

From:-

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To:-

The Learned Advocates/Senior Advocates. Dated:- 1-1-2011

SUB:- Resolution No. 58/2006 of the Bar Council of India and amendment of Chapter III A in part VI of the Bar Council of India Rules abolishing the addressing of the Honourable High Court and Honourable Supreme court judges as “MY LORD” and “YOUR LORDSHIP” but to address them as “YOUR HONOUR” or “HONOURABLE COURT”

REF:- My representation dt: 08-09-2010 to the
(1) Registrar (Judicial), High Court of A.P,
Hyderabad and (2) The President A.P., High
Court Advocate’s Association, at High Court,
Hyderabad.

Respected Sir,

Hope you may be aware that the Bar Council of India by invoking its rule making powers under section 49 (i) (j) of the Advocate’s Act passed a resolution No. 58/2006 and amended the rules of the Bar Council with regard to the addressing of Judges in the supreme Court, High Court and Sub-ordinates Court . The said resolution No. 58/2006 is extracted below for your kind perusal:-

Resolved that the following rule made under Section 49 (i) (j) of the Advocate’s Act 1961 be added as Chapter III A in part VI of the Bar Council of India Rules.

“Consistent with the obligation of the Bar to show a respectful attitude towards the Court and bearing in mind the dignity of Judicial office, the form of address to be adopted whether in the Supreme Court, High Court or Sub-ordinate Court should be as follow:-

“Your Honour” or “Honourable Court” in Supreme Court and High Court and in the Sub-ordinate Courts and Tribunals it is open to the Lawyers to address the Court as “Sir” or the equivalent word in respective regional languages.

EXPLANATION:- As the words “MY LORD” and “YOUR LORDSHIP” are relics of Colonial post, it is proposed to incorporate the above rule showing respectful attitude to the Court”.

After passing of the above resolution, the Bar Council of India sent the said resolution through letter no. STBC(CIR)No.11/2006 dt: 20-4-2006 to the Secretaries of all the State Bar Councils and also to all the Registrar's of all the High Court including the Registrar of A.P. High Court interalia asking them to circulate the above resolution to all the Bar Associations in their states in order to give adequate publicity to the above resolution among the lawyers.

In addition to the above, after the publication of the above resolution in the official Gazette on 6-5-2006 the Bar Council of India again sent another letter no. STBC (CIR) No. 15/2006 dt: 13-6-2006 to the Bar Council of A.P and the Registrar (Judicial) of High Court of A.P and others informing them about the publication of Gazette and the coming into force of the above Rule from 6-5-2006 onwards. Thatapart subsequent to the publication of new Rule in the Gazette dt: 6-5-2006 as stated supra, the Bar Council of India has also added the said Rule as Chapter III A in part VI in the Bar Council of India Rules.

Be that as it may, inspite of coming into force of the above rule on 6-5-2006 itself and despite intimating the same to all the Registrar's of High Court and Bar Associations, the said rule is being hardly and seldom implemented. In otherwords the said rule is being openly violated and has become a mere paper formality.

In any case, in view of the shabby implementation of the above rule I entertained a doubt whether the said Rule is still in force or stayed by any Court. Hence I wrote a letter dt: 24-12-2009 to the Secretary Bar Council of India, New Delhi under the provisions of R.T.I. Act interaila to inform me about the present status of the said rule. The Bar Council of India in response to my letter has sent a reply through letter No. BC1/D 853/2010 (RTI) dt: 3-2-2010 interalia stating the said Rule has been already published in

the Gazette dt: 6-5-2006 and since then it is being implemented throughout India where the Advocate's Act 1961 and Bar Council of India Rule are in force, and they further stated that the above Rule is not stayed or suspended so far by any court.

It is pertinent to note, when once a Rule is made and added to the Bar Council of India Rules and when the same is already circulated and intimated to all the Registrar's of Supreme Court and High Court, it becomes mandatory on their part and on our part to strictly follow and implement the same. But despite full knowledge of the framing of the new rule in the year 2006 itself, the Registrars, Advocates and others are openly violating the same and the practice of addressing the Courts as "MY LORD" and "YOUR LORDSHIP" is continuing unabated.

Apart from the above, not only the advocates, even the Registrars of our High Courts who are fully aware about the new Rule, and being at the helm of (Judicial) affairs are also not following the same. Infact in the daily cause list of the High Court and in other communications the Honourable Judges are being regularly referred as "MY LORD" and "YOUR LORDSHIP". For instance, it is being often mentioned in the Cause list as "WHENEVER HIS LORDSHIP SITS SINGLE" or "SITTING IN HIS LORDSHIPS CHAMBERS" or "LORDSHIPS RETIREMENT" etc.

It will not be out of place to mention here, that the Courts of Law are constitutionally created, for interpretation and protection of laws. In other words, Rules and Laws are made for implementation and not for violation. While this being the case, it is not known why we are not seriously following the above Rule and why the unreligious and old age British system of addressing the Courts as "MY LORD" and "YOUR LORDSHIP" is still prevailing knowing fully well that the new rule is mandatory in nature and not optional.

In this regard, it will be quite appropriate to highlight and refer to the names of two Honourable Judges of Delhi High Court namely Justice Dr. S. Muralidhar and Justice Ravindra Bhatt who in order to implement and follow the above Rule have become the

first judges of our country to direct the Registrars of Delhi High Court to make a note in the Daily Cause List of their respective Courts as follows:-

“Note: Advocates are requested to try and avoid addressing the judges as MY LORD and YOUR LORDSHIP”

In addition to the above, another Honourable Judge of Madras High Court by name Justice K. Chandru has also prohibited the Advocates from addressing the Court as “MY LORD” and “YOUR LORDSHIP” and the said Honourable Judge has put up a notice in the Court Hall which reads as follow : -

“Advocates are requested to desist from using Honorifics such as “MY LORD” and “YOUR LORDSHIP” while addressing this court by adhering to Rule No. 49 (i) (j) framed by Bar Council of India ”.

Not only this Justice K. Chandru of the Madras High Court has also gone on record by saying to the lawyers to stop speaking in a fawning manner and further observed as follows:

“Make your humble submission before GOD : before me it is enough if you make simple submission”.

Apart from the above, not very long ago, the former Chief Justice of India Justice Y.K. Sabharwal has also gone on record by saying as follows :-

“The Lord is only one and He is the GOD, above all of us. I am not GOD. Judges are not GODS”.

Though the above mandatory rule is added in the year 2006, several advocates are loathe and apprehensive to follow the new rule fearing they may be misconstrued as being disrespectful to judges or it may effect their cases. But in order to allay the fears of the Advocates, the learned judges of both Madras and Delhi High court as stated supra have already come forward and encouraged the lawyers to address them fearlessly as “YOUR HONOUR” or “HONOURABLE COURT” in view of the new Rule. Hence the

landmark steps taken by the above judges of Delhi and Madras High Courts should not only be appreciated and lauded but they should be followed in our court also, so that all the lawyers may fearlessly and comfortably address the Courts as “YOUR HONOUR” or “HONOURABLE COURT”.

In addition to the above Rule position, in our secular and democratic country various citizens practicing different faiths and religions address the God and incarnation of God as “**LORD**”. Like **LORD VENKATESHWARA, LORD SHIVA, LORD GANESHA (Hindus), LORD JESUS (Christians), (Rabbul-Aalameen) LORD OF THE WORLDS or RUB (LORD) (Muslims)** etc. So when the affix of LORD is used only for supplicating or addressing the GOD, it will be quite inappropriate to use the above word “LORD” in addressing those who are not actually GOD as rightly said by former Chief Justice of India. Infact in many reported and unreported judgements of our High Court, even the Honourable Judges refer the God as Lord. For example in many cases relating to TTD, the God of 7 hills is referred to as LORD BALAJI OR LORD VENKATESHWARA. Therefore such attribution of Honorifics for those other than God amounts to hurting the religious sentiments of the citizens and disturbs their religious and fundamental rights guaranteed under Article 25 and 26 of the Constitution of India. Earlier the above practice was compulsory for the lawyers but now in view of the new amendment it is absolutely not necessary to address the Court as “MY LORD” and “YOUR LORDSHIP”.

It is worth mentioning, that the Kerala High Court Bar Association has become the first Bar Association in the Country to pass a resolution in the year 2007 itself prohibiting the use of the words “MY LORD” and “YOUR LORDSHIP” by the Advocates and now they are openly addressing the Honourable Judges as “YOUR HONOUR” or “HONOURABLE COURT” as per the new rule.

Hence in order to stop the above practice of addressing the judges as “MY LORD” and “YOUR LORDSHIP”, I made an humble effort on my own and ventured to sent a detailed representation dt: 08-09-2010 to the Registrar (Judicial), High Court of A.P. and

to the President, High Court A.P., Advocate's Association by marking a copy of the same to the Bar Council of A.P., interalia requesting them to strictly prohibit the use of the words "MY LORD" and "YOUR LORDSHIP" in the High Courts so that the new Rule is truly implemented in letter and spirit or else the above Rule will become redundant and the very purpose of amendment will be defeated. It was also requested in my representation that the Advocates must be strictly prohibited from addressing the Courts as "MY LORD" and "YOUR LORDSHIP" by way of notices which should be properly displayed in all the Courts and also to be printed in the Daily Cause lists as being done by Justice S. Murlidhar of Delhi High Court and Justice K. Chandru of Madras High Court. Likewise all the Registrars of High Court must be asked not to use the words "MY LORD" and "YOUR LORDSHIP" in the daily cause lists, communications, other notifications, but to mention as "YOUR HONOUR", like "WHENEVER YOUR HONOUR SITS SINGLE" OR "SITTING IN YOUR HONOUR'S CHAMBER" etc.,

Finally through my above said representation I requested as follows:-

(a) To put up a daily note in the daily cause list under the name of the Honourable Judges calling upon the Advocates and others not to address the Courts as "MY LORD" and "YOUR LORDSHIP" but to address as "YOUR HONOUR" or "HONOURABLE COURT" in view of new mandatory Rule of the Bar Council of India

(b) To publish the new Rule in the High Court cause list and other notifications and not to use the words "MY LORD" and "YOUR LORDSHIP" in all the communication, notification, Judgments, daily cause list etc.,

(c) To put up notice boards before all the Courts calling upon the Public and Advocates etc., not to address the Courts as "YOUR LORD" and "YOUR LORDSHIP", but to address as "YOUR HONOUR" OR "HONOURABLE COURT".

(d) To direct the A.P. High Court Bar Association and other Bar Associations to inform all its members through notice calling upon them to strictly implement the new Rule and to fearlessly address the Courts as “YOUR HONOUR” or “HONOURABLE COURT” instead of “MY LORD” and “YOUR LORDSHIP” in the High Court and as “SIR” or any equivalent term before the subordinate Courts.

But inspite of sending the above representation no positive action whatsoever seems to have been taken by the Registrar (Judicial) till now, but on enquiry it was informed that the above representation is forwarded to the Honourable Chief Justice. Similarly, the Bar Council of A.P., appears to have forwarded my above said representation to the Honourable High Court for consideration.

It is needless to say a rule is always a rule and it has to be followed scrupulously by everyone especially by the members of the learned legal fraternity like us until it is repealed, stayed or set-a-side. In other words everyone has to change their old habit of addressing the courts in view of the above rule and a mere slip of tongue may be an excuse, but deliberate and constant use will amount to infringement of Rule. For instance as per Chapter IV and Rule IV of Bar Council rules, the wearing of Advocate’s Gown is compulsory both in Supreme Court and High Court and the Advocates are strictly following the same and no one will allow an Advocate to argue a case without his Gowns in High Court and Supreme Court as it tantamount to the violation of Chapter IV and Rule IV of the Bar Council Rules.

As this being the case, I as an humble advocate having filed several PILs purely in the public interest thought it fit to initiate this step especially in the interest of all the brother/sister advocates. Therefore I request all the brother/sister advocates, especially the senior most Advocates, who always stood as inspiration to the Junior Advocates, to join in this holy and humble mission and to fearlessly start addressing the Courts as “YOUR HONOUR” or “HONOURABLE COURT” so that all other Advocates may follow them. If the learned members of legal profession who are regarded as protectors and upholders of law do not follow the laws and rules then it will be difficult for others to follow the same and on the other hand we will be sending a wrong message to the

society. Infact we have to set example for others by projecting ourselves as law abiding citizens and strict followers of rules and regulations.

Hence I once again request all the learned Advocates to use their good offices and to impress upon their professional colleagues and friends, to prevail over the A.P. High Court Advocate's Association to pass an appropriate resolution for prohibiting the use of the words "MY LORD" and "YOUR LORDSHIP", as done by the Kerala High Court Bar Association so that all the Advocates can fearlessly and without hurting their own religious sentiments can address the Honourable Judges as "YOUR HONOUR" or "HONOURABLE COURT" in view of the new mandatory Bar Council Rule.

(A copy of this representation may be circulated to all your professional friends)

With regards your brother.

Sd/-

Mr. WASIM AHMED KHAN

ADVOCATE