



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/Misc/ 542 /2024

21.06.2024

To

The Expert Committee for Revision of Court Fee
Law(opinion-G) Department, Government Secretariat,
Thiruvananthapuram 695001.

1. The KHCAA categorically opposes the court fee hike that was effected through in the Budget speech and has already been implemented. The KHCAA is aware of the several representations given by Bar Associations across Kerala as well as several Advocates across the State and therefore, do not want to dwell upon the very same technicalities pointed out against the Court Fees Hike.
2. The KHCAA in the strongest words condemn the unilateral act of the Government to increase the court fees on the basis of recommendation of a committee which is completely ignorant of the ground realities. What is ironical is that after having increased the court fees and having implemented the same, the Government has appointed the very same Committee / persons to '*collect views, suggestions and materials from the stakeholders and other official sources*'. This points out that the committee / persons while making recommendation to hike court fees had no material before them to suggest an upward hike in the Court Fees.

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3. The KHCAA is also in receipt of a letter dated 2 May 2024 from the Law Secretary to the Secretary, Bar Council of Kerala and copied to the president / Secretary of all Bar Associations across Kerala. This letter shockingly exposes the attitude of the Government to Justice Dispensation. The letter states that *“the revenue from the Judicial establishment in the year 2002-2003 was 40.89 Cr., but the expenditure towards the dispensation of Justice was Rs.97.11 Cr”*. Justice is core to the Preamble of the Constitution of India and treating ‘court fees’ as revenue from Judicial establishment itself is a misplaced concept.
4. We take your attention to the elementary function of the State as held by the Hon’ble Supreme Court in *Sunil Saini & Otrs Vs. State of Haryana & otrs* [2023 INSC 715]

“The State exists on the basis of implied consent of the Governed. The principal reason for people to come together under the organization of the state is the fundamental principle that the State will be in a position to always protect the lives and properties of the citizens. This is the fundamental unalterable premise for the creation, existence and preservation of any civilized State. It is all the more so, when the State is functioning under a written constitution which guarantees fundamental rights such as ours. It is accordingly that rule of law is rightfully treated as part of the basic structure of the Constitution. It is the bounden duty of any State to ensure that the lives of its citizens and other persons are at all times protected.



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The same goes for their properties. This is the elementary function of the State.”

5. The letter also clearly refers to the 189th report of the Law commission of India which clearly arrived at a conclusion that the enhancement of Court Fee to recover cost of administration of Justice will amount to impediment to access of Justice. While dealing with access to Justice, the Hon'ble Supreme Court in *Brij Mohan Lal v. Union of India and Ors.* [(2012) 6 SCC 502] observed:

“To put it simply, it is the constitutional duty of the Government to provide the citizens of the country with such judicial infrastructure and means of access to justice so that every person is able to receive an expeditious, inexpensive and fair trial. The plea of financial limitations or constraints can hardly be justified as a valid excuse to avoid performance of the constitutional duty of the Government, more particularly, when such rights are accepted as basic and fundamental to the human rights of citizens.”

6. It is unfortunate that the Committee that is headed by a Former High Court Judge did not take into consideration basic aspects like access to Justice and the duty of the State to provide access to Justice while making the recommendation. It is even more unfortunate that the same former Judge is now hearing what was done wrong by his own advice. A government that is too concerned about the expenditure on Administration of Justice is spending public

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funds to again 'justify its act and / or reverse an act it took without any study' by having a committee move around the State of Kerala. It is very clear that the joke is on the people of Kerala.

7. In the letter it was stated that in the budget for the year 2023 the amount set apart to meet the expenditure towards dispensation of justice was Rs.1248.70 cr whereas the very same budget figures disclose that income from the Judicial establishment is Rs.126.85 Cr. It would be pertinent to note that there has to be a larger scrutiny as to the expenditures incurred because the Judicial Infrastructure continues to be dismal in the State however, the procurement of equipments and the cost of infrastructure works are highly inflated. Stricter controls to check 'corruption' in the procurement and execution of Judicial Infrastructure alone will save a few hundreds of crores to the government.
8. It is unfortunate that 'politics' played havoc with the unity of the members of the Bar who seem to be strongly divided on political lines when it comes to these decisions. The Bar Council of Kerala before it was reconstituted by the Bar Council of India failed to take up the issues affecting the Advocates in general. The Court Fees hike and the failure of the Government to pass the Advocates Protection Bill all point out in that direction.



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9. The KHCAA has called upon the Bar Associations across Kerala to call for General Body meeting and pass resolution to strongly deprecate the unilateral move of the Government of Kerala to hike Court fees.

10. The KHCAA does not intend to play ball with this expert committee and makes it clear that in the event of the inability of the Government to reverse the Court Fee hike imposed illegally, the KHCAA will pursue the Judicial route and will seek a Judicial Solution.

Adv Anoop V. Nair
Secretary



Adv Yeshwanth Shenoy
President