courts and Hon'ble Presiding Judges were victims of violent group of lawyers enforcing boycott call. Furniture was broken, electrical fittings were damaged, the files and missiles were thrown at, and abuses were hurled at the Hon'ble Judges. The violence of protestors also extended to the Chambers of learned Judges as well as the Registrars of the High Court. Instances of manhandling of well-meaning lawyers – without gender discrimination – were also reported. There was convenient disappearance of lawyers' representatives and leaders of the Bar. The situation was such that nobody was willing to listen to reason or heed to good sense to ensure dignified and peaceful Court functioning.

The historical fact, as above – like in any other; is hearsay to start with. It also does not find in the pleadings but during the day long non-adversarial Court deliberations, these things remain unrebutted. As many as 24 photographs (6" x 4") are placed before us. They narrate tell-tale horrific story sufficient to prove historical facts relevant to the case. On 16.09.2010, the Hon'ble Chairman of the Bar Council of Andhra Pradesh (BCAP) gave a Press Note, which reads as under.

PRESS NOTE

After observing the agitations being made by the Advocates for the last few days in the premises of the Hon'ble High Court of Andhra Pradesh, it is most unfortunate that under the guise of agitation, some of the

Advocates are resorting to damage the furniture and equipment in the Court Halls. It is also observed that the agitators have thrown books, abused Hon'ble Judges and the staff, which is viewed seriously by the Bar Council of Andhra Pradesh.

The Bar Council of Andhra Pradesh makes an appeal to all the Advocates who are participating in the agitation not to indulge in such activities and the same is nothing but interfering with the smooth functioning of the administration of justice.

Therefore, the Bar Council hereby condemns the action of the agitators which is contrary to the provisions of the Advocates Act, 1961.

(emphasis supplied)

On 17.09.2010, seven Hon'ble members of BCAP met in an emergency meeting and passed the following resolution.

The Bar Council in an Emergency Meeting held on 17.09.2010 hereby condemns the attack of Advocates in the Court Halls, abusing the Hon'ble Judges and Advocates' throwing Books on Hon'ble Judges and Court Staff and indulging in damaging the Books and Furniture in Court Halls and hurling slogans in the Court Premises. The said Acts amount to interfering with the smooth functioning of Administration of Justice and further the same is contrary to provisions of Advocates Act, 1961, and against the various Judgments of Hon'ble Supreme Court of India.

The Bar Council has decided to take *suo motu* action against the Advocates who involved in the indecent behaviour in Court Halls, on the basis of information received.

Further, it is resolved to convene an Extraordinary General Body Meeting of the Bar Council on 24.09.2010 (Friday) at 12.00 noon, in this regard.

(emphasis supplied)

As resolved on 17.09.2010, the Extraordinary General Body Meeting of BCAP was held on 24.09.2010 at 12 noon. The resolution passed therein, reads as under.

1. It is resolved to ratify and approve the earlier resolution, dated 17.09.2010
(Sri M.Rajender Reddy, Member, Bar Council of India expressed his dissent for the above resolutions).
2. The Bar Council resolved to take action against the Advocates who involved in indecent behaviour in Court Halls on the basis of the information received from different sources, to that effect and the Bar Council further resolved to constitute a Committee

consisting of Sri A.Narasimha Reddy, Chairman, Bar Council, Sri D.Hanumantha Rao, Sri N.Ramachander Rao, Sri S.Krishna Mohan, Sri B.Devanand and Sri K.Chidambaram, Members, Bar Council of A.P., to take further steps in the matter and put proposals before the Bar Council in the next meeting.

- 3. The Bar Council of Andhra Pradesh hereby resolved to appeal all the Advocates who are participating in the Agitations, shall not enter into the Court premises and not to indulge in giving slogans, not to comment against the Judge/Judges and colleague Advocates. The violation of the same will be viewed seriously.**

(Sri M.Sahodhar Reddy, Member, Bar Council expressed his dissent for the above resolutions).

(emphasis supplied)

Be it on record that in addition to Court No.6, Court No.32 (Hon'ble Sri Justice C.V.Nagarjuna Reddy) and Court No.27 (Hon'ble Sri Justice Nooty Ramamohana Rao) were attacked. As a result of hooliganism, the furniture was broken in the Court and Judges' Chambers. The photographic evidence strongly probablises that there was unprecedented violence in the temples of Justice.

Court Reacts

The constitutional Court should react to the injustice. Any interruption of Courts proceedings in discharge of constitutional duty of dispensing justice, "without fear or favour, affection or ill-will", is certainly injustice to the people of the State. On 15.09.2010, Sri Justice Eswaraiah and Sri Justice Noushad Ali were holding the Court, when advocates in robes or otherwise (now they say most of them are not members of A.P.High Court Advocates' Association (HCAA) entered Sixth Court, raised slogans, threw missiles at the Bench and committed sinful acts. Then the learned Bench *suo motu* has taken up the case while directing the Office to register the taken up case as a writ petition showing Government of Andhra Pradesh, the High Court of Judicature of Andhra Pradesh, the Principal Secretary to Government in Home Department, the Director General and Inspector General of Police, Hyderabad, the Commissioner of Police, Hyderabad, BCAP and HCAA as respondents. Their Lordships also passed the following order.

When the Court proceedings were going on, at about 12.45 P.M. i.e. 15.09.2010, a group of Advocates in their robes forcibly entered into the Court Hall raising slogans "Jai

Telangana” and disrupted the proceedings at the height of their voice and threatened the Judges to rise and retire. The Advocates did not heed to the advice of the Bench to maintain decorum of the Court. They resorted to switching off the lights and threw cause lists on the Bench even while the Judges were sitting holding the Court. They resorted to breaking the glasses of the almyrahs and damaged the chairs and mikes in the Court Hall. The Advocates entered into the Court Hall with a motive to create panic and to see that the Court should not function at any cost. It is brought to our notice that similar incidents have occurred in two other Court Halls today.

Under these circumstances, it has become impossible for the Court to function. We are constrained to observe that **these incidents which are recurring often pose a threat to the majesty of law.** We observe that preventing the functioning the High Court would impact the judicial system affecting the State’s Highest Constitutional Judicial Institution. **We are bound to observe that such impact may perhaps lead to constitutional break down.**

We are therefore constrained to treat the incident that has occurred in our Court as a “taken up” case and direct the Registry to register this as a Writ Petition and post the same on 17.09.2010 and serve the notices to all the respondents through special messenger.

In the circumstances as above, in the meanwhile, we direct Respondents Nos.1 to 5 to take steps forthwith to regulate the entry of the Advocates and the litigant public into the High Court premises. Those Advocates, whose cases are listed in the day’s cause list be permitted to enter High Court precincts on production of the identity cards issued by Respondent No.7 and the clients connected with the said cases accompanying the said Advocates alone shall be permitted to enter into the High Court precincts. Authorized Advocate-Clerks alone shall be permitted to enter the premises for the purpose of filing the cases in the Registry. Parties who have been directed to appear before the Courts by Court Orders and Government Officers also be permitted to enter on proper identification by the concerned Advocates or the Government Pleaders, as the case may be. The Respondents shall ensure the presence of adequate police in the Court Premises and also near every Court Hall. The Respondents shall also further ensure that there shall be no slogan shouting within the High Court precincts. The Respondents shall ensure implementation of this order.

(emphasis supplied)

Further Proceedings

On 17.09.2010, the matter was called again. The Bench, on hearing the counsel for all the respondents passed the order,

which we quote.

Heard the learned Advocate General appearing for respondents 1, 3 to 5, Sri Vidyasagar, learned counsel appearing for the 2nd respondent, Ms.S.Nanda, learned counsel appearing for the 6th respondent and Sri Goverdhan Reddy, Secretary, A.P. High Court Advocates' Association, 7th Respondent.

The learned counsel advanced their arguments and expressed difficulties of some advocates, such as, Junior advocates and the senior designated advocates while entering into the Court premises. It was also brought to our notice that even in the Supreme Court of India the right of entry is being regulated in an appropriate manner and they sought time for filing written submissions. In this regard, Sri Goverdhan Reddy, Secretary, A.P. High Court Advocates' Association, submits that he would file written submissions on Monday for appropriate measures to be taken for proper functioning of the Court.

Keeping in view of the various submissions made by the respective counsel, we direct the respondents to permit the designated senior advocates, Chairman, Members and staff of the A.P. State Bar Council, President and the office bearers of the A.P. High Court Advocates' Association to enter into the premises of the High Court, in addition to those already permitted by orders dated: 15.09.2010.

Post on 20.09.2010 at 2.15 P.M.

Three days thereafter, the HCAA moved W.V.M.P.No.4366 of 2010 praying to vacate and/or modify the interim orders, dated 17.09.2010. *Inter alia* it was pleaded in the affidavit of the Secretary that the cause list does not contain the names of all the counsel who accepted Vakalat, that the designated senior advocates do not accept Vakalats, that the counsel are required to visit various branches in the Registry, and that junior advocates have to represent the cases and that if restrictions are imposed on the entry of the advocates, it would result in the cases going unrepresented besides causing inconvenience to the lawyers. Therefore, they sought for modification of vacation of the orders by incorporating the following.

(i) permit the counsel on production of the Identity Cards issued by the A.P.Bar Council/A.P.High Court Advocates' Association to enter into the Court premises;

(ii) permit advocates move from one Court to another and Registry without insisting appearance of their names in the daily/weekly cause list; and

(iii) permit the authorized Advocates' Clerks/Drivers to enter into the premises as well as the Court Hall areas to assist the counsels in carrying books, files etc.

On 20.09.2010, after hearing all the learned counsel, the Division Bench in modification of earlier orders, issued the following directions to respondents 1 to 5 to regulate the entry of advocates and litigant public into the Court.

- (1) The Advocates whose cases are listed in the Day's Cause list/ Weekly List be permitted to enter the High Court precincts on production of the Identity Cards issued by the A.P. State Bar Council/ A.P. High Court Advocates Association and the clients connected with the said cases accompanying the said Advocates alone shall also be permitted to enter into the High Court precincts. The Advocates whose cases are listed in the Day's cause list/weekly list with one or two junior colleagues on record may be permitted to enter into the High Court Premises.
- (2) The designated senior Advocates and along with them two assisting Advocates authorized by them shall be permitted. The President and Office Bearers of the A.P. High Court Advocates Association and the staff shall be permitted to enter into the High Court Premises. The Chairman, members and staff of the A.P. Bar Council shall be permitted into the High Court premises. The officials and staff of the State Bank of Hyderabad, High Court Branch, shall also be permitted to enter into the premises.
- (3) The Authorized Advocates' Clerks may be permitted to enter the High Court premises for the purpose of filing the cases and other related works in the Registry.
- (4) The parties who have been permitted to appear before the Courts by Court Orders and Government Officers may also be permitted to enter on proper identification by the concerned Advocates or Government Pleaders, as the case may be.
- (5) The Advocates who would like to move the lunch motions may also be permitted by the Registry on submitting the appropriate case papers.
- (6) The intending candidates for their enrolment as Advocates with the Bar Council of Andhra Pradesh may also be permitted on proper verification by the Secretary of the Bar Council of Andhra Pradesh.
- (7) The Respondents shall ensure the presence of adequate Police in the Court Premises and also near every Court Hall.
- (8) All the Respondents shall ensure that there shall be no slogans, shouting or any untoward incident to be taken place within the High Court Premises. The respondents shall ensure the implementation of these orders.

The Division Bench while issuing directions as above also directed the Registry to place the matters before the Hon'ble the Chief Justice (HCJ) for necessary directions to list the matter before the appropriate Bench. Thereafter, on 01.11.2010, HCAA filed

W.P.M.P.No.34829 of 2010 for modifying the order, dated 20.09.2010. BCAP filed W.V.M.P.No.5137 of 2010 on the same day seeking to vacate the orders, dated 20.09.2010. In the meanwhile as many as 21 lawyers practising in this Court filed W.P.M.P.(SR) No.125784 of 2010 to intervene in the taken up case. When these matters are listed before us, with the consent of all the learned counsel appearing in the case, we finally heard the matter on 08.11.2010.

III

Contentions and Submissions

BCAP and HCAA made the following submissions. The Court's duty and right to protect itself and all those who come to them cannot be denied. The Supreme power vests in the HCJ to make Rules, Regulations and guidelines for the purpose of security system. As of now, there are no such rules or regulations. The restrictions now in operation were imposed in obedience to the orders of this Court, when situation was emotionally surcharged and some of the advocates who are not members of the HCAA resorted to violence interrupting the Court proceedings. Such a situation does not exist now nor recurred since then. Therefore, all the conditions imposed on the entry, movement and parking of the vehicles by the advocates should be withdrawn. As and when violence erupts the Court can again take such drastic steps to prevent untoward acts by a few advocates. Till a regular Court Security System is in place, *status quo ante* as it existed on 13.09.2010 may be restored. All the advocates are facing inconvenience to move from one Court to other Court because of the present space constraints in the Court due to the fire accident that occurred on 31.08.2009. All the advocates who have drivers may be allowed to get dropped and send their cars to the parking lot and those advocates who do not have drivers may be allowed to park the cars near the heritage building as the HCAA has already issued identification cards as well as parking stickers to all the needy advocates and therefore, there is no chance of non-advocates parking their vehicles near the heritage building.

The present parking area is uneven, not levelled, strewn with pebbles, granite slabs and debris. It would be impossible to all the advocates to park their cars in such area and walk more than 100 meters to attend to their work. Even in the Supreme Court where there are security procedures, the cars are allowed near and adjoining the building. M/s.G.Vidyasagar and E.Ajay Kumar Reddy dispassionately plead that the High Court being a place where many people come for redressal of their many grievances, strict enforcement of security measures would result in putting hurdles denying the system of open Court and public hearing. Lastly, they submit that the High Court

Security System covering all aspects may be evolved in consultation with the HCAA and till then, the advocates of the association may be allowed to discharge their functions without any inconvenience.

The standing counsel for High Court Smt. Bhaskara Lakshmi and Senior Advocate, Sri C.V. Mohan Reddy, appearing for interveners made the following submissions. As the Highest Court of the State, it has a duty to provide security to all those who come to the Court for their business. While doing so, "inconvenience", if any, is immaterial and must be ignored. As and when there was a call for boycotting the Courts by a group of advocates, the Court initiated security measures. When they were relaxed, without there being a valid resolution by the general body of the Bar Association, a group of lawyers representing organizations from outside the High Court barged into the Courts and created violent scenes by damaging the furniture in the Courts, gave a call and in their zeal to enforce the boycott have beaten up their dissenting brethren. The lives of those advocates who are opposing the call for boycott were in danger. The Courts were targeted ignoring professional duty to maintain the dignity and decorum of the Court. Therefore, there should be a proper security system notwithstanding any perceived inconvenience to any of the persons. They also submit that though the Constitution vests the supreme power of administering the High Court in the HCJ, this Court is not powerless to direct security measures pending necessary orders by the HCJ.

Sri C.V. Mohan Reddy, Senior Counsel, also raised the question of advocates boycotting the Courts on one pretext or the other. He submits that when the law of the land prohibits the boycotts and strikes by the advocates for any reason, the violence created in the Court Halls and within the Court premises, by persons of various organisations with connivance of some of the advocates practising in this Court must be dealt with severely and the Court may not assume normalcy.

The learned Advocate General for State of Andhra Pradesh submits that the majesty of this Court must be upheld in order to make it credible in the eyes of the public. The causes unconnected with the discharge of judicial functions of the Court cannot be allowed to trigger disturbance in the Court functioning. Whatever be the controversial issues, the High Court cannot be targeted. He would urge that the Court may direct an adequate security system to meet the normal, para-normal and abnormal situations.

In this taken up case, all the learned counsel exhibited dispassionate non-adversarial stand in their submissions. Generally adjudication by the Court is about enforcing the rights or a compelling discharge of duties. There is no such controversy before us. All of them

agree many things. But degree of severity in forms and procedures is one area that is left to be tackled by the Court. Should there be strict enforcement of security measures only when there are abnormal situations in the Court? Should there be 'free for all', 'no holds barred' right to stakeholders in the court premises? Should there be a security system to create a sense of fear in the people who come to the Courts for redressal or do we require special measures having regard to the fact that a Court is a public institution meant for enforcement of human rights? Whether high alert security ignores principle of open trial and open court system? These are some of the issues which prick our minds when we think of this Court, as "*sentinel on the qui ve*".

IV

Forced closure of the Courts

The Court is socio-political institution with backing by *suprema lex*; all the Courts in the hierarchy are either established under the Constitution or by law made thereunder. The Judges exercise State's judicial power to enforce and protect the rights of the citizens. Human rights have no holiday, and so is the case with the Courts. The Latin maxim *dies dominicus non est juridicus*^[1] has since been buried in the knowledge archives and the Courts would sit and respond and react to injustice anytime anywhere. History even in its dark periods does not reveal instances where judicial bodies abdicated their solemn duties. The boycott or strike by the advocates or others resulting in closing down the Courts, is, what we call as 'forced closure'. But, indisputably Courts cannot be closed whatever be the reason except that their place of sitting may be changed in the event of nature's fury, earthquakes, floods etc.

Advocates are best recognized profession. Like any other profession, they are service oriented callings requiring learning and intellectual purity. Success in advocates' profession is not measured by fortune made nor publicity received in media. The discharge of duty as an advocate in a highly responsible, upright and dignified manner earns the awe of the Society. The responsibility is to the Court to present client's case dispassionately and upright manner demands fairness to colleagues. The dignity of the advocate lies in maintaining ethical and professional standards as a responsible citizen of the Society as well as a member of the professional body. The advocates do not live for themselves; they struggle and strive for upholding the constitutionally guaranteed human rights of all the citizens and provide safety valve for the tension-ridden community. Justice Sutherland in **Powell v Alabama**^[2] kept the advocates in highly elevated pedestal when he described the importance of advocates, as follows.

Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defence, even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence. If that be true of men of intelligence, how much more true is it of the ignorant and illiterate, or those of feeble intellect.

Barrister David Pannick (now Baron Pannick of Ralott House of Lords, Great Britain) in his acclaimed work 'Advocates' says:

Today, few advocates would aspire to public recognition and approval, let alone adulation. Their aim is a more modest one: to secure a degree of popular understanding that they perform a valuable function. They perceive, and regret, misunderstanding and consequent distrust of their role. It is becoming increasingly difficult to make intelligent people understand that it is desirable to maintain a legal system in which the lawyer has the duty, or even the right, to argue cases on behalf of those whose conduct he may find unwise, distressing, or even reprehensible. ... Despite all the advances in media technology, the public knows less than ever about the principles which govern the work of the advocate. ... It may also be the result of lawyers neglecting to inform the public of the reality that without a body of advocates prepared to act on behalf of anyone, irrespective of the nature of their cause, such representation constituting no endorsement of the opinions or behaviour of the client, 'it would', as Mr Justice Brennan of the Australian High Court has observed, 'be difficult to bring unpopular causes to court and the profession would become the puppet of the powerful'.

With such an exalted role of champion protectors of people's rights, can the advocates boycott the Courts unmindful of the suffering of the litigants. The social activists, the jurists and political thinkers opine that the advocates cannot boycott the Courts. The strike, being extreme form of protest, causes immeasurable injury to the entire community. The strike by advocates causes injury to the rights of the litigants. It tends to divide the Bar, and leads to violent skuffles amongst lawyers'. In a seminar on '*Strikes by Professionals* held at New Delhi, it was resolved:

I. Professionals by the very nature of their calling, cannot be

equated with industrial workers. Strike is, therefore, not ordinarily a happy mode of protest. However, there may be circumstances which may justify a strike often in public interest. In this regard, the professional should:

- a) Avoid wild cat strike,
- b) Launch indefinite strike only as a last resort after exhausting all other available avenues for the redress of grievances,
- c) Ensure that the strike remains non-violent and does not affect emergency services, and
- d) Take the people into confidence about their grievances as well as the reasons that have prompted them to go in for a strike.

II. There is need to strengthen the internal grievance settlement machinery in each profession at every level. Other professions and public spirited people should be associated with it.

III. The existing statutory bodies like the Bar Council and Medical Council should be restructured and revitalized to regain their long lost glory and achieve the objectives for which they were originally established.

IV. Solidarity of various professions with one another is essential in organizing public opinion and improving the image of these professions. Practitioners must therefore rededicate themselves to serve the people in need of their services. In this connection, there should be close co-operation with the press.

V. There is also need for an improved machinery for the settlement of the economic grievances of the various professional groups. Such machinery should statutorily be capable of devising procedures that are not time-consuming and dilatory. This would help get rid of official procrastination which often leads to strikes that are otherwise unnecessary and avoidable.

The above consensus was reiterated at 'the National Convention on Accountability of Professions' at Hyderabad (see 'Strikes by Lawyers' by P.P.Rao^[3]). All other jurists of repute expressed similar opinion about the lawyer's strikes^[4].

V

Advocates' Strike is illegal

'The duty of a lawyer is to assist the Court in the administration of justice. The practice of law has a public flavour and therefore, a lawyer must strictly and scrupulously abide by the code of conduct behoving the noble profession and must not indulge in any activity which may tend to lower the image of the profession in the Society'^[5]. In **U.P.Sales Tax Service Association v Taxation Bar Association**^[6],

quoting the **Federal Trade Commission v Superior Court Trial Lawyers Association et al**^[7], with approval, the Supreme Court of India reiterated the following conclusions from an earlier decision (**Common Cause v Union of India**^[8]).

(1) In the rare instance where any association of lawyers including statutory Bar Councils considers it imperative to call upon and/or advise members of the legal profession to abstain from appearing in courts on any occasion, it must be left open to any individual member/members of that association to be free to appear without let, fear or hindrance or any other coercive steps.

(2) No such member who appears in court or otherwise practises his legal profession, shall be visited with any adverse or penal consequences whatever, by any association of lawyers, and shall not suffer any expulsion or threat of expulsion therefrom.

(3) The above will not preclude other forms of protest by practising lawyers in court such as, for instance, wearing of armbands and other forms of protest which in no way interrupt or disrupt the court proceedings or adversely affect the interest of the litigant. Any such form of protest shall not however be derogatory to the court or to the profession.

(4) Office-bearers of a Bar Association (including Bar Council) responsible for taking decisions mentioned in clause (1) above shall ensure that such decisions are implemented in the spirit of what is stated in clauses (1), (2) and (3) above.

In **Ramon Services Private Limited v Subhash Kapoor**^[9], the appellants who were defendants in eviction suit before the Additional District Judge, New Delhi, had been set *ex parte* as their lawyers did not appear due to strike call of Bar Association. Their application under Order IX Rule 9 of the Code of Civil Procedure, 1908 (CPC) was rejected by the trial Judge as well as the High Court. Before the Supreme Court, it was urged that non-appearance was attributable entirely to the advocates due to strike and therefore, *ex parte* orders are not warranted. The plea was rejected by Justice K.T.Thomas holding (para 5 of SCC)

We have no doubt that the legal position adumbrated by the Additional District Judge as well as the High Court cannot be taken exception to. When the advocate who was engaged by a party was on strike there is no obligation on the part of the court either to wait or to adjourn the case on that account. **Time and again this Court has said that an advocate has no right to stall the court proceedings on the ground that advocates have decided to strike or to boycott the courts or even boycott any particular court.** Vide U.P. Sales Tax Service Association, K.John Koshy v (Dr) Tarakeshwar Prasad Shaw ((1998) 8 SCC 624), Mahabir Prasad Singh v Jacks Aviation ((1999) 1 SCC 37 : AIR 1999 SC 287) and Koluttumottil Razak v State of Kerala ((2000) 4

SCC 465).

(emphasis supplied)

In a separate concurring opinion, Justice R.P.Sethi observed as under (paras 22 and 23)

Generally strikes are antithesis of progress, prosperity and development. Strikes by the professionals including the advocates cannot be equated with strikes undertaken by the industrial workers in accordance with the statutory provisions. The services rendered by the advocates to their clients are regulated by a contract between the two besides statutory limitations, restrictions and guidelines incorporated in the Advocates Act, the rules made thereunder and rules of procedure adopted by the Supreme Court and the High Courts. Abstaining from the courts by the advocates, by and large, does not only affect the persons belonging to the legal profession but also hampers the process of justice sometimes urgently needed by the consumers of justice, the litigants. Legal profession is essentially a service-oriented profession. The relationship between the lawyer and his client is one of trust and confidence. .. **With the strike by the lawyers, the process of court intended to secure justice is obstructed which is unwarranted under the provisions of the Advocates Act. Law is no trade and briefs of the litigants not merchandise.**

(emphasis supplied)

His Lordship then referred to more than half a dozen precedents in support of 'consistent views of the Judiciary regarding the strike by the advocates' and held (para 29 of SCC):

... no leniency can be shown to the defaulting party, and if the circumstances warrant, to put such party back in the position as it existed before the strike. In that event, the adversary is entitled to be paid exemplary costs. **The litigant suffering costs has a right to be compensated by his defaulting counsel for the costs paid. In appropriate cases the court itself can pass effective orders, for dispensation of justice with the object of inspiring confidence of the common man in the effectiveness of judicial system.**

(emphasis supplied)

All the cases discussed supra were decided mostly by two/three Judges. The question whether advocates have no right at all to go on strike or boycott the Court was not specifically considered and it was left open. The Constitution Bench of five learned Judges of the Supreme Court presided by the Chief Justice of India, considered the question in **Ex Capt.Harish Uppal v Union of India**^[10], which is now

a watershed in law of legal profession. The unanimous Court (M.B.Shah and D.M.Dharmadhikari, JJ concurring in a separate opinion) laid down the law which we may mention as bullet points.

- Ø Lawyers have no right to go on strike or give a call for boycott, not even on a token strike.
- Ø The protest, if any is required, can only be by giving press statements, TV interviews, carrying out of Court premises banners and/or placards, wearing black or white or any colour armbands, peaceful protest marches outside and away from court premises, going on *dharnas* or relay fasts etc., outside the Court;
- Ø All lawyers must boldly refuse to abide by any call for strike or boycott and no lawyer can be visited with any adverse consequences by the association or the council; There shall be no threat or coercion of any nature including that of expulsion of the advocate;
- Ø 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.
- Ø In 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.
- Ø **It is for the Court to decide whether or not the issue involves dignity or integrity or independence of the Bar and/or the Bench. 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, whose decision shall be final to be abide by the Bar;**
- Ø **Courts are under no obligation to adjourn matters because lawyers are on strike and it is the duty of all Courts go on with matters on their boards even in the absence of lawyers.**
- Ø **Courts must not be privy to strikes or calls for boycotts.**
- Ø 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 in addition to damages which he might have to pay his client for loss suffered by him.
(emphasis supplied)

In a subsequent case, **Common Cause v Union of India**^[11], the challenge was to the decision of the Delhi High Court Bar Association and Supreme Court Bar Association to suspend advocates, who refused to participate in the strike call. Common cause

filed contempt cases in the Supreme Court. Reiterating **Harish Uppal**, the Supreme Court indicated that it shall be the duty of every advocate to bodily ignore a call for strike or boycott.

VI

Dealing with Strikes

The closure of the Courts due to strike by advocates is illegal. Any threat to Court proceedings by use of violence or otherwise is contempt of the Court. Any lawyer entering the Court in the robes or otherwise and asking other advocates waiting for their cases to come out would be contempt in the face of the Court. The Presiding Judge either in the High Court or in Mofussil Courts can initiate contempt and after issuing notice for imposing punishment of imprisonment or fine. It shall also be open to the Presiding Judge or any other Judge to direct the Registry or Ministerial Officer, as the case may be, to refer the matter of such advocates interfering with the Court proceedings to the Bar Council of Andhra Pradesh who shall then initiate disciplinary action for obstructing Court work and preventing other lawyers from attending the Courts, which itself is a serious misconduct attracting punishment of removal of the name from the rolls of the Bar Council. In such an event, advocates cannot appear in the Court where he created disturbance or any Court in the State. In this context, we may recall the observations made by the Supreme Court in **R.K.Anand v Delhi High Court**^[12], with regard to the conduct of the advocates in the Courts and especially the observations that, “the High Court cannot be held to be helpless against threats of the advocates in preserving the purity of judicial proceedings” (paras 242 and 243, and 331 to 335 of SCC).

Sri C.V.Mohan Reddy, the senior counsel submits that whenever the Bar Associations take decisions and a copy of the resolution is sent, the Courts willingly or unwillingly are becoming privy to the strike calls of the Bar Associations. He points out that when the supporters of the boycott call enter the Court Halls to enforce the boycott call, the Judges are willingly rising depriving many advocates opposing the boycott call, from functioning and discharging their duties.

What is contended is truth. There cannot be any doubt about the same. More often than not, whenever strike is decided Bar Associations request the HCJ in the High Court or the learned District Judge or Presiding Judge elsewhere, not to dismiss the cases of those absentee advocates for default. The request is readily agreed to. Such practice is not legally justified, nor it is compliant with Article 144 of the

Constitution of India^[13]. This cannot be allowed to continue after the Judgment of the Constitution Bench of Supreme Court in **Harish Uppal**. Dealing with this aspect specifically, Justice R.P.Sethi in his concurring opinion in **Ramon Services**, observed and laid down thus:

Though a matter of regret, yet it is a fact, that the courts in the country have been contributory to the continuance of the strikes on account of their action of sympathising with the Bar and failing to discharge their legal obligations obviously under the threat of public frenzy and harassment by the striking advocates. I find myself in agreement with the submission of Shri M.N.Krishnamani, Senior Advocate that the courts were sympathising with the Bar by not agreeing to dismiss the cases for default of appearance of the striking advocates. ... Some courts might have conducted the cases even during the strike or boycott periods or adjourned due to helplessness for not being in a position to decide the lis in the absence of the counsel but majority of the courts in the country have been impliedly sympathisers by not rising to the occasion by taking a positive stand for the preservation of the high traditions of law and for continued restoration of the confidence of the common man in the institution of judiciary. It is not too late even now for the courts in the country to rise from the slumber and perform their duties without fear or favour particularly after the judgment of this Court in *Mahabir Singh*. Inaction will surely contribute to the erosion of ethics and values in the legal profession. The defaulting courts may also be contributory to the contempt of this Court.

(emphasis supplied)

We are of the considered opinion that the High Court of Andhra Pradesh must issue appropriate directions to all the mofussil Courts in this regard, keeping in view the above observations.

Apart from the likelihood or possibility of advocates contributing 'forced closure of the Courts' which itself is a serious security threat, there are other causes which call for proper security. This aspect of the matter is considered in the next part.

VII

Court Security

Judiciary legitimises State's power to enforce laws. Without an independent judiciary – an indelible adjunct of democracy; the State's

sovereign power would be nebulous. History after Second World War shows that all democratic institutions are under constant threat. Religious and political terrorism has become bane of human civilization in spite of international effort to foster universal brotherhood, fraternity and peaceful co-existence. The recent world history is replete with violent and dastardly instances, which, one would like to wish away. Parliament Houses, the Government's Headquarters, the official residences of the heads of the State/Government – were sought to be effaced by violent bombing without compassion to human life. The Courts everywhere and judiciary are not spared nor can escape the line of fire. There have been attempts on the lives of the Judges for their opinions which irked some. People who came to the Court with grievances are not spared. To wreck the vengeance, they were killed. Probably, in the only book on the subject titled 'Protecting Court : A Practitioner's Guide to Court Security', Lt. Jimmie H Barrett Jr., chronicled that from 1970 till 2005, there were twenty-two (22) killings of Judges in the USA. Number of people who came to the Court were also killed. India, especially, Andhra Pradesh is no exception. Of late – we may take judicial notice that the police officers, the plaintiffs, defendants or accused and even advocates were killed in the Court houses. A couple of unarmed constables in dishevelled uniforms are no deterrent to highly motivated anti-social characters frequenting the Courts for various purposes.

Lt.Barrett in his Book 'Protecting Court', gives the following justification for Court Security System (pages 113, 114 and 117)

The courts attract a wide variety of people. Most arrive to settle disputes in a peaceful forum. Others harbor intense views, values, beliefs and opinions on some of our most controversial and divisive issues. Then there are those participants who are seeking their justice, their revenge, and their hope for vindication. When these participants do not see their version of justice occurring in the court system, they begin to lash out in anger and in violence. It is at this point of violent explosion that individuals have typically lost hope and perceive that they have no other alternatives. **Because of the intensity of emotions people bring to the courthouse, the court security officer must be prepared to prevent those emotions from erupting into violence and creating an environment of intimidation and fear. In fact, the focus of the court security officer should be to assure all participants that they are safe and free from harm and establish an atmosphere of safety, protection and professional order.**

... Courthouses are more than just another governmental building. They are considered to be the symbol of governmental authority. They are a place where all people

are equal before the law regardless of position. It is here that justice occurs, wrongs are righted, and truth is extracted. Some individuals perceive courthouses in another light. They see the courthouse as a symbol of loss, oppression, and fear. It reminds them of a time they rather forget, a time when they had to face an accuser or be accused. **Because of their role and symbolism, courthouses are attractive targets to those who wish to cause them ill will.** ... There are three branches of government in the United States: Executive, Legislative and Judicial. Each was designed to be independent from one another as a check and balance. **If one branch is not as strong and unencumbered as the others it cannot but negatively impact our community as a whole.** Our role as court security practitioners is not a small one. **What we do everyday is essential in maintaining the security and safety of not only the third branch of government but also our way of life.**

(emphasis supplied)

Open Court Norm

It is cardinal rule of justice that every redressal seeker has a right to public hearing. Article 9 of UDHR treats such a right as a human right. This is recognised in Indian law as well. It is a fundamental right of citizen to have open trial recognised under Article 21 of the Constitution of India (see **Kehar Singh v State (Delhi Administration)**^[14]). Section 327 of Code of Criminal Procedure, 1973, mandates that the criminal Court shall be open Court. Secrecy has no place in justice and as observed by Bentham, “where there is no publicity there is no justice”. And open trial is “surest guard against improbity”. But, in situations more than one, the law itself distances from public gaze and opts for *in camera* judicial proceedings. Section 53 of Indian Divorce Act, 1869, Section 14 of the Indian Official Secrets Act, 1923 and Section 22(1) of the Hindu Marriage Act, 1955, are few instances when public trial norm is ignored – in discharge of paramount duty in the administration of justice. Therefore, the plea of the HCAA that the norm of open court would be flouted by a rigid security system cannot be accepted. We are well supported by precedents.

In **Naresh Shridhar Mirazkar v State of Maharashtra**^[15], a nine Judge Bench considered the right to freedom of speech, the right to public hearing/trial in open Court *vis-a-vis* the inherent power of the Court to order *in camera* judicial proceedings. The case arose in the following manner. A defamation suit was instituted against Editor of ‘Blitz’. When a crucial witness was being examined, the learned Judge

prohibited publication of Court proceedings. Four journalists approached the Supreme Court under Article 32 of the Constitution contending that their fundamental right under Article 19(1)(a) of Constitution is violated and that prohibition of publication impinges the right to open trial and open Court hearing. The majority (8:1) rejected the plea. Speaking for four other learned Judges Chief Justice Gajendragadkar in the lead opinion observed that, "*it is the fair administration of justice which is the end of judicial process, and so, if ever a real conflict arises between fair administration of justice itself on the one hand, and public trial on the other, inevitably, public trial may have to be regulated or controlled in the interest of administration of justice*". The other observations relevant in this context are: (para 21 of AIR)

... it is necessary to consider whether this rule admits of any exceptions or not. Cases may occur where the requirement of the administration of justice itself may make it necessary for the court to hold a trial *in camera*. While emphasising the importance of public trial, we cannot overlook the fact that the primary function of the Judiciary is to do justice between the parties who bring their causes before it. If a Judge trying a cause is satisfied that the very purpose of finding truth in the case would be retarded, or even defeated if witnesses are required to give evidence subject to public gaze, is it or is it not open to him in exercise of his inherent power to hold the trial *in camera* either partly or fully? If the primary function of the court is to do justice in causes brought before it, then on principle, it is difficult to accede to the proposition that there can be no exception to the rule that all causes must be tried in open court. If the principle that all trials before courts must be held in public was treated as inflexible and universal and it is held that it admits of no exceptions whatever, cases may arise where by following the principle, justice itself may be defeated. The principle underlying the insistence on hearing causes in open court is to protect and assist fair, impartial and objective administration of justice; but if the requirement of justice itself sometimes dictates the necessity of trying the case in camera, it cannot be said that the said requirement should be sacrificed because of the principle that every trial must be held in open court. In this connection, it is essential to remember that public trial of causes is a means, though important and valuable, to ensure fair administration of justice; it is a means, not an end. It is the fair administration of justice which is the end of judicial process, and so, if ever a real conflict arises between fair administration of justice itself on the one hand, and public trial on the other, inevitably, public trial may have to be regulated or controlled in the interest of administration of justice.

In **Kehar Singh**, the convicts raised the plea that by holding *in camera* trial in Tihar jail, they were denied fair trial. The Supreme Court relied on **Mirazkar** and rejected the plea holding that, “*though public trial is the rule yet in cases where the ends of justice would be defeated if the trial is held in public, ... the Court has got inherent jurisdiction to hold the trial in camera*”.

In **Holbrook v Flynn**^[16], the presence of ‘Uniformed State Troopers’ in the Court trying the accused for armed robbery was objected to, as being prejudicial to fair trial violating the Sixth and Fourteenth Amendments to US Constitution. The trial Judge and Federal District Court rejected the objection. But, the Court of Appeals reversed. The US Supreme Court was concerned with the issue “whether the conspicuous or at least noticeable, deployment of security personnel in a Court room during trial is the sort of inherently prejudicial practice that, ... should be ... justified by a essential State interests?” The unanimous Court opined that presence of guards in a Court room should be permitted only where justified by the essential State interests. The relevant observations are as under.

The chief feature that distinguishes the use of identifiable security officers from courtroom practices we might find inherently prejudicial is the wider range of inferences that a juror might reasonably draw from the officers’ presence. ... Jurors may just as easily believe that the **officers are there to guard against disruptions emanating from outside the courtroom, or to ensure that tense courtroom exchanges do not erupt into violence**. Indeed, it is entirely possible that jurors will not infer anything at all from the presence of the guards. If they are placed at some distance from the accused, security officers may well be perceived more as elements of an impressive drama than as reminders of the defendant’s special status. **Our society has become inured to the presence of armed guards in most public places; they are doubtless taken for granted so long as their numbers or weaponry do not suggest particular official concern or alarm.**

(emphasis supplied)

In **Deck v Missouri**^[17], during sentencing proceedings the convict – Carman L.Deck was shackled with “leg irons, handcuffs, and a belly chain”. The counsel objected to the shackles, which was overruled. He was sentenced to death. In his appeal, Deck claimed that his shackling violated Federal Constitution, as his appearance in shackles prejudiced the sentencing Judge. The Missouri Supreme Court affirmed the sentence. The US Supreme Court by a majority of

7:2 (Justice Stephan Breyer) reversed the State Supreme Court and remanded for further proceedings holding that, *“the law has long forbidden routine use of visible shackles during capital trials guilt phase, permitting shackling only in the presence of special need”*, and that, *“the Courts cannot routinely place the defendants in shackles or other restraints visible to the jury during the penalty phase”*, and that *“any special circumstances in the Judges discretion shackling may be called for”*. Dissenting Judges (Justice Clarence Thomas) opined that, *“the concern requires a categorical rule that the use of visible physical restraints violates the due process clause absent a demanding showing”*. The need to protect the Court decorum and Courtroom officials was emphasized, observing.

The Court also asserts the rule it adopts is necessary to protect courtroom decorum, which the use of shackles would offend. This courtroom decorum rationale misunderstands this Court’s precedent. No decision of this Court has ever intimated, let alone held, that the protection of the “courtroom’s formal dignity”, is an individual right enforceable by criminal defendants. Certainly, courts have always had the inherent power to ensure that both those who appear before them and those who observe their proceedings conduct themselves appropriately.

... The power of the courts to maintain order, however, is not a right personal to the defendant, much less one of constitutional proportions. ... The concern for courtroom decorum is not a concern about defendants, let alone their right to due process. It is a concern about society’s need for courts to operate effectively.

Wholly apart from the unwarranted status the Court accords “courtroom decorum”, the Court fails to explain the affront to the dignity of the courts that the sight of physical restraints poses. ... Our Nation’s judges and juries are exposed to accounts of heinous acts daily, like the brutal murder Deck committed in this case. ... Courthouses are thus places in which members of the judiciary and the public come into frequent contact with defendants in restraints. ...

... The Court expresses concern for courtroom security, but its concern rings hollow in light of this rule it adopts. The need for security is real. Judges face the possibility that a defendant or his confederates might smuggle a weapon into court and harm those present, or attack with his barehands. ... Judges are not the only who face the risk of violence. “Sheriffs and courtroom bailiffs face the second highest rate of homicide in the workplace, a rate which is 15 times higher than the national average. ... The problem of security may only be worsening. ... Security issues are particularly acute in state systems, in which limited manpower and resources often leave judges to act as their own security. ... Confining the analysis to trial-

specific circumstances precludes consideration of limits on the security resources of courts. Under that test, the particulars of a given courthouse (being nonspecific to any particular defendant) are irrelevant, even if the judge himself is the only security, or if a courthouse has few on-duty officers standing guard at any given time, or multiple exists. Forbidding courts from considering such circumstances fails to accommodate the unfortunately dire security situation faced by this Nation's courts. The Court's decision risks the lives of courtroom personnel, with little corresponding benefit to defendants. ...

(emphasis supplied)

Therefore, while rejecting the plea raised across the Bar, we are convinced that provision for security of the people including Judges and advocates is imperative urgent need. Whether an emergency event is 'man made or natural' or whether disturbing atmosphere impeding Court proceedings is due to sudden provocation or a well planned measure to catch the attention of media, those concerned with security must be prepared and have appropriate quick response plans to ensure continuity of Court proceedings. In the guise of public hearing and open trial in open court, security can never be sacrificed or else the very right to public hearing would be at peril.

Security during Normalcy

Security needs of democratic institutions are seldom thought of. Complacency sends the need to protect to the backseat. More often than not the institution is caught unawares. It is only when ugly and obtrusive events occur that institutional managers as knee jerk reaction, start thinking about measures, mostly adhoc. There cannot be any denial that by and large judicial institutions run routinely. But it cannot always be taken for granted. There may be eerie 'calm before the storm'. As observed by Lt. Jimmy Barrett among the normal people who visit the Courts, there may be abnormal judicial participants who are ready "to lash out in anger and in violence with worked up emotions". A court security system has to be ready to deal with any crisis, "to assure all participants that they are safe and free from harm ..".

Ship sinking ocean waves are invisible in the deep waters. They develop suddenly and engulf all those afloat in the sea waters. Therefore, those who want to sail the oceans smoothly must build strong ships to withstand those monstrous waves. There have been increasing incidents of attacks on the Court buildings, Judges, advocates and the accused under trial. As of now, as mentioned supra, "only in the aftermath of tragic events have most Courts turned their

attention to protect the judicial work environment and the importance of preventive medicine is yet to be realised". Merely because there is violence free court operations every day, one cannot say that there are no threats to functioning of the Courts. Absence of violence is not normalcy nor Court security should be put in motion only when the advocates give a call for boycott and a few of them violently enforce it by pulling out the advocates waiting for their cases and damaging the property of the Courts, besides hurling abuses and missiles at the Judges.

The necessity of Court Security Programmes to protect all the judicial participants and the duty and power of the State cannot be undermined. "(T)he general government must cease to exist whenever it loses the power of protecting itself in the exercise of its Constitutional powers". It was so stated by Justice Strong of US Supreme Court in **Martin v Hunter**^[18]. Quoting this **In re Neagle**^[19] more than 100 years ago, the US Supreme Court observed (it was a case of attack on U.S. Supreme Court Justice Stephen J. Field).

In the view we take of the Constitution of the United States, any obligation fairly and properly inferrible from that instrument, or any duty of the marshal to be derived from the general scope of his duties under the laws of the United States, is "a law" within the meaning of this phrase. **It would be a great reproach to the system of government of the United States, declared to be within its sphere sovereign and supreme, if there is to be found within the domain of its powers no means of protecting the judges, in the conscientious and faithful discharge of their duties, from the malice and hatred of those upon whom their judgments may operate unfavourably.**

It has in modern times become apparent that the physical health of the community is more efficiently promoted by hygienic and preventive means than by the skill which is applied to the cure of disease after it has become fully developed. So also the law, which is intended to prevent crime, in its general spread among the community, by regulations, police organization, and otherwise, which are adapted for the protection of the lives and property of citizens, for the dispersion of mobs, for the arrest of thieves and assassins, for the watch which is kept over the community, as well as over this class of people, is more efficient than punishment of crimes after they have been committed.

If a person in the situation of Judge Field could have no other guarantee of his personal safety, while engaged in the conscientious discharge of a disagreeable duty, than the fact that, if he was murdered, his murderer would be subject to the laws of a State, and by those laws

could be punished, the security would be very insufficient. ... We do not believe that the government of the United States is thus inefficient, or that its constitution and laws have left the high officers of the government so defenceless and unprotected.

(emphasis supplied)

It is also not totally sound under the Indian Constitution to think that it is only the legislative branch of the Government that has to protect the judicial officers by enacting appropriate laws. As an autonomous independent branch of the State, the judiciary is not so helpless to evolve its own programmes for securing all judicial participants in the Court and outside the Court. If the complainants who seek redressal are threatened from approaching the Judges or witnesses are warned for giving evidence in the Courts, the democracy would perish. The only branch of the State which can prevent such catastrophe is the judiciary. The theory that judiciary can as a knee-jerk reaction put in place crisis management security measures and be complacent in the days of so called normalcy is too naïve and has to be rejected. Serious threat lurks. Nobody knows from which corner it bringing halt to the judicial operations. Therefore, there ought to be "ready to meet all situations" security system not only for the High Court but also for all the Courts which are subject to its control. In such endeavours, needless to mention, the legislative and executive branches of the State are bound to provide men, material and money because Constitution entrusts State's Consolidated Fund and Contingency Fund to the legislative and executive branches.

We may conclude this portion of this Judgment by quoting Lt. Jimmy Barrett.

In order to preserve the dignity and decorum of the justice system, it is critical that a courtroom have a formal reserved structure that reinforces fairness and objectivity of the court. Disruptive courtroom behaviour is a direct challenge to the legitimacy and authority of the court and the government. In response to antics that litigants have displayed in court in the past, the courts have developed a body of law to help ensure that dignity and decorum is preserved to create a fair and impartial environment. ... **What are the points of vulnerability? Where are the utilities' shut-off points? What areas provide the best cover from an attack? No individual or group should have the capacity to defeat us in our own house. There are no reasons or excuses for us to not be prepared. As professionals we have to be proactive, engaged and prepared for contingencies; that is our job and vocation. We are here to keep the peace, save lives, and reassure people that the courts are safe.**

(emphasis supplied)

Therefore, we reject the submission of the counsel that the prevailing normalcy must guide us to restore *status quo ante*.

VIII

Court Security in other Jurisdictions

In this part, we would briefly refer various Court Security Systems in some of the foreign jurisdictions^[20].

The **United States** Marshals Service has a Judicial Security Division (JSD). It provides judicial services through two programmes namely, Judicial Operations and Judicial Services. Protective Intelligence, Protective Operations and Court Security are taken care of by the former and the Organisational Management of Court Security Offices and Court Security Systems (Electronic Security) are handled by the latter. It may also be mentioned that strict security programme, accessibility control and visitor control are implemented by the Marshals of the Court.

The Marshal of the Supreme Court of the US pursuant to the statutory authority (40 U.S.C., 6102), made with the approval of the Chief Justice of U.S.A., six regulations to protect the persons/ property and to maintain suitable order and decorum^[21]. These are (1) persons having legitimate business or when so authorized can only remain in the Court premises after Court business hours and on holidays; (2) it is open to Marshal of the Supreme Court to declare the Supreme Court building or grounds or any portion thereof closed to the general public. Any person who enters the closed area without authorization of the Marshal or refuses to leave the closed area shall be subject to arrest and penalties; (3) it shall be unlawful for any person to carry fire arms, explosives dangerous weapons other substance material or any other item that may pose a danger to the Court property or the safety of the Justices, staff, guests or general public. Officers of the Supreme Court, Police shall have the authority to deny entry or expel any person who brings fire arms, explosives and deadly weapons and any person failing to comply the regulations shall be prosecuted; (4) it shall be unlawful for any person to bring dog unless the same is trained to

arrest the owner or the owner is law enforcement officer;

(5) no person shall on the Supreme Court grounds create any noise and disturbance that tends to disturb the order and decorum of the Supreme Court or any activities authorized by the Court in the Supreme Court building or on its grounds; and (6) use and display of signs on the perimeter sidewalks of the USA Supreme Court is prohibited contrary to regulations. Any person who fails to comply with these regulations may be subject to fine and/or imprisonment.

State Courts and Federal Courts in the **Common Wealth of Australia** have specialised wings for protection of the Judiciary and the Courts. For instance, in South Australia, the Sheriff, a statutory officer appointed under the Sheriff's Act on the recommendation of Chief Justice of State Supreme Court, *inter alia* provides Court Orderly Service, Court Security Service, Prisoner Security Service and Service of Civil Process. In Adelaide, Sheriff's Officers who are multi-skilled in security operations provide protective security to all Court precincts by conducting point of entry searches at Court locations, provide security presence and consultant service to the Court Administrator. He also holds an appointment of Deputy Sheriff of Federal Court of Australia and Marshal for the enforcement of orders of High Court of Australia. In Western Australia, Court Security and Custodial Services are contracted out to specialist agencies. In addition to providing prisoner transport service, the security agency takes care of Court custody and Court Security Services in all major Court facilities throughout the State in Perth.

The perimeter and entrance to all the Magistrates, Courts, District Courts, the State Supreme Courts and Federal Courts is regulated by access control programmes' and no attorney, visitor or any person coming on Court business is permitted to enter without passing through the Door Frame Metal Detectors (DFMD), frisking (wherever necessary) and scanning the packages, records and bags etc., brought into the Courts. All the Court Security Staff are authorised to remove anybody from the Court premises if such persons cause disturbance in the Court.

In the **Republic of Pakistan**, the Chief Justice of Pakistan, the Chief Justice of Federal Shariat Court and High Courts constantly bestow attention to security related issues of the Judges of Superior Courts in view of the threat perception. The security of advocates in different parts of the country is not ignored. On the days when Court business involves sensitive cases, suitable high security arrangements are in place. For instance, with effect from 08.08.2008 when seventeen member Larger Bench headed by Hon'ble Chief Justice Iftikhar Muhammad Chaudhry commenced the proceedings on

petitions challenging Eighteenth Constitution Amendment, the following security arrangements were ordered^[22].

1. Special security cameras were installed in the court rooms as well as public entry gates and reception areas of the Supreme Court;
2. Passes were issued to the petitioners, respondents, their learned counsels appearing before the court;
3. The entry of the journalists who regularly cover Supreme Court proceedings was made through passes.
4. Passes were issued on first-come-first-serve basis to all those interested to watch court proceedings but subject to seating capacity in the said courtroom;
5. Entry into court building was allowed after checking/frisking and searching of bags/purses, etc. Cell phones were prohibited inside the courtroom.

In **Singapore**, Security cameras monitor the entry gates and all the visitors and their bags are screened. The elevators are secured which can only be activated with a key. To prevent escape attempts by accused in subordinate Courts, extra security grills were put in place besides enhancing Closed Circuit TV System (CCTV). Regular security and audit of all entry points and prisoner lock-up facilities are undertaken.

IX

Judicial Security in India

Attacks by disgruntled litigants on Judges are not rare in Indian judicial history. In 1968, an attempt was made in Court on the life of the then CJI Justice M.Hidayatullah. The learned Judge resisted valiantly. Before the assailant could be overpowered, another learned Judge on the Bench Justice A.N.Grover received injuries on his head and was hospitalized. Seven years thereafter on 25.03.1975, CJI A.N.Ray was attacked by bombs near the Supreme Court in New Delhi. The bombs did not explode and he escaped unhurt. The attempt was made allegedly by Anand Margese as Chief Justice Ray refused to grant bail to the leader of the cult^[23]. Of late, there have been instances of insulting behaviour towards Judges. Though such instances do not recur with regularity, of late, abusing in loud voice, throwing footwear and books on the Judges are often heard. There are two reported cases in this regard.

A decade ago on 26.02.1999 in Court No.1 of Supreme Court, when an advocate shouted slogans and hurled shoe towards the Court thereby interrupting the Court proceedings, the Supreme Court *suo motu* initiated contempt and sentenced the culprit to suffer simple imprisonment for four months and to pay a fine of Rs.2,000/-^[24].

In the recent past, on 20.03.2009, four citizens appearing party in persons in Court No.3 before Dr Justice Arijit Pasayat and Justice A.K.Ganguly, they shouted and used very offensive, intemperate and abusive language and one of them threw a Chappal at the Judges. Immediately, the same was treated contempt in the face of the Court and the learned Senior Judge sentenced the persons who exhibited contumacious behaviour to three months imprisonment. Justice Ganguly disagreed holding that without following the mandate of Section 14 of the Contempt of Courts Act, 1971, the contemnors cannot be sentenced. The matter then went before three Judges. Their Lordships confirmed the order of Dr Justice Pasayat holding that, "throwing footwear at the Presiding Officer in the Court proceedings amounts to scandalizing the Judge, lowering the dignity in the eyes of public, and therefore, such incident has to be dealt with at the time of incident itself^[25].

The second respondent has placed before us various orders passed by Hon'ble the Chief Justice of India, on the subject of Supreme Court Security. On 10.11.2010, we directed the second respondent to get information from other High Courts. The same has been furnished to us. All these are extracted hereunder for ready reference.

The various directions of Hon'ble the Chief Justice of India for the purpose of security of the Supreme Court complex issued from time to time have been notified by way of circulars. For the sake of ready reference, they are extracted herein.

Circular No.F.219/Security/2007/SCA (Genl.),
dated 18th May 2007.

1. Henceforth only vehicles having approved parking stickers of the current year issued by the Supreme Court Bar Association and countersigned by the Registry of the Supreme Court of India or the Parking Stickers issued by the Supreme Court Registry will be allowed to enter the premises of Supreme Court. The parking sticker shall be prominently displayed on the vehicle and shall contain the registration number of the vehicle.
2. In case the person obtaining parking sticker replaces his/her vehicle during the year he/she will have to obtain a new parking sticker of current year for the new vehicle after depositing the mutilated parking sticker of the old vehicle with Supreme Court Bar Association. A parking sticker shall not be transferable and can be used only in respect of the vehicle for which it is issued.
3. Inverted mirror will invariably be used by the security

personnel for thorough checking of vehicles at the time of entry into the Supreme Court premises.

4. Advocates in robes or otherwise, registered/authorized clerks of advocates, employees of Supreme Court and employees of the other offices functioning in the Supreme Court premises must display or show their Identity Card or a visitor's pass issued by the Supreme Court Registry to gain entry into the High Security Zone. All others will have to obtain visitors' pass issued by Supreme Court Registry for entry into the High Security Zone of the Supreme Court Premises upon proper identification.

5. All persons, other than Advocates in robes and displaying or showing his/her Identity Card, will be subjected to search and frisking by the security personnel at the point of entry into the High Security Zone.

6. Barring open files/briefs being carried by an advocate displaying or showing his/her Identity Card, all bundles/brief cases/bags/files books etc., being carried by any one will have to be scanned by the X-Ray Machine for entry into the High Security Zone.

7. The D.C.P., Supreme Court Security shall ensure that all the X-Ray Machines and Door Frame Metal Detectors (DFMDs) are always in proper working condition.

8. Cameras and Mobile Phones shall not be brought inside the Court rooms.

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Circular No.F/219/Security/2007/SCA(Genl.),
dated 6th December 2007

1. No person (including an advocate) will be issued visitor's pass without verifying his/her identity and address from his/her Driving Licence/Identity Card/Voter's Card or any other authentic document(s). A photocopy of the proof of address and proof of identity shall be retained by the Reception Counter and kept in record for atleast 3 months.

2. Persons visiting Registry on behalf of any firm/company/association/office/Department must carry an authority letter besides proof of his/her identity and address.

3. No vehicle without valid Car Parking Sticker issued by the Supreme Court Registry/Supreme Court Bar Association will be allowed to enter into Supreme Court premises without written permission from the concerned Officer of the Supreme Court Registry.

These directions shall come into force with immediate effect.

Circular No.F.219/Security/2007/SCA(Genl.),
dated 7th December 2007

1. All advocates should display or show their Identity Cards to gain entry into the Judges' corridors.
2. If any matter is to be heard in the Chamber of an Hon'ble Judge, the concerned Court Master should give a written intimation in this regard to the Joint Registrar (Security) so that the concerned Advocate may be permitted access to the Chamber of the Hon'ble Judge. A party or clerk, if accompanying the Advocate will also show his proof of identity to the security staff.
3. If Hon'ble the Chief Justice of India or any Hon'ble Judge gives appointment to an Advocate or some other person to call on His Lordship in the Chamber, AR-cum-PPS to Hon'ble the Chief Justice of India/AR-cum-PS to Hon'ble Judge will inform Joint Registrar (Security), who will facilitate the entry of the visitor in Judges' corridor.

If an Advocate or some other person wishes to call on Hon'ble the Chief Justice of India or any Hon'ble Judge in Chamber, without prior appointment, he shall contact Joint Registrar (Security), who will facilitate the entry of the visitor in the Judges' corridor after seeking permission of Hon'ble the Chief Justice of India or the Hon'ble Judge, as the case may be.

4. No staff member of the Registry or of any agency will be allowed to enter the Judges' corridors unless required in connection with his official duties.
5. All staff members of the Registry as well as police personnel will display their Identity Cards and if anyone is found violating the same, disciplinary action will be initiated/recommended against him.
6. D.C.P., Supreme Court Security will instruct the police personnel manning the entry gates to the Judges' corridors as well as both the porches to ensure that no unauthorized person enters the Judges' corridors.

These directions come into force with immediate effect.

Circular No.F.No.219/2008/Security/SCA (Gen.),
dated 3rd August 2008

In continuation of this Registry's Circular dated 18.5.2007 and subsequent Circulars on the subject, and in view of the increased threat perception to the high profile buildings and

the present scenario concerning security of the Supreme Court Complex, Hon'ble the Chief Justice of India after discussion with the Office bearers of the Supreme Court Bar Association and Supreme Court Advocates-on-Record Association, has been pleased to direct as under:

1. The Identity Cards of all including Advocates, whether in robes or otherwise, will be checked at the entry point to the High Security Zone.
2. Briefs, case files, books and documents being carried by anyone including Advocates or their Clerks will be subjected to x-ray screening.
3. All Pedestrians and Cyclists (except Advocates displaying or showing I-Cards, staff members of the Registry and Offices situated in Supreme Court building displaying I-Cards, Clerks displaying I-Cards issued by the Supreme Court Registry and the workers of the SCBA Canteen etc., and employees of SCBA showing or displaying the I-Cards) will be subjected to frisking at the main gates.
4. All (except Advocates displaying or showing I-Cards, staff members of the Registry and Offices situated in Supreme Court building displaying I-Cards, Clerks displaying I-Cards issued by the Supreme Court Registry) will be subject to frisking before they enter High Security Zone.
5. At present, employees of SCBA and staff of Advocates' canteen are being allowed entry in High Security Zone on the basis of Identity Cards issued to them by SCBA. The Registry will issue photo Entry Passes to them and thereafter they will be allowed entry in High Security Zone only after checking of such Passes.

The Advocates and all others concerned are requested to cooperate in implementation of these directions.

During oral submissions, advocate general has placed before this Court a note of Registrar (Administration), Supreme Court of India in response to a former's letter No.980 of 2010, dated 20.09.2010 requesting the processes and procedure adopted by apex Court for entry of various persons into the Court premises. The note of the latter which appears to have been sent with the approval of the competent authority reads as under.

The Supreme Court of India premises have been divided into two zones (1) High Security Zone (HSZ) which include the Court Rooms, Registry, Supreme Court Security Officer (SCS), Supreme Court Bar Association (SCBA) Office, SCBA

Library, SCBA Consultation rooms, CPWD Office and Canteens; and (2) area outside High Security Zone area which include Reception, Lawyers' chambers, Bank, Post Office and Parking etc.

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Entry to High Security Zone

In the High Security Zone there are 6 gates, two exclusively for Hon'ble Judges and four for officers, staff of Registry, Advocates, litigants and other regular visitors. At all the above gates, High Security gadgets are installed. Only the Hon'ble Judges and Seniormost Officers are permitted to take their official cars inside the High Security Zone, which remain closed and opened mechanically after confirming the identity of vehicle permitted to enter.

Entry to HSZ for all others is restricted and is permitted only through cabins where Turnstile gates, Door Frame Metal Detectors and X-ray baggage machines are installed which are manned by Police personnel. Entry is restricted by using Proximate Cards for opening the turnstile gates or by showing a Photo Entry Pass. Proximity Cards are given to all the staff and officers of the Registry, Retired Judges, Advocate Generals of all States, members of SCBA, Senior Advocates and other non-SCBA member Advocates. The Proximate Cards are issued to the Advocates on the basis of application submitted by them to the Registry in prescribed form attested by SCBA/Bar Council and submitted through SCBA.

The litigants and other casual visitors can obtain a photo entry pass from any of the 12 counters set up for issuing photo entry pass, outside the HSZ. For obtaining a photo entry pass, an application form with basic details supported by proof of identity has to be submitted. An instantaneous photograph of the applicant is taken and a computer generated pass with photo of the applicant is taken and a computer generated pass with photo of the applicant and his details is issued. Entry is allowed by Police personnel after personal verification of the person with the Photo entry pass. Apart from above, in case of doubt, the entrants are also frisked by the police, Photo entry pass is issued for entry to a specified area and holders of pass cannot go beyond the area mentioned in the pass.

While using a Proximate card, the details of the holder with time of access is recorded in the Computer data base. So also when Computer generated Photo entry Pass is made, data are recorded in the data base. These are available for verification in future.

Entire HSZ and the outside area are brought under close CCTV surveillance. All the gates are manned by police personnel. Apart from these, various corridors and sensitive areas including Judges corridors are guarded by armed police.

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Entry of Vehicles

Parking area for the advocates and officers of Registry is outside High Security Zone. Vehicles having parking sticker issued by Registry are permitted to enter and park in Supreme Court premises outside the HSZ. They are checked by security personnel using under vehicle search mirror before permitting entry to the Supreme Court Complex.

The security of the Delhi High Court premises is on the following lines.

Building Exterior

- (i) 2 Police Control Room vans have been located at Gate No.1 and the other at Gate no.4 respectively.
- (ii) 2 Quick Reaction Teams (QRTs) with commandos have been provided near the Litigants Entry Gate of the 2 court buildings to react in case of any situation. They are equipped with wireless communication.
- (iii) 3 additional staff from the traffic police have been located at the Gate Nos.4 and 5 to facilitate the flow of traffic.
- (iv) 2 teams with inverted mirrors have been provided in the parking lots in the High Court to check vehicles.

The system of access control at the perimeter gates, the main court building, the lawyers chambers, parking areas and other locations in the premises are present and security arrangements within the court buildings are as follows.

The security system of the Delhi High Court building, the following steps are being taken:-

A. Anti-Sabotage Check: A regular anti-sabotage check (A.S.Check) is one of the most important and effective tools for ensuring security and safety of the people and property in a premises. A quality A.S.Check is necessary to effectively deal with the danger of the planting of explosives/bombs in the premises. The two A.S.Check teams are equipped with the latest equipment to ensure a quicker and effective A.S.Check of the premises.

B. Access Control: Access control is the most effective tool to secure any premises. Therefore, the first line of Access Control is at the Outer Perimeter gate. Entry of different categories of persons to the premises are being regulated from different gates.

1. Lawyers: Lawyers entering the Delhi High Court premises from Gate No.2 to 8-B should have valid photo identity cards issued by Delhi Bar Council while seeking entry. In case they carry any baggage, it should be passed through a X-ray scanner to be installed at the entry gates. Advocates who do not have any photo identity cards will have to be subjected to frisking/searching at the time of entry.

2. Litigants: Litigants seeking entry in the court premises are issued an entry slip at the Reception counter located between Gate Nos.4 and 5 on the basis of a recommendation slip issued by the lawyers, under the signature of the Advocate concerned, giving details of the case and restricting the number of persons in each case to avoid any misuse of this facility. The Delhi High Court Bar Association is requested to issue numbered slips to Advocates so that these can be monitored. The Delhi High Court Bar Association may issue such numbered slips and maintain a record of the same and devise a method to monitor and ensure that slips are issued to bonafide litigants only under the signature of an Advocate and not of their employees.

3. Lawyer's Staff: entering the Delhi High Court premises exhibit a photo identity card issued by the Registry of the Delhi High Court while seeking entry. They need not be frisked or searched at the perimeter gate except in case when they are not able to produce the identity card.

4. All other persons: seeking entry in the High Court premises including the staff of the lawyers, general public desirous of visiting the lawyers chambers, shopkeepers and their employees, etc. shall be frisked and searched at the time of their entry and their baggage will be put through x-ray scanner at the perimeter gate.

To facilitate various categories of people entering Delhi High Court premises, there is a distribution of gates to segregate. Some gates are exclusive for Judges, some are for advocates and staff and some are (wicket gates) for entry of pedestrians especially the clients and those persons who come to the Court on some work or the other. All the advocates are required to display serial number car labels issued by the Delhi High Court Bar Association bearing registration number of the car, the hologram and mentioning the calendar year with the signature of the Secretary. All the advocates in the car required to present their photo identity card on demand. CCTV cameras are installed and they are watched on big computer monitor from a Delhi Police Security Control room. The security operations are moderately high-tech with x-ray scanners, multi zone DFMDs, explosive detectors, minesweepers, DSM, LNJD, HHMD, Proudler, Bomb Blanket, Binoculars etc. The equipment is under control of the High Court, which are used for the security check.

A Division Bench comprising Hon'ble Justice R.M.Lodha (As His Lordship then was) and Justice S.A.Bobde passed the order in P.I.L.W.P.No.115 of 2005, dated 28.09.2006, giving the following

directions.

(i) The time granted in our order dated 13th September, 2006 for installation of adequate number of CCTV cameras and X-ray baggage scanners is extended to 20th November, 2006. The officiating Government Pleader shall ensure that the entire project installation of CCTV cameras and X-ray baggage scanners becomes functional from 21st November, 2006.

(ii) By way of an ad-hoc arrangement until then, we direct Vinay Kargaonkar, Additional Commissioner of Police, Protection and Security, Mumbai, to visit the High Court on every working day at 10'o clock and review the security arrangement and submit his report to the Registrar General at 11'o clock. If he is on leave on any working day, the officer officiating him on that particular day shall visit the High Court building at 10'o clock for reviewing the security arrangement and submit the report to the Registrar General by 11'0 clock.

(iii) The State Government is also directed to augment the security arrangements at Nagpur and Aurangabad Benches as per the requirement set out in the Report of the Registrar General, dated 27th September, 2006, and ensure that the augmented security arrangements become functional at Nagpur and Aurangabad Benches from 21st November, 2006.

(iv) With regard to augmentation of security arrangements in the High Court buildings at Panaji-Goa, the Registrar General is directed to take up the matter with the Government of Goa and ensure that adequate security arrangement is made in the High Court Buildings at Panaji-Goa.

The Gauhati High Court's security standard is of two tier – covert and overt.

Overt Security: In the High Court campus police personnel detailed are of UB staff, SB staff, radio Organization Staff, and Home Guards. They are detailed on each and every door of the Court premises to prohibit the entry of outsiders without permission. In the entrance gate the names and particulars of the outsider are entered in a register and are physical frisking is carried out. The Armed Battalion staffs are detailed for guarding the entire High Court campus including the periphery. The learned advocates are allowed to enter the campus with their automobile along with the car pass issued by the Bar Association. Bicycles are not allowed. All the staff of the High Court and the learned advocates are wearing I-Card displaying their identity. One QRT (Quick Reaction Team) under the command of one sharp shooter NCO is formed to retaliate in case of any armed attack. District Special Branch and also from Special branch Headquarter sending their team every day to sanitize the chamber of Hon'ble Judges, Courts and office room of the Registry. Some area of the Gauhati High Court are declared out of

near Esplanade students and staff
Police Station

The remaining two other gates located at the Western and Northern side of the Law College compound are closed permanently at present.

(ii) Regulation of visitors: Visitors are to be allowed entry into High Court campus only based on a valid entry pass in the prescribed format clearly indicating date of visit, which Court, name of the Officer/Advocate to be contacted and purpose of visit. The entry passes will be issued at the gates only on the recommendation/ approval of Advocates/authorized Court officials. Auto-rickshaw shall be banned from entering into the High Court premises except on special consideration like old age and disability of Advocates/litigant public with special entry pass/ special identification cards issued by the Registrar General of the High Court. For the entry of Advocates, Court Staff, Government Officials, Litigants, Witnesses, Trial Prisoner, etc., the under mentioned instructions shall be followed.

- a) All the gates will have barricades for regulation of entry and exit of vehicular and pedestrian movement to the High Court campus.
- b) DFMDs will be installed in all the entry gates. The litigant public and others will be allowed to pass through the DFMD after being manually frisked using HHMD while entering the High Court premises. Each gate will have at least one DFMD.
- c) Frisking and Checking of the pedestrians and scanning of vehicles will be done by Police Personnel.
- d) Each gate will have a minimum strength of one HC, Three PCs and one WPC in two shifts for frisking, checking etc. Four Sub Inspectors and 2 Inspectors are B-4 PS will supervise the Frisking.
- e) Advocates, Law College students and Court Staff will be exempted from frisking on showing their identity cards issued by respected Associations/authorities and facsimiled by the Registrar General of High Court.
- f) The private vehicles driven by the Advocate himself/herself or by his/her driver need not be checked, provided the Advocate is in the vehicle shall have an authenticated sticker with hologram issued by the Registrar General.
- g) Hired Vehicles used by Advocates entering High Court campus will be subjected to manual checking and screening using electronic gadgets.
- h) All the vehicles of the litigants and others entering the High Court premises will be subjected to thorough checking by manual as well as electronic gadgets including Under Vehicle Search Mirror.
- i) Government vehicles are to be allowed on identification of the

vehicle and the occupant.

The security committee of Orissa High Court consisting of four learned Judges directed the following security system for Orissa High Court.

- Ø Bio-metric Identity Cards shall be provided only to those members of the Bar Associations who desire to have the same.
- Ø The members of the Bar with robe shall not be frisked at the frisking points.
- Ø Litigants for their entry into the court premises shall have to obtain Entry Pass from the Registry and a Reception Counter for the purpose shall be opened. Entry Pass shall be issued to the litigants after they are thoroughly identified by the Advocates. The litigants shall be frisked at different entry points of the Court.
- Ø The advocates without robe desiring to enter inside the Court premises shall have to obtain necessary Entry Pass from the Registry which shall be issued to them on being identified by the members of the High Court Bar but they shall be frisked at the frisking points.
- Ø Bio-metric Identity Cards shall be issued to the Advocates' Clerks in order to facilitate their entry into different Departments of the High Court.
- Ø For entry of 4-Wheeler Vehicles of the Advocates to the parking areas as well as to the areas adjacent to the Court, Sticker Car Passes shall be issued for such vehicles with the signatures of the Secretary of the High Court Bar Association and the Assistant Registrar (Administration) of the Court. For entry of vehicles of the litigant public to the parking areas, the High Court Bar Association with the consent of the Registry can issue Temporary Entry Pass, which shall be valid for the day.
- Ø The Registry shall inform the Commissioner of Police, Deputy Commissioner of Policy, Cuttack, and the Executive Engineer, Roads & Building Division, Cuttack, to go ahead with the projects relating to security surveillance in the High Court.
- Ø The Registry shall place this before the Full Court for considering suitable amendment to the Rules.

In the counter affidavit of the fifth respondent, namely, Commissioner of Police, Hyderabad City Police, while making reference to the letter dated 31.03.2007 (04.06.2007) of the Government of India, Ministry of Home Affairs, bearing No.VI.23014/79/2005-VS, has submitted a security plan to be in place for High Court of Andhra Pradesh. The GoI security guidelines are relevant. These are [\[26\]](#).

- (i) omitted

(ii) The State/UT Chief of Intelligence Branch should be entrusted with the task of preparing **Security Plans**, which should be submitted to the Protection Review Group (PRG) for consideration and approval.

(iii) The Security Plan should take into account the general security scenario in the State/UT, sensitive cases under trial and specific threats, while drawing up appropriate security plans.

(iv) There should be a **Specialised Unit/Branch** within the State/UT police to look after the security of the judges/courts.

(v) The **High Court** in the respective States/UTs should be declared as **High Security zone**.

(vi) There should be fool-proof **Access Control System** for the premises of the High Courts with regulated entry for all concerned, including judges, staff members, advocates, plaintiffs and respondents, accused persons, under trials, press, general public etc., on the basis of **passes/Identity Cards**. Different types of passes/identity cards may be issued to different visitors.

(vii) There should be random **frisking or checking** of persons entering the Court premises.

(viii) omitted

(ix) All High Court buildings should have **Receptions**, with trained personnel in adequate strength, for effective visitor management. The Receptions should be computerized to record the entry of visitors and make visitor passes, etc.

(x) All the gates of the High Court buildings should have **armed guards** with facilities for *morchas*, and the security should be strengthened by installation of technical gadgets such as **HHMDs/DFMDs/CCTVs**, etc.

(xi) **X-ray machines** may also be installed for screening of personal belongings.

(xii) **Anti-sabotage checking** of the Court rooms/premises, where sensitive cases are tried/heard, should be carried out. There should be suitable **reinforcement of security personnel** when sensitive cases are being heard or hard-core criminals are produced.

(xiii) There should also be provision for **emergency exit gates**.

(xiv) The Court premises should be located in exclusive and secured areas, and should not be clubbed with other administrative offices. In future, as far as possible, the criminal Courts, particularly at the subordinate level, should be physically located near the jail. The premises should have proper boundary walls of adequate height and preferably with barbed wire/forked grill/concertina coil, etc. for providing

effective **perimeter security**. The Court premises as well as the perimeter wall should be well lit and patrolled at nights.

(xv) omitted

(xvi) omitted

(xvii) There should be deployment of policemen in plainclothes for **collection of intelligence** relating to the suspicious movements of suspected elements in the premise during Court Hours.

(xviii) The security staff should be provided with requisite **communication gadgets** for smooth and prompt communication with the concerned during emergency situations.

(xix) There should be adequate **firefighting** arrangements within the Court premises.

(xx) There should be arrangements for orderly **parking** both inside and outside the Court premises. Separate areas may be earmarked for various types of users and separate **parking labels** may be issued. The parking areas should be located at **safe distance** from the Court building.

(xxi) A permanent **picket** of the State Police under the charge of an officer of appropriate rank should be located within or near the High Court premises to deal with traffic as well as law & order situations. Provision for striking reserve may also be ensured.

(xxii) **Quick Response Teams (QRTs)** of the State Police should be deployed in the High Courts to deal with emergent situations. **Drop gates/barricades** should also be erected as per requirement.

(xxiii) **Security vetting** of Court staff/private persons working in the Court premises may be undertaken wherever necessary.

(xxiv) omitted

(xxv) omitted

We have purposefully extracted security guidelines and procedures being adopted in various High Courts to demonstrate that it is not for the first time that such a system is being ordered for the High Court. In all foreign jurisdictions, there are security programmes and in India also various courts have implemented security systems.

X

Authority of the Chief Justice

The Chief Justice of High Court is '*parens patriae*' of State judiciary with constitutionally endowed power and authority to protect persons and property *non sui juris*. In the matter of protecting Courts

and various stakeholders who come to Court premises, Chief Justice is not '*primus inter pares*' (as in the matter of "Control" of subordinate judiciary which vests in the Full Court). Indisputably Chief justice is fount of supreme power of High Court administration.

A.Srinath v APSRTC^[27] traced the history of High Court of Andhra Pradesh with reference to Letters Patent, Government of India Act, 1935, Constitution of India and Andhra State Act, 1953. Emphasizing omnipotence of the Chief Justice in the matter of constituting and allotting of judicial business to Benches, the Full Bench quoted with approval *inter alia* the following conclusions from **Mayavaram Financial Corporation Limited v the Registrar of Chits**^[28].

The Hon'ble Chief Justice has the inherent power to allocate the judicial business of the high Court including who of the Judges should sit alone and who should constitute the Bench of two or more Judges. No litigant shall, upon such constitution of a Bench or allotment of a case to a particular Judge of the Court will have a right to question the jurisdiction of the judges or the Judge hearing the case. No person can claim as a matter of right that this petition be heard by a single Judge or a Division bench or a particular single Judge or a particular Division Bench. No Judge or a Bench of Judges will assume jurisdiction unless the case is allotted to him or them under the orders of the Hon'ble the Chief Justice. ... A Judge or the Judges constituting the bench will not decide whether to entertain a review petition or not unless the same is placed before him or them under the orders of the Hon'ble the Chief Justice. ... Unless it is on account of exceptional circumstances or to meet an extra-ordinary situation the Hon'ble the Chief Justice decides to allot the work to some other Judge or Judges, as the case may be, we consider it to be prudent as well as desirable that the Judge or Judges who passed the judgment/decree or made the order sought to be renewed, hear the review petition and in the case of the judgment, decree or order of a Bench the Judge or the Judges who are available are associated as members of the Bench.

In **State of Rajasthan v Prakash Chand**^[29], a Division Bench of Supreme Court held that, (1) "the administrative control of the High Court vests in the Chief Justice alone". On the Judicial, however, he is only the first amongst the equals; (2) the Chief Justice is the master of the roster. He alone has the prerogative to constitute Benches of the Court and allocate cases to the Benches so constituted; (3) the puisne Judges can only do that work as is allotted to them by the Chief Justice or under his directions". The law of the land makes the Chief Justice of the High Court, the supreme administrative authority to manage or

order management of all affairs connected with or in regard to the administration of the High Court, the appointment of officers and staff etc. (**G.Gurumurthy v Accountant General**^[30] and **High Court Employees Association v State of West Bengal**^[31]). It is also not disputed that the constitution gives vast powers to the Chief Justice to secure the independence of the High Court. All the counsel in this case, do not dispute nor deny that the High Court's duty to protect itself and all the stakeholders coming to the premises for their business.

There have been no formal rules or regulations made by competent authority to ensure a foolproof Court Security System. It leaves one with eerie feeling to know that even now our subordinate Courts including District Court are protected by process servers and bailiffs who take turns for guard duty during night. Until recently that High Court was guarded by Court staff. The Andhra Pradesh Special Protection Force (APSPF) has been drafted for security duties only recently. A score of APSPF constables would be grossly inadequate to keep a watch on all vulnerable points and conduct effective nocturnal surveillance of the premises spread over about Acs.20.00, with large built up area. Therefore, there is grave urgent need to evolve Court security system, with necessary inputs from experts in the field. It is for the Chief Justice to evolve such a system. The security system for subordinate courts has to be evolved by the High Court. Till such time, this Court as a *sentinel on the qui ve* and as in duty bound, cannot leave the things to chance. It is time to fill the vacuum and keep in place an adhoc Court Security System with a view to prevent and thwart unpleasant and untoward incidents within and outside the Court halls by a few passionate people bent upon disturbing the Court business. As observed by the Bench, which *suo motu* took up the case, interruption in the Court proceedings on any day whether the Court is sitting or not, would amount to constitutional breakdown. This cannot be allowed even if some strict and stringent measures cause discomfort, inconvenience and hardship to some lawyers, staff and others who visit the Court.

XI

Benchmark Security System

The maintenance of law and order is essential to the democratic functioning. All law and order problems have to be dealt with promptly with strict enforcement of laws on security procedures. The High Court of Judicature is the place which attracts many people from all walks of life. The Judges and lawyers discharging their duties under the constitution and the law are important participants in the adjudicatory

process. If there is any hurdle, however small it may be, it has to be dealt with sternly. The resource crunch, money or otherwise cannot and should not prevent the executive branch of the State from employing specialists and specialized security equipment to see that judicial institutions in the entire State function smoothly. As observed by Justice Stephan J. Field, *“when it is known that the Judges of our Courts are compelled to arm themselves against assaults in consequence of their judicial action it will be time to dissolve the Courts, consider Government a failure, and let Society lapse into barbarism”*^[32].

Planning a Court Security Programme is the job of experts. It needs to be designed depending on geographical features, location peculiarities, available ingress and egress and demographic factors. The large area and huge constructed space are certainly problems. Availability of technical knowhow also cannot be ignored. The Court security assessment and judicial threat assessment need to be gathered from various sources before opting for appropriate security policy, which is least inconvenient and does not undermine Courts democratic function.

We have studied various security systems and guidelines which are being implemented in Supreme Court of India as well as other High Courts extracted supra. We have also thoroughly perused Government of India Security Guidelines and are benefitted by Lt.Barrett’s book ‘Protecting Security’. With all these inputs, we are inclined to suggest the following broad aspects of Andhra Pradesh High Court Security System, which may be suitably adopted even for the District Courts (which can be improved as we gain experience).

The Court Security System basically must focus on three broad areas, namely, building exterior, building interior and Courtroom. Accepting this, there should be security for a Court building or a court house (which may consist of single court or a court complex consisting of multiple courtrooms) at three levels. The first level of security is perimeter guarding. The second level for courthouse grounds include entire court premises and at the third level, security in the courtroom.

First Level of Security

At this stage, the object is to prevent the troublemakers entering the court premises and causing disturbance posing threat to all judicial participants. In addition, the property in the Court premises, the Court records, the computer systems and ICT hardware, vehicles should also be properly guarded. Therefore, as a first step, every Court should have a definite perimeter with high-rise compound with solar fencing and gates to secure the building. There should be round the clock

patrolling of the compound wall so that court houses do not become places for nocturnal activities.

During the court working hours, there should be well managed access control system. Access should be allowed to those people who are properly identified either by issue of computer generated physically verifiable identity cards or electronically readable proximity cards. These should be issued on proof of photo identity as may be determined. Even in this area, there should be segregation of gates for the advocates, staff, clients, visitors and others. If there are constraints of space, parking may be allowed only to the advocates on first come first serve basis and others should be able to park their cars outside the court compound wall at a place designated by the local police. To ensure that there is least inconvenience, reception facilities manned by well trained staff need to be established so that as far as possible with least obstruction, all the judicial participants can pass through the reception gates after proper physical or electronic identification. Screening must be compulsory for "friends and foes alike". The reception room and facility must be used for proper identification, guidance to the court premises and security point. Presence of High Court staff not below the rank of Assistant Registrars would be added advantage. To make it efficient, entry and exit gates be separate.

At the security check point/reception room, there should be X-ray scanners for screening the bags, books and other personal belongings of the stakeholders coming to the Court. There should also be Door Frame Metal Detectors (DFMDs) and if necessary, facilities for frisking with Hand Held Metal Detectors (HHMDs). A good public address system (PA system) would be helpful for making announcements to prevent formation unwanted groups in the court premises. Any VIPs visiting the Courts either on some specific business or as tourists must also be properly identified and entered in the registers and formal visitor passes be issued. Last but not the least, all the people who ever desire to enter the court, big or small, high or low must be made aware about the security systems in the Court. The courteous handling of reception room by the trained staff is essential for ready acceptability of security measures.

It is obvious that the proximity cards can be effective only in the case of advocates and their clerks who regularly come to the courts as well as staff members. Insofar as occasional visitors are concerned, on proper identification, they may be issued passes "valid for one day", as is being done in the Supreme Court of India. Even here, if situation so warrants, limited access can be allowed. The entry into the Court beyond security check point should not be treated as unrestricted licence. Loudly quarrelsome group gathering of people must be

discouraged by the security staff in charge of all the courthouse grounds. To make this regime more effective, the installation of security cameras (Closed Circuit TV cameras (CCTV)) which can be monitored from security control room would be essential.

Second Level of Security

The second level of security should be entrusted to the uniform as well as plain clothes security personnel. They should be provided radio communication handsets with master control at the security room. This would facilitate rushing of Emergency Response Police (ERP) to the spot so that the trouble making incident as well as persons can be removed beyond the perimeter to be dealt with in accordance with law. The second level security personnel should be unassuming and courteous to all the persons moving from one Court to another or from one workstation to another. This does not, however, mean that they should ignore even when suspicious characters and busy bodies roaming in the Court premises without any business after escaping the first level of search point and scanning. To dispel any doubts about the purpose of proximity cards, visitor passes, it should be printed in bold letters that the holder of the identification document is liable to be removed from the court premises by security personnel.

The parking of vehicles in the court premises should also be entrusted to the second level security. Any vehicle found parking without valid parking sticker or doubtful parking sticker should be removed from the court premises notifying the registered owner. To ensure proper orderly and disciplined parking without causing inconvenience and annoyance to other holders of parking stickers, the security personnel shall have to ensure proper parking of the vehicles if necessary by allotting earmarked parking slots. All the cars parked in the court premises shall be checked with inverted mirror. To avoid any bottlenecks in the movement of vehicles of Judges, officials, staff, advocates and specially permitted vehicles, the in-gate and out-gate system should be followed. The security personnel in charge of building interior may also evolve a system of closing the entry gates after a given time after the commencement of the court work say at 11'o clock or thereabout. This shall be subject to providing as many wicket gates as are required at different places for the advocates and visitors moving in and out the court premises for different purposes.

The most important procedure for maintaining proper security in the court precincts (and in building interior) is taking up sanitizing the chambers of Hon'ble Judges, courts and registry half an hour to forty-five minutes prior to commencement of court work. For this purpose, the security personnel may use HHMDs, x-ray machines, sniffer dogs etc. A thorough search would be undertaken especially when there is

a bomb scare or threat.

Third level of Security in the Courtroom

It is well accepted principle that the Presiding Judge is the final authority responsible for the security inside the courtroom. On specific directions of the Presiding Judge, proper security system should be implemented. If necessary, the police personnel either in uniform or in plain clothes can be posted in the court. Installation of security/CCTV cameras at the entrance can also be considered. If the courtroom/hall is small and cannot accommodate more number of people at a time, only those lawyers who have work on that day or during a given period of the day may be allowed into the court hall. If there is necessity even those entering into the courts, can be subjected to security check as a precaution. Except the records that are required by the counsel or the parties, cell phones, knives, fire arms, projectiles, sprays and all objectionable items must be prohibited from the court halls. So to say, anything that can be used 'to threaten, disrupt or jeopardize the judicial system should be prohibited from entering the courtroom'. In addition to implementing normative standards of courtroom security, additional features may be considered if the Presiding Judge so directs.

We have given very broad aspects which can be taken into consideration by HCJ or the High Court Security Committee that may be nominated by the Hon'ble the Chief Justice for developing and implementing a foolproof court security system. Keeping these broad aspects in view, we hereby issue the following directions to respondents 1 to 5 in the next part of this Order which may be treated as tentative road map of High Court Security.

XII

The Road Map

a) Infrastructure Security

The High Court premises is in large expanse – about 560 meters in length and 120 meters in width. This includes the Government Maternity Hospital Premises (hereafter 'New Premises') handed over to the High Court to meet the increasing demand for space and buildings. There is a Heritage Structure constructed in 1915 and other structures like Annexe building, red building, BCAP building, Seven-storeyed administrative block and advocates chambers (collectively referred to as 'old premises'). A new structure which was left incomplete has now been converted into a six Court complex. For the entire complex, there are four gates on the Southern side road which is a National Highway-7 (NH-7) and six gates opening into Musi road, out of which only four are being used.

The High Court besides having records of 100 years or more

also has computer network. The fire accident that occurred on 31st August, 2009, is an eye opener. The security detail provided by A.P.Special Protection Force (APSPF) is hardly sufficient. There is an urgent need for increasing the night patrolling of the High Court grounds and constant monitoring. For this purpose, we direct the respondents to provide round the clock security for the High Court buildings and its precincts and also install security/CCTV cameras near all the gates as well as important locations inside and outside the court buildings, offices, garages etc. In addition, in consultation with experts, a system should be evolved to meet any crisis or emergency that may arise, at any time of the day. The persons assigned with the security duties must be made accountable to the security supervisors and the security chief. As is in Supreme Court and Bombay High Court, we also are of considered opinion that there ought to be a High Court Security Wing headed by an ACP or DCP, who is an expert in providing security to sensitive installations. There should be adequate security staff of different branches to protect the physical infrastructure and ICT network available in the High Court.

b) High Security Zone

High Court of Judicature of Andhra Pradesh is spread over Acs.18.5. As of now it has eighteen buildings/structures including the High Court heritage structure. Providing adequate security for the building exterior, court precincts and near the courtrooms is certainly an unenviable task. The initiative in the right direction is to see that people coming to seek redressal should not feel threatened by security blanket. At the same time, an impression must go out that the High Court building is not a place for disturbing the peaceful functioning. At the same time, all those must be impressed that the High Court visiting rights are strictly regulated.

The first step is to declare the entire High Court building with its land as High Security Zone (HSZ). The GoI Security Guidelines advise declaring the High Court as HSZ. We, therefore, direct the issue of notification by the High Court and the Government notifying the High Court precincts as HSZ.

Except on the Western side where the High Court is bounded by City College building, on all three sides, it has roads, namely, Musi road on the Northern side, NH-7 on the Southern side and a small portion of road from Afzulgunj to Charminar on the Eastern side. All these areas/roads should be declared as "No Parking Zones" and "Silence Zones". Demonstrations, display of signs and flexies, gathering of people in groups on these roads outside the High Court

compound wall must be prohibited round the clock. To send proper signal, we also direct strengthening of the perimeter wall with solar fencing over and above the wall to act as deterrent to trespassers. It shall be open to the HCJ to issue necessary additional instructions in this regard. Guarding such a vast area can be ensured by constructing watch towers at vantage points so that the security personnel can keep a vigil over the entire area.

c) Security for Building Exterior and Interior

i) Establishment of Reception/Visitor Rooms

Abutting the main road near ingress gates (as may be decided by the HCJ) there shall be immediately constructed two or more reception centres. These should function as security check point and provide visitor guidance. Modern technology may be employed to reduce the presence of large number of security detail along with the High Court staff. The use of proximity card readers and ensuring everyone to pass through Turnstile gates, DFMDs, should be part of reception centre. There should also be facilities for frisking, ensuring privacy for women advocates and visitors. Installation of security/CCTV cameras is a must for security purpose. For visitors, there should be facilities for the issue of computer generated passes as is being done in Supreme Court of India. We also direct establishment of Judicial Information Centre in the reception room itself so that those persons who come seeking information can be served at the threshold itself duly denying any entry in the High Court precincts. Unless and until proper entry pass is issued or a person has proof of photo identity, nobody should be allowed to enter even the reception centre. No person unless authorized by designated authority shall be allowed to remain on the court premises after 6.00 p.m., and on holidays.

Bar Council of A.P., building and State Bank of Hyderabad, High Court Branch as well as Electricity Substation are three facilities which are not directly connected with day to day judicial functioning. In the long run, we are of the considered opinion that these facilities should be provided access separately from the main road (NH-7). That would ensure smooth functioning of these offices as well as proper utilization of available space for the High Court. In this regard, we are of considerable opinion that Hon'ble HCJ may discuss with these organizations and take appropriate decision.

ii) Proximity Cards

We direct the respondents 1 to 5 to adopt the security methods as pointed out supra, while dealing with different levels of security, especially, first and second levels of security. For ready reference and

immediate implementation, we direct the following steps be implemented in the areas of access control and visitor management.

1. The entry of any person without establishing identity and if necessary, without subjecting to search is prohibited.

2. All the advocates and their clerks shall be issued proximity cards on proper application by the Registry. These cards shall be issued by the Registry on production of the identity card issued by the A.P.Advocates' Association, A.P.Advocate Clerks Association, Bar Council of A.P., or any other Advocates Association in the State of A.P.

3. The proximity cards shall be of different kinds. The advocates who are members of HCAA and who regularly practice in the Court may be issued proximity cards valid for one year (June to May in succeeding year) and can be renewed during the month of May. Those advocates who come to the High Court on a day's business or for a shorter period, may be issued daily, weekly and monthly cards after proper verification and proof of photo identity.

4. All the staff members working in the High Court shall also be issued proximity cards after proper identification by the Registry.

5. All the clerks who are members of A.P.Advocate Clerks Association shall also be issued proximity cards valid for one year renewable in May of each year.

6. Appropriate rules and regulations may be made in this regard. These rules may provide for the issue of photo identity proximity cards, their renewal, issue of duplicate cards to replace lost cards and also prescribe proper fees for issue of the same. In this regard, we direct respondents to take into consideration the procedure and other instructions issued by Hon'ble the Chief Justice of India regulating entry of persons into Supreme Court.

7. These proximity cards should be electronically compatible so that they can be read on card readers of Turnstile gates.

8. Depending on exigencies, advocates may be allowed entry on showing the proximity cards in the reception room. Thereafter, they shall themselves operate Turnstile gates by using cards. It should be made clear that in case of disturbance in the court precincts any holder of proximity cards shall be liable to be removed from the court precincts.

9. Except the case files carried by the advocates openly, all the bags used for carrying bundles, books, files shall be subjected to x-ray scanning before allowing into High Security Zone.

10. To monitor the entry of advocates, clerks, staff and visitors, the services of officers of the High Court not below the rank of Assistant Registrars may be utilized. This will ensure courteous atmosphere in the reception room which shall be entry point, for all

persons coming to Court.

11. Slogan shouting in the Court premises, courtroom and anywhere within the prohibited distance from the High Court must be viewed seriously. Those resorting to sloganeering should be removed from the Court premises, if possible without use of force and all those who contravene this rule must be hauled up for contempt.

12. There should be regular security audit by the Registry officials as well as high ranking police officials.

13. Fire fighting equipment and alternative source of power to meet emergencies should be made available as per the requirements of the High Court.

14. The entire premises should be provided with security lights.

iii) Parking

In the sketch map submitted by the Registrar General, an area of about 9,800 square yards or about two acres near north east corner has been earmarked parking including proposed multi-level car parking for one thousand cars. There are three graveyards abutting northern side Musi road. At present High Court garages are situated on northern side near the gate abutting the lawns in front of heritage structure. In our opinion, all the structures whether dilapidated or of no utility and coming in converting the grounds in the new premises into seamless one should be demolished duly protecting the graveyards with appropriate compound wall. After so doing, the area earmarked must be cleared and made usable for parking. Till a decision is taken by HCJ, with regard to the parking facilities as above, the following parking procedures are directed to be followed.

1. There shall be no parking near the heritage building, block or blocks where the courts and/or branches/departments of Registry are situated. During the day from 09.00 am to 6.00 pm., parking shall not be allowed on Northern, Southern and Eastern side roads of the High Court.

2. (a) As directed by High Court in Letter RoC. No.87/2010/J.Spl (Buildings), dated 02.02.2010, vacant land situated between the old premises and the new premises shall be made as parking area with necessary levelling, consolidating and marking.

(b) Parking will be allowed inside the court building (new and old premises) for the cars of the Judges, advocates, staff cars and cars of staff members. All the other cars of visitors, other officials unless specifically permitted shall not be allowed to enter the High Court. The respondents 3 and 4, namely Director General of Police, and Commissioner of Police, Hyderabad, shall earmark parking space for such cars at short distance from the High Court building at appropriate place.

(c) We direct to allow only those cars with non transferable parking stickers with hologram of the current year issued by the High Court Registry to those advocates who are holders of proximity cards. Non-transferable parking stickers with Registration Number of the vehicle shall be displayed on front windshield of the vehicle. The parking stickers shall be issued valid for one year and can be renewed. All the vehicles entering the High Court precincts shall be thoroughly checked by security personnel with inverted mirror at the time of entry into High Court premises. For the convenience of pedestrians and cyclists, separate smaller gates (wicket gates) may be constructed.

(d) When once the cars with parking stickers are parked in the allotted area, the security personnel should ensure security for the vehicles. Any vehicle parked unauthorisedly in the prohibited area or in an obstructive manner shall be removed by the security personnel.

3. As there are more than 450 advocates who crossed sixty-five years of age and any concession to them would dilute the parking rules, we are not inclined to accept the plea of the counsel for HCAA and BCAP to allow the cars of such seniors (above age of 65 years) to enter the High Security zone for dropping the advocates before the vehicle moves for parking space.

4. For the use of advocates above the age of 65 years, physically challenged advocates and other needy advocates, we direct the Registry to employ two battery operated buses or smaller vehicles to go round the entire High Court building with regular frequency so that all the advocates can move between the new premises and old premises without physical strain.

iv) Security in Courtroom

We direct the respondent No.2 to provide the following security measures near the courtroom.

1. There should always be a security detail with five police at every courtroom.

2. Cameras and mobile phones shall not be allowed inside the courtrooms.

3. Security/CCTV cameras should be installed at the entrance to the courtroom.

4. If the Hon'ble Presiding Judge so directs, two police personnel shall be posted inside the courtroom to prevent any unwanted violent behavior and disturbance in the courtroom.

5. Proper alarm system shall be installed in every courtroom to ensure immediate presence of "Emergency Response Police" to prevent harm to the Judge as well as advocates inside the courtroom.

6. We also direct that all the security personnel on duty either in

the reception room or inside the precincts of the court near the courtroom shall be supplied VHF or UHF radio handsets with control in High Court security room and police control room. In all the corridors at important places, security cameras shall be installed immediately.

We make it very clear that as already adverted to, the HCJ is supreme administrative authority to make rules, regulations and issue instructions or guidelines in the matter of providing security to the High Court precincts and to all those persons who visit High Court. The directions which we issue herein, needless, shall be in force till such rules/regulations/instructions/guidelines are framed/issued by HCJ, if necessary in consultation with HCAA. As the subject of security of High Court involves inputs from experts, financial and manpower resources, we are not inclined to fix any time schedule except observing that it would be "sooner the better".

XIII

Inextricable Issues

We are left with important aspects of the matter. The ratio in **Ramon Services** and **Harish Uppal** makes it clear that any person causing disturbance in the Court either by resorting to physical violence, shouting or throwing all sorts of missiles at the Hon'ble Judges would be guilty of contempt. The contumacious acts of the advocates who resorted to unruly behaviour on 14th, 15th and 16th of September, 2010 left everybody with bated breath. Such advocates cannot be allowed to escape the law. We therefore direct the Registrar General of the High Court to identify all the advocates who created the noise, raised voice and resorted to physical acts of violence of breaking the furniture damaging electric fittings and throwing missiles at the Hon'ble Judges generally in all the Courts and especially in Court Hall Nos.6, 27 and 32 and take action against all of them in the following manner.

(1) Give a complaint to Bar Council of Andhra Pradesh, which shall immediately initiate disciplinary action as per law laid down by Supreme Court of India;

(2) File contempt cases in the Registry to be assigned to appropriate Bench by Hon'ble the Chief Justice. In all the contempt cases either the Advocate General or Additional Advocate General shall appear for the High Court;

(3) File criminal cases in the jurisdictional Police Station against all those advocates under Sections 353, 426, 427, 506 read with 34 and / or other relevant sections of the Indian Penal Code, 1860. The concerned Police Station shall register the cases, investigate whether they are cognizable offences or not and file charge

sheet before the concerned Jurisdictional Court of Metropolitan Magistrate, Hyderabad; and

(4) The action indicated as above shall be initiated and completed within a period of one month insofar as items (1) and (2) above are concerned and within six months insofar as item (3) is concerned.

XIV

Epilogue

The issue of advocates boycott/strike is a cause for serious concern. From the background facts of this case, it is clear that the boycott/strike by the advocates and sequential disparaging acts have taken this great institution to point of brink and “Constitutional breakdown”. Even if the Hon’ble Judges are gracious and magnanimous enough to condone and pardon the perpetrators who attacked them and Courts during those three black days, this Court on judicial side cannot let off these persons who resorted to hooliganism. Therefore we have ventured to deal with the issue of strict security measures in the High Court which lords over other two branches of the State. We are very much aware that most of the advocates are dedicated to profession and maintain dignity and decorum in the Court and discharge their solemn duties to the satisfaction of one and all. We may without fear of controversy record for progeny that High Court of Andhra Pradesh is always known to have a very courteous and legally best bar inferior to none. It is only a few social deviants and anti-social elements who create disturbing atmosphere in the Courts. To protect the majority, a negligible minority must certainly be controlled and if necessary removed from the scene. We have issued tentative directions as above keeping this in view.

We shall now conclude by quoting from Lt.J.H.Barrett, as a post script.

Courthouses are the primary symbol of government in most communities. Due to the symbolism they represent (such as openness, fairness and equitability), courthouses attract protests and demonstrations by a number of groups and causes. The purpose of most protests is to draw attention to a cause or a perceived injustice. ...

... There are certain emergency events that law enforcement professionals have come to expect in the courthouse environment. Sadly, today’s courthouses receive bomb threats, fire alarm activations, power failures, medical emergencies, physical altercations, courtroom disturbances, protestors, and escape attempts, just to name a few. Less frequent but more sinister events such as biological hazard threats along with the deadly active shooter assaults need to also be accounted for in the overall courthouse emergency

response plan. While no one likes to think of these events occurring, it is essential that preparations are in place to address and mitigate the specific effects of each type of emergency event.

While placing on record our appreciation to the exemplary assistance given by the Advocate General, and Sarvasri C.V.Mohan Reddy, G.Vidya Sagar, E.Ajay Reddy and Smt M.Bhaskara Lakshmi, we dispose of the writ petition with the observations and directions as contained in this order.

(V.V.S.RAO,J)

(RAMESH RANGANATHAN,J)

.12.2010
pln

Note: LR copy be marked.

(By order)

Pln

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- [1] Sunday is not a day for judiciary or legal proceedings
[2] 287 US 45 (1932)
[3] 2001 (1) Law Summary 13
[4] (a) H.M.Seervai, "Lawyers Strikes and the Duty of the Supreme Court", in Indian Advocate, Volume XXIII 1991 (Part-I)
(b) K.K.Venugopal, "The Legal Profession at the Turn of the Century" in (1989) 1 National Law School Journal 121
(c) F.S.Nariman, "Boycott – the Lawyers' weapon" in Indian Advocate, Volume XXVIII 1978 (Nos.1 and 2)
[5] Indian Council of Legal Aid and Advice v Bar Council of India, (1995) 1 SCC 732
[6] (1995) 5 SCC 716
[7] 493 US 411 : 107 L.Ed., 2d 851 (1989)
[8] (2006) 9 SCC 295 : (1995) 1 SCALE 6
[9] (2001) 1 SCC 118 : AIR 2001 SC 207
[10] (2003) 2 SCC 45 : AIR 2003 SC 739
[11] (2006) 9 SCC 295 : AIR 2005 SC 2442
[12] (2009) 8 SCC 106
[13] **144. Civil and judicial authorities to act in aid of the Supreme Court** – All authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court.
[14] AIR 1988 SC 1883
[15] AIR 1967 SC 1
[16] 475 US 560 (1986)

[17] 544 US 622 (2005)

[18] 1 Wheat 363

[19] 135 US 1 (1890)

[20] On browsing the internet for data on judicial security, we have come across relevant data on judicial security.

[21] <http://www.usmarshals.gov/judicial/index.html>

[22] <http://dailymailnews.com>

[23] Justice Harry Blackmun, who wrote the opinion in landmark case Roe v Wade (410 US 113 (1973)) was fired in 1985 by antiabortionist while the learned Judge was in his apartment in Washington.

[24] Nand Lal Balwani, In Re ((1999) 2 SCC 743)

[25] Leela David (6) v State of Maharashtra ((2009) 10 SCC 337)

[26] The guidelines issued by the Central Government also deal with specialized security for Judges. It is for the purpose of this case, however, not necessary to advert to the same.

[27] 1996 (2) ALT 893 (FB)

[28] 1991 (2) Law Weekly 80

[29] (1998) 1 SCC 1

[30] AIR 1971 SC 1850

[31] (2007) 3 SCC 637

[32] George C.Gorham, "The Story of Attempted Assassination" of Justice Field by a Former Associate on the Supreme Court Bench of California" published by SL 1893 (quoted at pg.101) in 'Protecting Court' by Lt.J.H.Barret.