



# INDIAN BAR ASSOCIATION

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To,

**Hon'ble Chief Justice of India,**  
Supreme Court, New Delhi.

**Sub: Initiating suo-moto contempt proceeding against Managing committee of unregistered Association AAWI for passing a resolution to intervene the Contempt proceeding of Mr. Ketan Tirodkar, though it is specifically barred by Hon'ble Supreme Court's Constitution Bench judgment in (1998) 4 SCC 409**

May it please your Honour,

1. That, Hon'ble Bombay High Court had initiated a suo-moto contempt proceedings against one reporter Mr. Ketan Tirodkar being No. 01/2017
2. That, when the matter is already subjudice before court then in order to gain some mileage and to serve their ulterior purposes, the managing committee of Advocates Association of Western India (AAWI), resolved to intervene in the Suo-moto contempt petition No.1 of 2017

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### Notice

A Special General Body Meeting will be held on Monday, 06/03/2017 at 2.20 pm in Room No.36 to consider the following agenda.

### Agenda

1. To consider & pass the following Resolution:

### Resolution I-

It has come to our notice that one Mr. Ketan Tirdokar has posted false, derogatory, defamatory, contemptuous statements on Facebook under the caption



Kathwala, Hon'ble Justice Smt. Sadhana Jadhav, Hon'ble Justice Smt. M.R. Bhatkar.

Resolved that Advocates Association of Western India considers this as attack on Judiciary which amounts to interference in the administration of justice. AAWI believes that the above named judges of the High Court at Bombay are judicious and the Bar has full faith in their judicial integrity. In view to curb such unethical and sharp practices which are used to scandalize the Courts, **AAWI's Managing Committee has resolved to intervene in the Suo-Moto Contempt Petition No.1 of 2017 against Mr. Ketan Tirodkar alongwith Bombay Bar Association.**

**Resolved that The Special General Body of AAWI endorses and supports the decision of the Managing Committee to intervene in the Suo Moto Contempt Petition No.1 of 2017 against the above mentioned contemnor. ”**

The said decision of the Managing Committee is endorsed by some of the members in special General Body meeting held on 6<sup>th</sup> March 2017.

3. That, at the outset it is submitted that we are not supporting the stand of Mr. Tirodkar. Whatever is right or wrong will be decided by Hon'ble Bombay High Court in a judicious manner.
4. My concern is about the undue interference in the Court proceedings by the above said Association AAWI, without any lawful authority and with ulterior motive to gain undue advantage of the situation.
5. Needless to mention here that the legal position regarding intervention by anyone in contempt proceeding is already been settled by Constitution Bench of 5-Judges of Hon'ble Supreme Court in the case between **Supreme Court Bar Association Vs Union of India, (1998) 4 SCC 409** that third party cannot

intervene on the issue of intervention, Hon'ble Supreme Court in para 42 ruled as under;

“ (42)..... the purpose of contempt jurisdiction is to uphold the majesty and dignity of the Court of law. It is an unusual type of jurisdiction combining “the jury, the judge and the hangman” and it is not adjudicating upon any claim between litigating parties. This jurisdiction is not exercised to protect the dignity of an individual judge but to protect the administration of justice from being maligned. In the general interest of the community. **It is imperative that the authority of Courts should not be imperiled and there should be no unjustifiable interference in the administration of justice. It is a matter between the Court and the contemnor and third party cannot intervene.....** “

6. That, the law is clear since 17<sup>th</sup> April 1998 and the law declared by Hon'ble Supreme Court is binding on all the citizens, Advocates and even on Judges of this country in view of Art. 141 of the Constitution of India.
7. Then also the above-said Managing Committee of AAWI passed a resolution against the order of Supreme Court and thereby tried to scandalize, undermine the majesty and dignity of Hon'ble Supreme Court and therefore they are guilty of Criminal Contempt as defined in Sec. 2 (c) of the Contempt of Courts Act, 1971 and therefore strict action is required to be taken against them.
8. That, there are other documentary proofs with the applicant that the above-said association is either not having proper knowledge of law or they are purposely, willfully acting against the law of the land and their conduct to act in utter disregard and defiance of the law laid down by Hon'ble Supreme Court if not checked in time will have serious consequences on the administration of justice.

While enhancing the punishment of Senior Counsel R.K. Anand, full Bench of Hon'ble Supreme Court in **2009 AIR SCW 6876** ruled as under;

**“(200)...We express our concern on the falling professional norms among the lawyers with considerable pain because we strongly feel that unless the trend is immediately arrested and reversed, it will have very deleterious consequences for administration of justice in the country. No judicial system in a democratic society can work satisfactorily unless it is supported by a bar that enjoys the unqualified trust and confidence of the people, that share the aspirations, hopes and the ideals of the people and whose members are monetarily accessible and affordable to the people.”**

That for the other unlawful act of the above said association, the applicant is filing a separate petition.

9. Hence, it is necessary that strict and immediate action is required to be taken against the said association namely AAWI, Mumbai.

Hon’ble Supreme Court in (1998) 4 SCC 409 (supra) held, in para 79 that

“ ...We do not entertain any doubt that the Bar Council of the State or Bar Council of India, as the case may be, when apprised of the established contumacious conduct of an advocate by the High Court or by this Court, would rise to the occasion, and take appropriate action against such an advocate. **Under Article 144 of the Constitution "all authorities civil and judicial, in the territory of India shall act in aid of the Supreme Court". The Bar Council which performs a public duty and is charged with the obligation to protect the dignity of the profession and maintain professional standards and etiquette is also obliged to act "in aid of the Supreme Court". It must, whenever, facts warrant rise to the occasion and discharge its duties uninfluenced by the position of the contemnor advocate. It must act in accordance with the**

**prescribed procedure, whenever its attention is drawn by this Court to the contumacious and unbecoming conduct of an advocate which has the tendency to interfere with due administration of justice.** It is possible for the High Courts also to draw the attention of the Bar Council of the State to a case of professional misconduct of a contemner advocate to enable the State Bar Council to proceed in the manner prescribed by the Act and the rules framed thereunder. **There is no justification to assume that the Bar Councils would not rise to the occasion, as they are equally responsible to uphold the dignity of the courts and the majesty of law and prevent any interference in the administration of justice.**

**The matter to be considered by the concerned Bar Council, appropriate action should be initiated by the concerned Bar Council in accordance with law with a view to maintain the dignity of the courts and to uphold the majesty of law and professional standards and etiquette. Nothing is more destructive of public confidence in the administration of justice than incivility, rudeness or disrespectful conduct on the part of a counsel towards the court or disregard by the court of the privileges of the bar. In case the Bar Council, even after receiving 'reference' from the court, fails to take action against the concerned advocate, this court might consider invoking its powers under Section 38 of the Act by sending for the record of the proceedings from the Bar Council and passing appropriate orders. Of Course, the appellate powers under Section 38 would be available to this**

**Court only and not to the High Courts.**  
**We, however, hope that such a situation**  
**would not arise.**

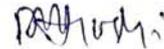
10. **PRAYER:-** It is therefore humbly prayed that, Hon'ble Supreme Court may pleased to;

- i. Take Suo-Moto cognizance of Contempt of Court against the Managing Committee of AAWI, Mumbai and all others who are involved in passing resolutions to intervene the contempt proceeding, which is against the law laid down by Hon'ble Supreme Court and thereby bringing the majesty and dignity of the Court into disrepute.
- ii. Direct Bar Council of Maharashtra and Goa to take action against the guilty members of the AAWI Mumbai and further to cancel the recognition of the AAWI to save the Noble Profession of advocacy from further disgrace.

FOR THIS ACT OF JUSTICE THE APPLICANT SHALL ALWAYS  
REMAIN GRATEFUL.

Place: Mumbai

Date: 07/03/2017



(Adv. Divyesh Joshi)

Honorary Secretary

Indian Bar Association

**Encl:**

1. Notice of AAWI

**Copy to,**

1. Hon'ble Chief Justice, Bombay High Court, Mumbai
2. Bar Council of Maharashtra & Goa.