

30th August 2020

Hon^{ble} Justice S.A. Bobde
Chief Justice of India,
Supreme Court, New Delhi.

Subject: Open letter from law students requesting you and your brother judges to reconsider the judgement on Prashant Bhushan's Contempt Case.

Your lordship, this is an emotional letter from law students across the country who are disturbed by the judgement given by Justice Arun Mishra led bench and disheartened witnessing the way our Supreme Court reacted on two tweets by Mr. Prashant Bhushan. The whole episode of three cases, first, recalling of 2009 contempt case and relisting it suddenly, second, deletion of case from Justice DY Chandrachud led bench regarding constitutional challenge on provisions of contempt and third, the suo-moto cognizance through a poor petition without sound legal reasoning on two tweets. All of these during a pandemic when marginalized and voiceless are awaiting justice in many cases raises our doubts on intention of the judiciary. In our democracy, resides an institution, the Supreme Court of India, praised handsomely. To quote veteran Nani A. Palkhivala:

“When the history of our benighted times comes to be written, it will be plainly perceived that the Supreme Court of India was the one institution which served the nation most meritoriously in its hour of need. Freedom under the law survives in India only because of the fundamental rights in our Constitution and the outstanding independence of our Courts.”

Each word of this quote matters immeasurably because this praise exists for that Supreme Court which had apologized to the people of the country it failed during the infamous emergency and endured criticism as an impeccable asset.

However, the same Supreme Court has been shaken merely by two tweets of Advocate Prashant Bhushan. The Supreme Court seems to have weak albeit broad shoulder for social media opinions. It feels scandalized for being fiercely criticized by one of its own whose real motive is for judicial reforms. There is only so much left to say that hasn't already been said by the charged person himself but the hope of imploring the Court is still prevalent among some of us.

Every case of contempt organises opportunity for a generation to learn attributes of moral leadership, calmness, liberty, and consideration ought to be showcased by authorities. This is a chance to understand what the Supreme Court said in its own motion in Re S.

Mulgaokar [AIR 1978 SC 727]

“not to be hypersensitive even where distortions and criticisms overstep the limits, but to deflate vulgar denunciation by dignified bearing, condescending indifference and repudiation: by judicial rectitude.”

As said by Justice VK Iyer in *S Mulgaokar v. Unknown* (1978) 3 SCC 339, 1978 3 SCR 162, *“I quite realise how hard it is to resist, with sage silence, the shafts of acid speech; and, how alluring it is to succumb to the temptation of argumentation where the thorn, not the rose, triumphs. In contempt jurisdiction, silence is a sign of strength since our power is wide and we are prosecutor and judge.”*

Indeed, to criticise the judge fairly, albeit fiercely, is no crime but a necessary right, twice blessed in a democracy. The blessing kept in the security of the Apex Court which ensures the freedom of expression as *“a free people are the ultimate guarantors of fearless justice.”*

It may be better in many cases for the judiciary to adopt a magnanimously charitable attitude even when utterly uncharitable and unfair criticism of its operations is made out of bona fide concern for improvement. Lord Atkin very aptly said in 1964, *“Wise Judges never forget that the best way to sustain the dignity and status of their office is to deserve respect from the public at large by the quality of their judgments, the fearlessness, fairness and objectivity of their approach, and by the restraint, dignity and decorum which they observe in their judicial conduct.”*

The judiciary ought to reply for criticism by restoration of public confidence. The judiciary ought to reply for criticism by changing its course. The judiciary ought not to charge for contempt when criticism arises out of anguish and love for justice, from a person aiding in profoundness of the same justice he asks for others. We have witnessed Mr. Bhushan in courts fighting for transparency, accountability, environmental protection and human rights, also against corruption since years. His contribution in our fraternity and nation building is undoubtedly cherished by all in legal fraternity. The tweets have a layered anguish represented for the voiceless and marginalized community. Those 2 tweets do not hurt the sanctity of the court as it all depends on the approach of judges towards justice. We have seen judges accepting whatever the executive states and moving forward with „laid-back attitude“ in serious and sensitive cases. This is what can shake the public confidence and the only reason you and your brother judges should worry about.

This open letter signed by law students can be considered as a firm criticism on the unauthored judgement delivered on 14.08.2020 by the three judge bench led by Justice Arun Mishra in *Suo Moto Contempt Petition (Criminal) No. 1 of 2020*.

Copy to:

Hon^{ble} Justice Arun Mishra, Through,
The Registrar,
Supreme Court of India.

Sincerely undersigned students:

- | | | |
|-----------------|-----------------------------|--------------------|
| 1 Rishav Ranjan | 3 Snigdha 4
Anita Bharti | 5 Saarthak Agrawal |
| 2 Aman Banka | | 6 Vaibhav Shahi |

7 Doriyoli Borah 39 Harsh singh 71 Jannat Garg
8 Veronica das 40 Vishal Singh 72 Harshita Kaushik
9 Karishma Das 41 Qaisar Fahad 73 Alvina Rais Khan
10 Siddharth Kashyap 42 Amol 74 Ijajur Rahman
11 Anushka 43 Akansha Sharma 75 Harsh Singh
12 Ravi Boolchandani 44 Shikhar Khanna 76 Zoya Zaki
13 Aeilin Sultana 45 Jumpi 77 Rehan Ahmad
14 Debarati Ghose 46 Pranjal Rai 78 Pranav Sharma
15 Khalid 47 Utsav Singh Tiwari 79 Arvin
16 Susmit Isfaq 48 Biswajit Dash 80 K. Aashil Naidu
17 Ambrosia Kalita 49 Udit pratap singh Solanki 81 Rishikesh Guptha K
18 Shaoni Das 50 Asif Ali 82 A. Thiruthi
19 Tushar Arora 51 Ishaan Jain 83 Suryansh Singh
20 Sanjivan Chakravorty 52 Sharad Kamal Bezboruah 84 Aarshi Singh
21 Silvereen Sun 53 Reetam Singh 85 Yuvraj Naidu
22 Shehnaz akhtar 54 Tanvin Gogoi 86 Aastha Agrawal
23 Aastha Khanna 55 H. Mophisha S Dkhar 87 Shagun Chaudhary
24 Sparsh Goel 56 Sameeksha Goswami 88 Pranjal Sharma
25 Himanshu Gupta 57 Manu Verma 89 Animesh Arya
26 Arche Hanse 58 Alisha Sharma 90 Shreya Mani
27 Aditya Mishra 59 Rohan gautam 91 Yash Rajgarhia
28 Aakansha Singh 60 Arihant Tiwari 92 Nishant
29 Bhaskar Dev Tripathi 61 Shubham Kumar 93 Kanchi Agrawal
30 Radhika 62 Ankit Goyal 94 Arsalan Shaikh
31 Rohan gautam 63 Chesta Bamel 95 Shruti Shree
32 Manan Jaiman 64 Ankit Tiwari 96 Nistha Pandey
33 Astha 65 Rahul Garg 97 Prince
34 Aviral Misra 66 Pranshu Pallav 98 Masum a Aggarwal 35 Nupur singh 67 Raja
Choudhary 99 Vanshika

36 Pragati Singh 68 Pragya 100 Himanshu Sonwani
37 Vartika Vasu 69 Alvina Rais Khan 101 Ujjawal Kumar
38 Amrendra Kumar Singh 70 Shristi Talukdar 102 Aman Hiranwal

- 102 Shubham Kumar Pandey
- 103 Tanisha Goyal
- 104 Nikhil Sharma
- 105 Anuj Banka
- 106 Rehan Ahmad
- 107 Rhythm Maheshwari
- 108 Shailesh Bajoria
- 109 Tanmay Kumar
- 110 Abhinav
- 111 Vineet Bindal Diksha
- 112 singla
- 113 Aditya Nayak
- 114 Piyush
- 115 Abhishek Indivar
- 116 Hariom Patidar
- 117 Soumalya Das Abhishek
- 118 Ashish Dewan
- 119 Moulina Thakur
- 120 VIKAS C V