

HIGH COURT OF CHHATTISGARH, BILASPUR**Order reserved on : 14.12.2017****Order delivered on : 05.01.2018****Writ Petition (C) No.3385 of 2017**

The Bar Association, Dhamtari, Through the Secretary Daniram Sahu, S/o Late Mangatu Ram Sahu, aged about 50 years, R/o Village Rawa, Tahsil & District Dhamtari (CG)

----Petitioner**Versus**

1. The High Court of Chhattisgarh, Through the Registrar General, High Court of Chhattisgarh, Bilaspur (CG)
2. The State of Chhattisgarh, Through the Secretary, Law & Legislative Affairs Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur (CG)
3. The District & Sessions Judge, Through the Superintendent, District Court, Dhamtari, District Dhamtari (CG)

---- Respondents

For Petitioner	:	Mr.S.C.Verma, Advocate
For Respondent No.2	:	Mr.Arun Sao, Dy.Advocate General
Respondents No.1 and 3	:	Not noticed

Hon'ble Shri Justice Sanjay K. Agrawal**C.A.V. Order**

1. "Courts exist for the litigants and not for Judges and Lawyers and litigants' interest is Supreme".

The aforesaid observation made by a Division Bench of the High Court of Rajasthan in the matter of **Bar Association**

Sri Ganganagar Vs. State of Rajasthan and others¹

aptly and squarely applies to the facts of the present case.

2. The High Court of Chhattisgarh/respondent No.1 herein in its administrative jurisdiction and in exercise of power conferred under Section 12 of the C.G. Civil Courts Act, 1958 (hereinafter called as 'the Act of 1958') issued the impugned notification dated 23.11.2017 (Annexure P/1) directing that the Additional District and Sessions Judge, Dhamtari in addition of his present place of sitting at Dhamtari shall also sit at Kurud for one week every month.

3. The petitioner Association has called in question legality, validity and correctness of the aforesaid notification by way of this writ petition questioning the same as unsustainable and bad in law. In the writ petition, it has been pleaded that the petitioner Association is registered association with the State Bar Council of Chhattisgarh under the provisions of the Advocates Act, 1961. The main challenge to the notification is that the impugned notification is causing great prejudice to personal and professional rights of members of the petitioner Association and by establishment of Link

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Court at Kurud, the litigants will also suffer and members of the petitioner Association will have to work at District Court, Dhamtari as well as in Link Court, Kurud and that will cause great difficulty to the interest of lawyers and litigants as distance from Dhamtari to Kurud is 22 kms. and there is no such Link Court in any of the Districts of the State of Chhattisgarh in such a short distance. It has further been pleaded that the petitioner Association has not been consulted before taking decision to establish Link Court at Kurud. Therefore, the impugned notification deserves to be set aside.

4. Mr.S.C.Verma, learned counsel appearing for the petitioner, would submit that establishment of Link Court at Kurud is contrary to law as establishment of Link Court at Kurud at a short distance of 22 kms. is not practically workable and it has been done without consulting the petitioner Association as members of the Bar are integral part of legal system and that will cause serious prejudice to their personal and professional interest. Therefore, the impugned notification is liable to be set aside.

5. Mr.Arun Sao, learned Deputy Advocate General appearing for respondent No.2, on advance copy, would submit that decision has been taken in the larger interest of general

public in which no prejudice is being caused either to the members of the petitioner Association or to the litigants. Therefore, the writ petition deserves to be dismissed.

6. I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
7. Article 38 of the Constitution of India mandates that the State shall endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas. Article 39A of the Constitution of India provides that the State shall ensure that the operation of the legal system promotes justice on a basis of equal opportunity.
8. In my considered opinion, the act of respondent No.1/High Court of Chhattisgarh specifying the place of sitting of the Court at Kurud as an additional place of sitting of the Additional District and Sessions Judge, Dhamtari in a week every month by the impugned notification is in the direction of the aforesaid directive principle of the State policy.
9. At this stage, it would be appropriate to notice Section 12 of the Act of 1958 which states as under:-

“12. Place of sitting of Civil Courts.-(1) Every

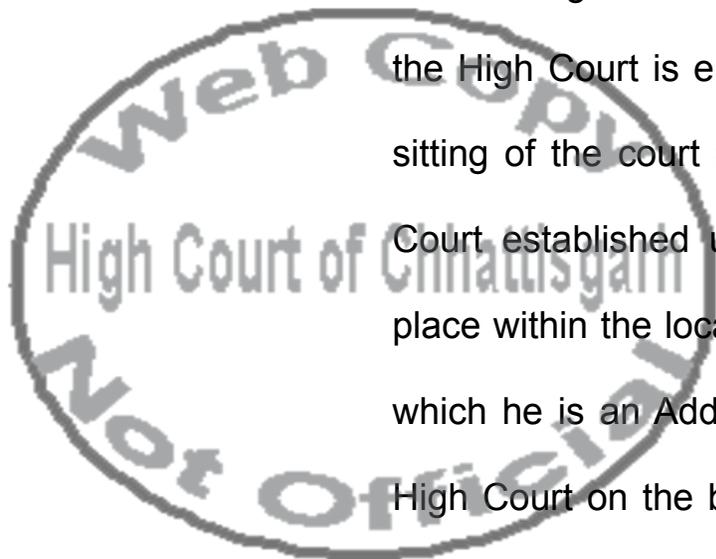
Court shall be held at such place or places as the High Court may, by notification, direct or, in the absence of any such direction, at any place within the local limits of the jurisdiction of the Court.

(2) Every Additional Judge to a Court established under this Act shall sit at such place or places within the local limits of the jurisdiction of the court to which he is an Additional Judge, as the High Court may direct.

(3) The District Judge or other Judges of the district, may with the previous sanction of the High Court and after due notice to the parties, sit temporarily for taking up particular case or class of cases at any other place within the district.”

10. A focused glance of the aforesaid provision would show that the High Court is empowered to specify place or places of sitting of the court and the Additional District Judge to the Court established under the Act of 1958 shall sit at any place within the local limits of the jurisdiction of the court to which he is an Additional Judge. In the present case, the High Court on the basis of material placed before it and in the better interest of litigant public has directed to hold the sitting of the Additional District and Sessions Judge, Dhamtari at Kurud for a week in a month that is called ‘Camp Court’.

11. It is well settled that Bar in India is no doubt an important limb of the administration of justice and dispensation of justice may well-nigh be impossible without the active co-operation of the members of the Bar. Their views on



matters pertaining to administration of justice as long as they are consistent with the law of the land on the one hand and efficiency, discipline and judicial propriety on the other, have to be taken into account by the concerned authorities while deciding such matters. The legal profession to our country is one dedicated to the service of the public and its members enjoy a privilege to appear in all courts in India on behalf of litigants and to present their cases in a manner consistent with the established traditions of the Bar. They also expect to be paid a reasonable remuneration for the services rendered by them. But one thing is clear that pecuniary gain or advantage has never been allowed to assume primary importance in the discharge of their professional duties. (See V.R. Mudvedkar and others Vs. The State²).

12. In the matter of Federation of Bar Association in Karnataka Vs. Union of India³, it has been held by Their Lordships of the Supreme Court that the federation is not the accredited representative of the litigants and no litigant can claim a fundamental right to have the High Court located within proximal distance of his residence. It was observed as under:-

² AIR 1971 Mysore 202

³ AIR 2000 SC 2544

“6. We are not impressed by the said argument for two reasons. First is that petitioner Federation, is not the accredited representative of the litigants of Karnataka. Second is that no litigant can claim a fundamental right to have the High Court located within the proximal distance of his residence.”

13. The judgment rendered in **Federation of Bar Association in Karnataka** (supra) by the Supreme Court has been followed by the Rajasthan High Court in the matter of **Rajasthan High Court Advocates Association Vs. The State of Rajasthan**⁴ in which the Rajasthan High Court has clearly held that Bar Association has no fundamental right to get a Court or Board of Revenue located in a particular city. Establishment of Court is a question of public policy and policy decision is required to be left to Government. It was observed as under:-

“20. Further the Hon’ble Supreme Court in a recent case instituted by the Federation of Bar Association in Karnataka (AIR 2000 SC 2544) (supra) has observed that a Federation of members of the Bar cannot be considered to be the accredited representative of the litigants and no litigant can claim a fundamental right to get a court located within proximal distance of his residence. Thus, the Hon’ble Supreme Court has clearly laid down that a Bar Association has no fundamental right to espouse a question of the nature raised in the present writ petitions.”

14. In the matter of **S.P.Gupta and others Vs. President of India and others**⁵ Justice E.S. Venkataramiah in his separate opinion while recognizing the locus of lawyers to

⁴ AIR 2001 Rajasthan 232

⁵ AIR 1982 SC 149

question the matters relating to Court and administration of justice, carving out exception it has been held that they cannot question the establishment of a new court on the ground that their professional prospects would be affected thereby. It was observed as under:-

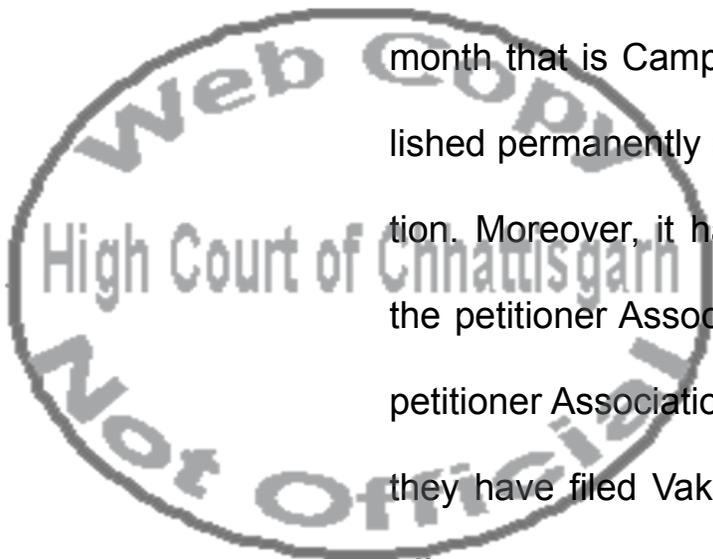
“974. It has, however, to be made clear that it cannot be said that lawyers only because they have a right to practice in court have ‘locus standi’ to file petitions in respect of every matter concerning judges, courts and administration of justice. There are many such matters in which they have no ‘locus standi’ to ask for relief. By way of illustration, lawyers cannot question the establishment of a new court on the ground that their professional prospects would be affected thereby..... [See V.R. Mudvedkar (supra)]. ”

15. The above-stated judgment rendered by the Supreme Court in the matter of **S.P. Gupta** (supra) has been followed by the Rajasthan High Court in the matter of **Bar Association Sri Ganganagar** (supra).

16. The Courts of Law are established for common man. A litigant who comes to the Court of Law is a consumer of justice. The functions and duties of members of Bar and Judges are complementary of each other. The ultimate object of members of Bar and Judges is to ensure that justice is done to a common man. Their duty is to ensure that speedy justice is provided to the citizens.

17. Following the principles of law laid down by the Supreme

Court and the High Court of Rajasthan in the aforesaid judgments (supra), reverting back to the facts of the present case, it would be quite vivid that paramount consideration for specifying the places of sitting is for the convenience of litigants and establishment of court is a question of public policy. In the present case, the High Court/respondent No.1 on the basis of material placed before it, has taken a decision and directed for holding a sitting of the court of Additional District and Sessions Judge, Dhamtari at Kurud for a week in a month that is Camp Court and it is not a Link Court established permanently as understood by the petitioner Association. Moreover, it has not been shown and established by the petitioner Association that rights of the members of the petitioner Association to appear and conduct cases in which they have filed Vakalat on behalf of their clients would get affected by establishment of such Camp Court at Kurud. In the considered opinion of this Court they are entitled to appear and plead on behalf of their parties to which they have already filed their Vakalat. Apart from this, it has also been held that merely because the petitioner being a Bar Association cannot question the establishment of a new Court as it is a question of public policy and Courts are primarily established for convenience of common man/litigant. Reduction



of professional prospects of the members of the petitioner Association cannot be the ground to challenge the establishment of a new court as the decision has been taken only to establish Camp Court of the Additional District and Sessions Judge, Dhamtari at Kurud for a week in a month in the interest of consumers of justice . The famous maxim "*salus populi est suprema lex*" (regard for public welfare is highest law) is applicable fully to the facts of the present case.

This maxim is based on implied agreement of every member of society that his own individual welfare shall in case of necessity yield to that of community. Thus, the members of the Bar have to give way to the larger public interest that is the interest of litigant. No litigant has come to this Court questioning the establishment of Camp Court at Kurud. The Supreme Court has already held as noticed hereinabove in **Federation of Bar Association in Karnataka** (supra) that no litigant can claim a fundamental right to get a court located within proximal distance of his residence and paramount consideration for specifying the places of sitting of court is the convenience of litigants. Viewing from any of angle, the writ petition is not liable to be entertained.

18. On the basis of aforesaid legal analysis, I do not find any good ground to admit this writ petition for hearing. The writ

petition being without substance is liable to be and is hereby dismissed in *limine* without notice to other side. No order as to cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-



HIGH COURT OF CHHATTISGARH AT BILASPUR

(SB: Hon'ble Shri Justice Sanjay K. Agrawal)

Writ Petition (C) No.3385 of 2017

Petitioner

The Bar Association, Dhamtari

Versus

Respondents

The High Court of Chhattisgarh and
others

(Head-Note)

(English)

Establishment of court is a question of public policy and for
convenience of litigants/common man.

(हिन्दी)

न्यायालय की स्थापना लोक नीति का प्रश्न है तथा वादकारियों/आम
आदमी की सुविधा हेतु है।

