



THE KERALA HIGH COURT ADVOCATES' ASSOCIATION

Reg. No. ER 931/2004

High Court Building, Kochi - 682 031. Ph : 2393244, Fax : 0484 - 2394435, Email : k.hcaa@yahoo.com

KHCAA/HC/001/2025

07.03.2025

To,

The Hon'ble Chief Justice,
High Court of Kerala,
Ernakulam – 682031.

Sir,

Sub: Serious Misconduct / Misbehaviour of Justice A Badharudeen towards Advocates in general and the specific incident dated 6 March 2025.

Ref: Letter KHCAA/HC/26/2024 dated 16.02.2024 from the KHCAA to the Chief Justice

1. The Association has received several complaints against Justice A Badharudeen as regards his inappropriate conduct / Misconduct / Misbehaviour in the courtroom while dealing with Advocates. Most advocates complained of humiliation and insensitivity they face while discharging their duties in the court of Justice A.Badharudeen. The Association wrote the letter referred above bringing the attention of your Lordship to the issue.
2. The Conduct / behaviour of Justice A.Badharudeen improved for a while, but unfortunately, the Association was inundated with complaints of his misbehaviour in recent times. However, on 6 March 2023 he insulted and humiliated an advocate who sought time to file fresh vakalath as the

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advocate who had accepted the brief and appeared on 9.12.24 unfortunately expired on 8.1.25. The advocate who sought time to file fresh vakalath was none other than the wife of the deceased advocate. This incident triggered the Bar and an emergency General Body meeting was called at 10.00 hrs on 7 March 2025.

3. The General Body was informed by Sr. Adv. George Poonthottam that Justice A. Badharudeen had agreed to apologise to the advocate in his chambers. When the insult and humiliation happened in the open court, the apology also should be in open court. Apology is an act of regret and if it is genuine, the place where the apology is rendered would make no difference to the person seeking the apology.
4. The respect that an advocate shows to a Judge in a courtroom is not to the person but to the seat of Justice. It is in this context, the Hon'ble Supreme Court observed in **R.K. Garg, Advocate v. State of Himachal Pradesh** [(1981) 3 SCC 166]

"The Bar and the Bench are an integral part of the same mechanism which administers justice to the people. Many members of the Bench are drawn from the Bar and their past association is a source of inspiration and pride to them. It ought to be a matter of equal pride to the Bar. It is unquestionably true that courtesy breeds courtesy and just as charity has to begin at home, courtesy must begin with the Judge. A discourteous Judge is like an ill-tuned instrument in the setting of a court room."

Y. S. Henry





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5. As advocates we come across isolated incidents of outbursts from both the Bar and the Bench. Many a times such isolated outbursts are put to rest by an apology. However, the conduct of Justice A.Badharudeen is not isolated and by his conduct he has consistently lowered the reputation of the Judicial institution itself. The Bar understands that it is human to err and the Bar has called upon Justice A.Badharudeen to offer an apology to Advocate in the open court and assure the Bar that he would not repeat such insensitive behaviour. The Bar would be most willing to forgive and move ahead if Justice A.Badharudeen apologises for his conduct.
6. We bring your Lordship's attention to the fact that this Bar has not reacted in such overwhelming manner before this and the reason for such overwhelming response is the pent up frustration building over a period of time. It is time to seriously introspect the manner in which the Bench is dealing with the Bar of late. We must not forget what the Hon'ble Supreme Court in **R. Muthukrishnan vs. High Court of Madras** [(2019) 16 SCC 407] reminded both the Bar and Bench by stating:

"Independent Bar and independent Bench form the backbone of the democracy. In order to preserve the very independence, the observance of constitutional values, mutual reverence and self-respect are absolutely necessary. Bar and Bench are complementary to each other. Without active cooperation of the Bar and the Bench, it is not possible to preserve the rule of law and its dignity."

Y. S. Shenoy





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7. In the event of the failure of Justice A.Badharudeen to apologise, the Association will be constrained to initiate the 'in-house procedure' and until the in-house complaint is dealt with in accordance with law, the advocates will refuse to appear before the Court of Justice A.Badharudeen. The boycott of the Bar is because of the failure of Justice A.Badharudeen to conduct himself in accordance with the standards set up for a Judge by the Hon'ble Supreme Court. Unacceptable behaviour cannot be accepted because of the stature of a person, much less because the person is a Judge. This bar is making it clear that it will not accept 'disrespect'.

8. The Hon'ble Supreme Court in *A. M. Mathur vs. Pramod Kumar Gupta*, (1990) 2 SCC 533 held that

"Judicial restraint and discipline are as necessary to the orderly administration of justice as they are to the effectiveness of the army. The duty of restraint, this humility of function should be constant theme of our judges. This quality in decision making is as much necessary for judges to command respect as to protect the independence of the judiciary. Respect to those who come before the court as well to other co- ordinate branches of the State, the executive and the legislature. There must be mutual respect. When these qualities fail or when litigants and public believe that the judge has failed in these qualities, it will be neither good for the judge nor for the judicial process. The judges have the absolute and unchallengeable control of the court domain. But they cannot misuse their authority by intemperate comments, undignified banter or scathing criticism of counsel, parties or witnesses.

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9. The Association brings your Lordship's attention to the fact that Kerala High Court was the first to have e-filing as well as virtual courts, but for some strange reasons, we have not embraced 'transparency'. All other High Courts which have virtual courts are either live streaming proceedings or atleast video recording all proceedings. In spite of the repeated requests of the Association, the High Court of Kerala has shied away from video recording. Mandatory video recording will go a long way not just to ensure transparency but also to check such misconduct on the part of the Bar or the Bench. Therefore, the Association once again requests that video recording be made mandatory in all courts and access to the video records be granted to all persons entitled to it on request.
10. We assure your Lordship of our cooperation to ensure smooth discharge of our duties so as to ensure the continued faith of "We the People" on which the very foundation of the Judicial Institution rests.

Sincerely,



Adv. Yeshwanth Shenoy
President