

राजस्थान सरकार  
विधि एवं विधिक कार्य विभाग  
(राजकीय वादकरण)

क्रमांक 12(8)राज/वाद/18

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महाधिवक्ता, राजस्थान, जयपुर।

समस्त अतिरिक्त महाधिवक्ता, जोधपुर/जयपुर।

राजकीय अधिवक्ता मय अतिरिक्त महाधिवक्ता/समस्त अतिरिक्त राजकीय अधिवक्ता/

उप राजकीय अधिवक्ता, जोधपुर/जयपुर।

समस्त गवर्नमेन्ट काउन्सिल/एडि गवर्नमेन्ट काउन्सिल/डिप्टी गवर्नमेन्ट काउन्सिल/

असि.गवर्नमेन्ट काउन्सिल, जोधपुर/जयपुर।

समस्त लोक अभियोजक/विशिष्ट लोक अभियोजक/अपर लोक अभियोजक, राजस्थान।

परिपत्र

**विषय:- उपरोक्त विधायक अधिकारियों के लिये हडताल के संबंध में दिशानिर्देश।**

राज्य सरकार के ध्यान में लाया गया है कि उदयपुर में राजस्थान उच्च न्यायालय की पीठ स्थापित करने के लिये राज्य सरकार की ओर से कमेटी गठित करने पर वकीलों ने नाराजगी जताई है। वकीलों के संगठनों ने जोधपुर व जयपुर में सोमवार को न्यायिक कार्य का बहिष्कार करने का फैसला किया है।

अधिवक्तागण द्वारा हडताल पर जाने अथवा न्यायिक कार्य का बहिष्कार करने के संबंध में माननीय सर्वोच्च न्यायालय की संवैधानिक पीठ द्वारा विनिश्चित EX-CAPT.HARISH UPPAL V/S UNION OF INDIA & ORS. के पैरा सं0 35, 45 एवं 46 इस संबंध में अवलोकनीय है:-

“35 In conclusion it is held that lawyers have no right to go on strike or give a call for boycott, not even on a taken strike. The protest, if any is required, can only be by giving press statements, TV interviews carrying out of the Court premises banners and/or placards, wearing black or white or any colour arm bands, peaceful protest marches outside and away from Court premises, going on dharnas or relay facts etc. It is held that lawyers holding Vakalats on behalf of their clients cannot not attend Courts in pursuance to a call for strike or boycott. All lawyers must boldly refuse to abide by any call for strike or boycott. No lawyer can be visited with any adverse consequence by the Association or the Council and no threat or coercion of any nature including that of expulsion can be held out. It is held that no Bar Council or Bar Association can permit calling of a meeting for purposes of considering a call for strike or boycott and requisition, if any, for such meeting must be ignored. It is held that only in the rarest of rare cases where the dignity, integrity and Independence of the Bar and/or the Bench are at stake, Courts may ignore (turn a blind eye) to a protest abstention from work for not more than one day. It is being clarified that it will be for the Court to decide whether or not the issue involves dignity or integrity or Independence of the Bar and/or the Bench. Therefore in such cases the President of the Bar must consult the Chief Justice or the District Judge before Advocate decide to absent themselves from Court. The decision of the Chief Justice or the District Judge would be final and have to be abided by the Bar. It is held that Courts are under no obligation to adjourn matters because lawyers are on strike. On the contrary, it is the duty of all Courts

to go on with matters on their boards even on the absence of lawyers. In other words, Courts client, abstains from attending Court due to a strike call, he shall be personally liable to pay costs which shall be addition to damages which he might have to pay his client for loss suffered by him.

45. Further appropriate rules are required to be framed by the High Courts under Section 34 of the Advocates Act by making it clear that strike by advocate/advocates would be considered interference with administration of justice and concerned advocate/advocates may be barred from practising before Courts in a district or in the High Court.

46. Hence, it is directed that (a) all the Bar Associations in the country shall implement the resolution dated 29<sup>th</sup> September, 2002 passed by the Bar Council of India, and (b) under Section 34 of the Advocate Act, the High Courts frame necessary rules so that appropriate action can be taken against defaulting advocate/advocates.”

माननीय सर्वोच्च न्यायालय द्वारा पारित उक्त निर्णय को दृष्टिगत रखते हुये राज्य सरकार उपरोक्त विधि अधिकारीगण (राजकीय अधिवक्ता/राजकीय काउन्सिल) को निर्देशित करती है कि समस्त राजकीय अधिवक्ता/राजकीय काउन्सिल हडताल के दौरान माननीय सर्वोच्च न्यायालय के उक्त निर्णय की कठोरता से पालना करेंगे एवं ऐसा प्रत्येक प्रकरण जिसमें राज्य सरकार पक्षकार है, में अपनी उपस्थिति आवश्यक रूप से सुनिश्चित करेंगे।

  
शासन सचिव, विधि

प्रोग्रामर, विधि एवं विधिक कार्य विभाग।