

IN THE HIGH COURT OF JUDICATURE AT JABALPUR, M.P.

Contempt Petition Criminal No. 11/98

Applicant: Madhya Pradesh High Court Bar Association

Versus

Non Applicants: Shri Rajendra Sail and 2 others

REPLY ON BEHALF OF NON APPLICANT NOS. 2 AND 3  
VIJAY PHANSHIKAR, EDITOR, THE HITAVADA ENGLISH  
NEWSPAPER AND RAJENDRA PUROHIT, GENERAL MANAGER,  
PRINTER AND PUBLISHER, THE HITAVADA

The Non Applicant Nos. 2 and 3, above named, most respectfully beg to submit as under:-

1. An application under Articles 215 of the Constitution of India read with Section 12 of the Contempt of Courts Act has been moved by the M.P. High Court Bar Association through its Secretary. The Contempt Petition is based upon news report published by the English Newspaper Daily 'The Hitavada' printed and published from Nagpur, on 4-7-1998. This news report in substance reproduced the speech of the Non Applicant No. 1, Rajendra Sail, who delivered a speech as well as spoke to a Bureau Correspondent in Bhillai. The Bureau Correspondent in turn reported this subject and its context as well as the news to the publication division of The Hitavada. In the edition of The Hitavada published on 4-7-1998, the statements of Shri Rajendra Sail, Non Applicant No. 1 have been ~~from~~ printed and published as a result.

2. The printing and publication of the news item on 4-7-1998 in 'The Hitavada' M.P. Line title

"Sail terms High Court's decision on Niyogi Murder Case as Rubbish" as well as the contents of the aforesaid article have been published purely on account of over-sight of the management. It was the duty of the subordinate staff to have brought it to the attention of the higher management before putting such an article for printing and publication. In this case both the non applicant Nos. 2 and 3 were absolutely unaware of the articles which were published in the newspaper & edition on 4-7-1998. If the answering non applicants had known about the said article, it would not have been published.

3. The non applicant Nos. 2 and 3 who are Editor and General Manager & Printer & Publisher of the newspaper honestly and genuinely feel regretful for the publication dated 4-7-1998. They apologise unconditionally for the lapse on the part of their subordinate staff. The non applicant nos. 2 and 3 also give an undertaking to the Hon'ble Court that such irresponsible reporting will not be repeated as very strict instructions have been issued to that effect. The internal procedure of public printing and publication of ~~re~~ in respect of news emanated and relating to Courts have also been tightened and has been putting under greatest scrutiny.

4. The non applicant Nos. 2 and 3 have highest respect towards the judiciary and the judges of this Hon'ble Court. It is unthinkable that they can print or publish such articles in their newspaper. The answering non applicants do not wish to promote or encourage such a journalism. It is neither in the

interest of the newspapers nor of the society. The answering non applicants feel-~~r~~ truly feel regretful for the same.

5. The answering non applicants wish to inform this Hon'ble Court that they have tendered a public apology in the front page of the Newspaper 'The Hitavada' Edition dated 6th August 1998 seeking mercy and pardon of the Hon'ble High Court for the grave lapse on their part. The answering non applicants have also expressed their regrets for the anguish of the Hon'ble Judges of this Hon'ble High Court and the Members of the M.P. High Court Bar Association and the community at large as a result of the publication of the aforesaid news item. A copy of the public apology tendered by the answering non applicants in the front page of The Hitavada Edition dated 6-8-1998 is marked as ANNEX NA-1.

6. The answering non applicants also wrote personal letters of apology to the Hon'ble Chief Justice of the M.P. High Court and have also sent copies of the same to the two Hon'ble Judges of this Hon'ble Court namely Hon'ble Justice Shri S.K. Dubey and Hon'ble Justice Ms. Usha Shukla. A copy of the said letter has also been sent to the President of the M.P. High Court Bar Association, Jabalpur. In this letter also apology and regrets have been expressed for the lapse on the part of the newspaper management in printing and publication of the article in question on 4-7-1998. A copy of the letter of apology dated 13-8-1998 is marked as ANNEXURE NA-2.

7. The answering non applicants feel extremely

regretful and sorry for the lapse on the part of the newspaper. They have no words to defend the same and they do not wish to justify or defend the action. They crave pardon and mercy of this Hon'ble Court for the lapse on their part.

8. Affidavits duly sworn by the non applicants in support of this reply are filed herewith.

9. The Hon'ble High Court be pleased to accept the apology of the non applicant Nos. 2 and 3 and to discharge them from the action under the Contempt of the Courts Act.

NON APPLICANT No. 2

NON APPLICANT No. 3

Counsel for the Non Applicant  
Nos. 2 and 3

Jabalpur

Dated: 18th August, 1998

IN THE HIGH COURT OF JUDICATURE AT JABALPUR, M.P.

Contempt Petition Criminal No. 11/98

Applicant: Madhya Pradesh High Court Bar Association

Versus

Non Applicants: Shri Rajendra Sail and 2 others

AFFIDAVIT

I, Vijay Phanshikar, aged about 47 years, Son of Shri B.G. Phanshikar, Editor, Hitavaja, English Newspaper, Nagpur, resident of 47-A, Maulana Azad Road, Gokulpeth Nagar Nagpur, Maharashtra State, do hereby state on oath as under:-

1. That I am the Non Applicant No. 2 in the instant case as such am well conversant with the facts of the case. Therefore, I am able to file the accompanying reply and swear this affidavit in its support.
2. That I have read and understood the contents of the said ~~affidavit~~ reply which has been drafted under my instructions.
3. That the contents of the said reply from paras 1 to 9 are true to my personal knowledge and belief.

DEPONENT

VERIFICATION

I, Vijay Phanshikar, the above signed deponent do hereby verify that the contents of the above affidavit from paras 1 to 3 are true to my personal knowledge and belief.

Verified and signed on this 13th day of August 1998 at Jabalpur.

DEPONENT

IN THE HIGH COURT OF JUDICATURE AT JABALPUR, M.P.

Contempt Petition New Criminal No.11/98

Applicants: Madhya Pradesh High Court Bar Association

Versus

Non Applicants: Shri Rajendra Sail and 2 others

AFFIDAVIT

I, Rajendra Purohit, aged about 35 years, Son of Shri B.L. Purohit, General Manager, Printer and Publisher of The Hitavada, Nagpur, resident of East High Court Road, Ramdaspath, Nagpur, Maharashtra State, do hereby state on oath as under

1. That I am the Non Applicant No. 3 in the instant case as such am well conversant with the facts of the case. Therefore, I am able to file the accompanying reply and swear this affidavit in its support.
2. That I have read and understood the contents of the said reply which has been drafted under my instructions.
3. That the contents of the said reply from paras 1 to 9 are true to my personal knowledge and belief.

DEPONENT

VERIFICATION

I, Rajendra Purohit, the above signed deponent do hereby state verity that the contents of the above affidavit from paras 1 to 3 are true to my personal knowledge and belief.

Verified and signed on this 18th day of August, 1998 at Jabalpur.

DEPONENT

IN THE HIGH COURT OF JUDICATURE AT JABALPUR, M.P.

Contempt Petition Criminal No. 11/98

Applicant: Madhya Pradesh High Court Bar Association

Versus

Non Applicants: Shri Rajendra Sain and 2 others

LIST OF ANNEXURES

Sl. No.	Description of documents relied upon	Annex No.
1.	Copy of the public apology tendered by the answering respondents in the front page of The Hitavada Edition dated 6-8-1998	NA-1
2.	Copy of the letter of apology dated 13-8-1998 sent by the answering non applicants	NA-2

Counsel for the Non Applicants  
2 and 3

Jabalpur

Dated: 18th Aug 1998

# Unconditional apology

This has reference to the news item published in *The Hitavada* (MP-Line Page C, July 4, 1998) which reported certain statements made by Mr Rajendra Sain, National Organising Secretary of the People's Union for Civil Liberties, referring to Madhya Pradesh High Court judgment in the Shankar Guba Niyogi murder case.

The statements attributed motives to the judiciary and used language that should not have been reported. The news item was filed by the Bhilai Bureau of *The Hitavada* and was dealt with at a lower level and hence escaped the filters that should have stopped it from publication. It was an editorial lapse for which we are deeply sorry and convey our sincere and unconditional apologies to the Madhya Pradesh High Court in general and the honourable judges Mr. Justice S.K. Dubey and Ms. Justice Usha Shukla whose names were mentioned in the report in particular.

We once again reiterate that *The Hitavada* has always had highest respect for judiciary at all levels and had no malafide intention while reporting the news item. Even though we admit to the lapse, we would wish to let the Honourable High Court, members of the Bar, as well as our readers know that those who dealt with the news item thought they were acting in public interest by bringing to light the bad things being spoken about judiciary. There never was any intention to malign the judiciary or cause pain to the individual judges. Still, it cannot be denied that by amplifying such views, the image and the sentiment of the judiciary were hurt. The responsibility for the act remains ours and we own it fully and unreservedly.

In order that such things are not repeated, *The Hitavada* has instituted even more stringent internal procedures to keep a check on all news reports pertaining to the judiciary as well as those affecting reputation of common man. We wish to assure that *The Hitavada* stands for good journalism and would never intentionally do anything that brings any of the country's public institution into disrepute, least of all the judiciary which is one of the beacons of hope in present troubled times.

We once again convey our sincere regrets and apologise unconditionally for the embarrassment caused to all concerned.

-Editor



Estd. 1911

# The Hitavada

## Nagpur

Managing Editor: Sanwarlal Purohit, Ex. M. P.

To,  
The Hon'ble Chief Justice,  
Madhya Pradesh High Court,  
Jabalpur

Respected Lordship,

This is with reference to a news item published in The Hitavada MP Line (July 4, 1998) regarding a speech in reaction to the judgement in Shankar Guha Niyogi murder case. That news item was published through an editorial oversight. We are acutely aware of the distress it caused to the Hon'ble High Court as well as to the individual judges whose names were mentioned therein.

Upon learning of the nature of the news item and the distress it has caused to the members of bar as well the bench, we had already published on our own initiative an unconditional apology to the High Court as well as the Honourable judges on the front page of our issue dated August 6, 1998. A copy of the issue carrying that apology is being enclosed.

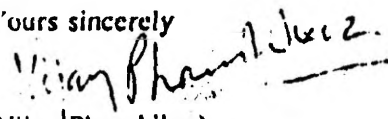
As your lordship will notice we have carried the apology even more prominently than the original news item. We have since learnt that contempt of court proceedings have been started against us by the Madhya Pradesh High Court Bar Association because of the same news item. The enclosed apology will amply make clear that we had no intention of maligning the judiciary or any of its members. We are also truly sorry for what has happened and have publicly apologised for the same.

As regards the court proceedings against us, we do not intend to contest it and our stand will be same as reflected in the apology we have published. We would, of course, be making the appropriate presentation before the court when the matter comes up for hearing.

Meanwhile, through this letter we wish to keep your lordship posted with the matter and once again convey our sincere regrets and apologies to you personally.

Nagpur  
August 13, 1998

Yours sincerely

  
(Vijay Prakashikar)  
Editor

cc: Mr Justice S.K. Dubey  
Ms Justice Usha Shukla  
President, MP High Court Bar Association, Jabalpur.

