

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ (PIL) Petition No. 13628/2020

Prahlad Sharma Son Of Late Shri Mool Chand Sharma

-----Petitioner

Versus

The Union of India & Ors.

-----Respondents

For Petitioner(s)	:	Dr. Abhinav Sharma, Advocate
For Respondent(s)	:	Mr. R.D. Rastogi, ASG with Mr. C.S. Sinha, Advocate for Respondent No.1 Major R.P. Singh, AAG with Mr. Jaivardhan Singh Shekhawat, Advocate for Respondents No.2 to 4 Mr. C.L. Saini, Advocate and Mr. Prateek Kasliwal, Advocate with Ms. Gauri Jasana, Advocate & Mr. Shubham Bhati, Advocate for Respondent No.5, Members of Bar Council of Rajasthan

HON'BLE THE ACTING CHIEF JUSTICE MR. MANINDRA MOHAN SHRIVASTAVA
HON'BLE MR. JUSTICE ANIL KUMAR UPMAN

Order

02/03/2023

Heard.

The issue with regard to framing of appropriate legislation for protection of advocates raised in this petition has remained pending since 2020.

We can take judicial notice of the recent incident of murder of a lawyer in the State which has led to wide spread agitation. At this stage, when the matter comes up for consideration, we find that reply of respondents has not been filed so far. The State has filed an affidavit, but there is not much detailed submissions in that affidavit.

The record shows that after filing of this petition, the State has drafted a Bill, namely, "Draft bill of The Rajasthan Advocate (Prevention of Offences and Damage of Loss to Property) Bill, 2021".

Learned Additional Advocate General would submit that looking to the present situation, he has instructions to make a statement that the matter is going to be considered at the top Executive level within a very short period.

We also find that considering the difficulty of advocates, particularly harassment, threat or violence solely for the reason that they have been discharging their duties as an officer of the Court, the Bar Council of India has also taken initiative in the matter and a draft bill "Advocates (Protection) Bill, 2021" has been finalized at the level of the Bar Council of India and forwarded to the Government of India, Ministry of Law and Justice.

We, thus, find that though the grievance of the Members of the Bar has been taken up for consideration at different level, but till date no legislation has come.

The steps contemplated in future on the part of the respondents would be clear only from their reply.

Learned counsel for the petitioner would submit that looking to the present situation, this Court may consider issuance of guidelines till appropriate legislation is framed by the legislature. We would request learned counsel appearing for the Union of India, State Government and Bar Council of Rajasthan to give their response on this aspect as well on the next date of hearing.

Looking to the nature of issue involved in this petition, we also consider it appropriate to seek assistance of the Bar Council

of India. Therefore, the Bar Council of India through its Secretary be impleaded in this petition as Respondent No. 6. Amended Cause Title be also filed.

Let notice be issued to the Bar Council of India through its Secretary. The notice to Bar Council of India is made returnable within two weeks.

The Bar Council of India may also come out with appropriate suggestions in the matter towards framing of guidelines.

Within the aforesaid period, reply should also be positively filed by all the respondents who are already represented through their respective counsel.

In the meantime, learned Additional Advocate General will also apprise the Court regarding various steps taken at the level of the Executive.

List this case on 20.03.2023.

(ANIL KUMAR UPMAN),J

(MANINDRA MOHAN SHRIVASTAVA),ACTING CJ