



14th September, 1923 – 8th September, 2019

Full Court Reference in the memory of

Late Shri Ram B. Jethmalani

Senior Advocate

held on Thursday, the 9th January 2020

at 10.30 a.m. in the Court of The Hon'ble the Chief Justice of India

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Letter from the Registrar, Supreme Court of India

F.No.99/Ref/2020/SCA(Genl)
Dated the 11th January, 2020


Shri Mahesh Jethmalani,
68, Jor Bagh,
New Delhi.

Sir,

There was a Full Court Reference in the Chief Justice's Court on 9th January, 2020 in the memory of late Shri Ram B. Jethmalani, Senior Advocate. Rich tributes were paid to Shri Jethmalani by Shri K.K Venugopal, Learned Attorney General for India, Shri Dushyant A. Dave, President, Supreme Court Bar Association and Hon'ble Shri S.A. Bobde, Chief Justice of India. I have the honour of forwarding a Booklet containing memorial speeches delivered at the Full Court Reference, as aforesaid.

Kindly permit me to convey the heartfelt condolences of the Officers and members of the staff of the Supreme Court Registry to you and other members of the family.

Yours sincerely,


11-01-20
Registrar

Encl : As above

*List of Business for 9th January, 2020 in respect of
Full Court Reference*



SUPREME COURT OF INDIA

LIST OF BUSINESS FOR THURSDAY THE 9TH JANUARY, 2020

CHIEF JUSTICE'S COURT

AT 10.30 A.M.

FULL COURT REFERENCE IN THE MEMORY OF LATE
SHRI RAM B. JETHMALANI, SENIOR ADVOCATE

Coram of Hon'ble Judges at the Full Court Reference

- ❖ *Hon'ble Shri S. A. Bobde, Chief Justice of India*
- ❖ *Hon'ble Mr. Justice Arun Mishra*
- ❖ *Hon'ble Mr. Justice R. F. Nariman*
- ❖ *Hon'ble Mrs. Justice R. Banumathi*
- ❖ *Hon'ble Mr. Justice U. U. Lalit*
- ❖ *Hon'ble Mr. Justice A. M. Khanwilkar*
- ❖ *Hon'ble Dr. Justice D. Y. Chandrachud*
- ❖ *Hon'ble Mr. Justice Ashok Bhushan*
- ❖ *Hon'ble Mr. Justice L. Nageswara Rao*
- ❖ *Hon'ble Mr. Justice Sanjay Kishan Kaul*
- ❖ *Hon'ble Mr. Justice Mohan M. Shantanagoudar*
- ❖ *Hon'ble Mr. Justice S. Abdul Nazeer*
- ❖ *Hon'ble Mr. Justice Navin Sinha*
- ❖ *Hon'ble Mr. Justice Deepak Gupta*
- ❖ *Hon'ble Ms. Justice Indu Malhotra*
- ❖ *Hon'ble Ms. Justice Indira Banerjee*
- ❖ *Hon'ble Mr. Justice Vineet Saran*
- ❖ *Hon'ble Mr. Justice K. M. Joseph*
- ❖ *Hon'ble Mr. Justice Hemant Gupta*
- ❖ *Hon'ble Mr. Justice R. Subhash Reddy*
- ❖ *Hon'ble Mr. Justice M. R. Shah*
- ❖ *Hon'ble Mr. Justice Ajay Rastogi*
- ❖ *Hon'ble Mr. Justice Dinesh Maheshwari*
- ❖ *Hon'ble Mr. Justice Sanjiv Khanna*
- ❖ *Hon'ble Mr. Justice Bhushan Ramkrishna Gavai*
- ❖ *Hon'ble Mr. Justice Surya Kant*

- ❖ *Hon'ble Mr. Justice Aniruddha Bose*
- ❖ *Hon'ble Mr. Justice A.S. Bopanna*
- ❖ *Hon'ble Mr. Justice Krishna Murari*
- ❖ *Hon'ble Mr. Justice S. Ravindra Bhat*
- ❖ *Hon'ble Mr. Justice V. Ramasubramanian*
- ❖ *Hon'ble Mr. Justice Hrishikesh Roy*

xxxxx

Reference made on 9th January, 2020

by

Attorney General For India

Shri K. K. Venugopal

in the memory of

Late Shri Ram B. Jethmalani

Senior Advocate

Hon'ble the Chief Justice of India, Justice S.A. Bobde, Hon'ble Judges of the Supreme Court, the Solicitor General of India and Additional Solicitor Generals, President and Office Bearers of the Supreme Court Advocates on Record Association, my colleagues at the Bar, ladies and gentlemen:

Shri Ram Jethmalani left us on 8th September 2019. We will no more hear his stentorian voice echoing through the halls of this Court. Dynamism and fearlessness were his hallmarks. He was one of the greatest criminal lawyers India has produced. He was also a respected Parliamentarian, an orator, and in addition, was an educationist who has had a commendable influence on the development of legal education in India.

Ram Boolchand Jethmalani, popularly known as “Ram”, was born in the town of Shikarpur, Sindh in undivided India, where his legal career started even before the partition that created modern India and Pakistan. It is well known that young Ram qualified to be a lawyer even before turning eighteen and had to get a special dispensation to practice law.

As a young immigrant lawyer, he started out defending his refugee community's rights. His abilities were recognized early on in the days of his initial practice and he was perceived as one of the leading lawyers of the time, both civil and criminal. Later, as a senior advocate, he became known as the defender of indefensible cases, but nevertheless succeeded in a large number of them, with his legal acumen and skill in cross examination. From representing stock broker Harshad Mehta to being L.K. Advani's defence lawyer in the Hawala scam, he appeared for a number of high profile clients and attained notable victories. He left behind a legacy of cases that became landmark judgments and set legal precedents, some notable ones being the Nanavati, Hindutva, Mandal cases and the Black Money case.

During the height of the Emergency in 1975, I had gone over from Chennai to Palghat to present a paper at the All Kerala Lawyers Conference. Ram Jethmalani was the star speaker. Ram did not address the audience on any heavy legal topic. He started with a tirade against Indira Gandhi and Sanjay Gandhi. It was unbelievable, the things that he said, especially considering the fact that all the top opposition leaders as well as over 100 lawyers were in detention. His attack was so devastating that the newspaper reporters covering the event, silently left the hall. When I presented my paper, the audience was least interested in listening to me after the fiery speech of Jethmalani.

Ram left for Mumbai that evening, but the local Magistrate had already issued a warrant for his arrest. The very next day about 300 lawyers, led by Nani Palkhivala and Soli Sorabjee obtained a stay of the warrant of arrest. It was only when the ADM Jabalpur [(1976) 2 SCC 521] judgment was delivered on 28th April 1976, that Ram caught a flight to Canada, and then sought political asylum in the United States. The New York Times had an article about Ram, in which it was mentioned that he was the first person to be granted asylum by reason of the Emergency declared in India. During his stay in the United States, he was summoned to testify before Congress about the Emergency and it was said that the impact of his testimony “would play a role in terminating Mrs. Gandhi's Emergency”.

On his return to India, he contested the Lok Sabha elections and became a Member of Parliament. Since then, he remained for most of his life, a Parliamentarian (six times Member of the Rajya Sabha). In 1996, Ram became Union Minister for Law, Justice and Company Affairs in the thirteen day BJP-led government. In 1998, he served as Minister for Urban Development, and again in 1999 as Minister for Law and Corporate Affairs in Prime Minister Atal Bihari Vajpayee's cabinet. He resigned from the government in the year 2000 over a difference of opinion with the Government.

In his fifty years of being an active politician, he never allowed political allegiance to compromise his values. He spoke and wrote about burning issues, out of his personal convictions, like black money, governance, corruption, Kashmir, China, Pakistan, fundamentalism and rise of terror, which as he said, was in order to stir debate. In 1977, he was conferred the Human Rights Award by World Peace through Law in Manila, Philippines.

Shri Ram Jethmalani was extremely concerned about the fact that black money was driving the economy of the country. He finally decided that he himself had to bring about a resolution to this problem and for this purpose, he decided to file an Article 32 petition in the Supreme Court of India along with the others. This judgment has been reported in (2011) 8 SCC 1. The case projected by him was that a large number of individuals including citizens, non-citizens and companies had generated large sums of monies within India and had illegally secreted away in various tax havens overseas. The funds were then laundered and brought back to India to be used in both legal and illegal activities, and transferred across the borders which had very serious repercussions on the security and integrity of India. After elaborate and lengthy hearings, the Court accepted his contention that as much as 70,000 crores of black money had been laundered. A Special Investigation Team, to be headed by two eminent retired Judges of the Supreme Court, along with Secretaries to the Government of India and other high functionaries was created with the responsibility to investigate, initiate proceedings and prosecutions relating to matters concerning unaccounted monies being stashed in foreign banks by Indians. This is one of the greatest public achievements of Ram Jethmalani during his lifetime.

Ram was a friend of mine. As President of the Union Internationale des Avocats (the oldest international association of lawyers, based in Paris), I had to handover my office to my successor, a French lawyer, at the Congress to be held in Philadelphia in 1997. Justice Sandra Day O'Connor presided over the function. Ram travelled all the way to Philadelphia to be present at the handing over function, attended by about a thousand lawyers from across the world.

Ram died at the age of 95. He had published a book describing himself as "Maverick Unchanged, Unrepentant". Ram was not just a person but a phenomenon – a law legend, whose contribution to law will be remembered for a long time to come. His was a flamboyant and colourful life.

The loss of his daughter, Rani Jethmalani, who was a prominent member of our Bar, about a decade back, was a great blow to him. I offer my deepest condolences to his family, his son Mahesh, a friend of ours, and his daughter Shobha. May the warm memories of their father always bring joy to their heart.

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Reference made on 9th January, 2020

by

Shri Dushyant A. Dave (Sr.)

President, SCBA

in the memory of

Late Shri Ram B. Jethmalani

Senior Advocate

Hon'ble the Chief Justice of India, Mr. Justice Sharad A. Bobde, Hon'ble Judges of Supreme Court of India, distinguished Attorney General of India, Mr. K.K. Venugopal, Solicitor General of India, Mr. Tushar Mehta, Law Officers, Vice-President of SCBA, Mr. Kailash Vasudev, Secretary, Mr. Arora, other learned Member of Executive Committee, President of Advocate's on Record Association, Mr. Shivaji Jadhav and Vice President Mr. Kumar, distinguished Members of the Bar, Members of Registry, Members of the Jethmalani family, his son, Mr. Mahesh Jethmalani, Senior Advocate, his daughter Shobha ji and grand daughter, Serena, Ms. Latakrishanamoorthi, a long time friend of Mr. Ram Jethmalani, ladies and gentlemen.

We could not have assembled here for more worthy a lawyer than Mr. Ram Jethmalani, affectionately addressed as Ram. Ram was an institution by himself. A lawyer par-excellence, with great intellect-original thinking-tremendous knowledge of law- articulate in his expression-complete command over English language-possessing utmost skills in court craft and advocacy-incisive tone and booming voice-disarmingly smiling-charming to the bench and the opposing counsels, Ram was the greatest of the lawyers of his time. Ram was an inspirational lawyer for judges and advocates present in every court room where he argued. He was the favorite of the young bar.

Ram was even a greater teacher and taught to students across the country. In law college Bombay, his classes were always full and were attended even by students from other colleges. He was the brain behind the National Law School Bangalore, the unsung hero for starting the high quality legal education in the country. His love for students

was so passionate that once he chartered a plane to go to Chandigarh as there was no flight available because students were waiting for him eagerly. He famously said, that

“He would like to be remembered as a good teacher who could make a difference to the lives of the young.”

Ram was a born rebel who believed in highest standards in judicial and public life. He was one of the strongest voices against corruption and personally fought a battle against black money. Sadly, his petition has not reached a logical conclusion.

Ram's contribution towards nourishing our democracy is unmatched. He never failed if democratic values came under challenge. Be it during emergency, which he passionately opposed even as far away from United States of America. A successful parliamentarian, post-emergency in various stints and as a minister, Ram stood up for citizens and their constitutional and human rights. Parliamentary debates became lively and highly intellectual whenever he stood up to speak. His contribution to the development of law and its jurisprudence and to public debates is immeasurable.

He was clearly distinguished from others as said in the words of Ernest Hemingway that “every man's life ends the same way. It is only the details of how he lived and how he dies that distinguish one man from another”. He lived life from the beginning to the end and a life truly extra-ordinary.

If he enjoyed his drink in the evening, he cherished his badminton game in the morning.

He loved this country passionately but was deeply saddened by its journey, quoting Jawaharlal Nehru's words, on the eve of independence, on 15th August 1947, to the effect:

“We made a tryst with destiny” and that “at the stroke of mid night hour while the world sleeps, India will awake to life and freedom”.

Ram writes,

“65 years have gone by and the eloquent and inspiring words now jar the ears while the pledges that remain unredeemed and forgotten only bring tears to swollen eyes, and, to some thoughts of suicide, as the only escape from the Hell, into which all of us have landed. Life and freedom have been privileged by few engaged in sordid pursuit of polluted power and stolen wealth.”

He reminds us of a bad omen that went unnoticed in the ecstasy of independence. Mahatma Gandhi was not in these celebration but was sleeping in house of modest man in the suburbs of Calcutta, quelling the fires of a communal hatred and violence.

Secularism in him was evident. Ram successfully argued before this court in 1995 that,

“Hindutva was not religion, but an ideological concept, a way of life, which comprises of code of conduct to be observed by every individual in every sphere of personal and national activity, and includes respect and equal treatment to all religions.”

Yet, he says in his book,

“India's progress does not require more mosques and temples. Controversies like Ram temple in Ayodhya on the site of the Babri mosque must be totally outlawed. Instead, at the disputed site, a university of secular education and religious harmony should be established. It is pity that we pride in ourselves being secular, without giving any education to our youth.”

He classified India into three categories,

“The first is of growing rich and famous,”, second India of the new middle class” and “third India of the poor- the ignorant and hungry”.

He lamented that,

“The third India never gets reached, never seems to change, and is always left behind. It persists and perpetuates itself, whether the economic growth rate is 4% or 8%. These are feeders and fadders of India's democracy, generally viewed as a bunch of ballot papers- the unlimited and eternal sea of votes that every political outfit lusts after. Leaders of ruling political parties realized that keeping them this way is the surest way of maintaining captive vote banks, and thus remaining continuously in power.”

Here Ram emerges as a political thinker and a philosopher. I would say his prophetic words must be listened and followed by all those who matter in governance of this country.

He believed in strong judicial system and strenuously urged,

“The Supreme Court and in fact, every court, is to be on the side of the common man, who needs constant protection against executive insolence, corruption, incompetence. Tension between judiciary and executive is a welcome sign. The so-called harmony between the two may be at the cost of constitutional democracy itself.”

So, he cried out that,

“While I am supporter of judicial activism and all my life I have fought for independence and glory of the judiciary, I will not surrender any executive privilege to please a judge, even if he happens to be the highest.”

Ram throughout his life refused to remain silent and always spoke from his conviction. He said that,

“I have not learnt the lesson of silence. My teachers and professors whom I revere taught me exactly the opposite. Silence is no different from being a conspirator and truth must be loudly trumpeted from the housetops.”

Ram was loved by this bar and became our president in 2010.

In his death, India has lost a critic who always made a difference. As it is said,

“Good men must die, but death cannot kill their names.”

Ram will never die because his name will always be spoken. Even in his death, we will always feel his life touching ours that resounding voice speaking to us. Ram will live in our life and in lives of all others who knew him.

Ram has left a great legacy in his son, indomitable Mr. Mahesh Jethmalani, Senior Advocate and a leading member of this bar.

On behalf of the Supreme Court Bar Association, its members, the executive committee and myself, I offer my deepest condolences to Mr. Mahesh Jethmalani and other members of the family but with a caveat that,

“It is foolish and wrong to mourn the man who died. Rather we should thank god that he lived.”

May Ram live in eternal peace and memories.

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Reference made on 9th January, 2020

by

Hon'ble The Chief Justice of India

Shri S. A. Bobde

in the memory of

Late Shri Ram B. Jethmalani

Senior Advocate

Learned Attorney General K.K.Venugopal, Learned Solicitor General Tushar Mehta, President SCBA Shri Dave, President SCAORA Shri Jadhav, Ladies & Gentlemen,

We have assembled today to express our profound grief on the passing away of one of the finest legal minds of India, Shri Ram Chand Bool Chand Jethmalani, popularly known as Ram Jethmalani, Senior Advocate, who left on his eternal journey on 8th September 2019, a few days short of 96th birthday.

Born on 14th September, 1923 in the Sindh province under the Bombay presidency of British India, Shri Ram Jethmalani grew up in the turbulent years that brought about the end of the imperial rule on the subcontinent and also witnessed its painful partition into the two dominions of India and Pakistan. That such events had deeply impacted his young mind and turned Shri Jethmalani into a legal fighter would become evident as he would start making his choices in life ahead.

Passing his L.L.B examination with honours at the age of 17, Shri Ram Jethmalani became the youngest person to do so and also faced a Rule that would not permit enrolment at the Bar before the age of 21. Not one who would be deterred, Shri Jethmalani went on to file and argue a petition-in-person before the Court of the then Judicial Commissioner at Sindh. Such was his conviction for the cause, as well as his tenacity, that not only did Shri Jethmalani win the case, but was also permitted to enrol at the age of 18. Thus, started his practice years at Karachi which would witness the emergence of his law firm as one of the heavily briefed firms in the High Court at Karachi.

However, due to the partition of the country and its painful aftermath, Shri Jethmalani had to leave his successful law practice and flee with his parents and other family members from Karachi to India, settling down at a refugee camp at Kalyan near Bombay. Life held out further misery for Shri Jethmalani when, with the little money that he was left with, he could

not pay for the medical expenses for his eldest daughter, who contracted pneumonia and died there at the tender age of six (06).

Fighting such great odds, Shri Jethmalani resumed his law practice in India. Shri Jethmalani would eventually go on to practice before all Courts, starting from Kalyan and Bombay Metropolitan Court, and move on to the Bombay High Court as well as to this Hon'ble Court. During his long legal career spanning over seven decades, he not only came to be designated as a Senior Advocate but was also elected to serve as the Chairman, Bar Council of India.

Known for his fearlessness before the Courts of Law, Shri Ram Jethmalani was vocal on public issues and came to be acclaimed as a jurist of great erudition and intellect. A man with an indefatigable spirit for defending the rights of fellow citizens, Shri Ram Jethmalani earned himself nationwide reputation as one practitioner of criminal law who was willing to take up cases even when the public sentiments and voices were heavily against the accused, so that such accused would get a fair and just trial.

A great defender of personal liberties and an ardent proponent of a social order governed by the Rule of Law, Shri Jethmalani also contributed immensely to the growth of constitutional law of our Republic. Records of the Supreme Court would reveal that Shri Ram Jethmalani was associated as a Lawyer in several cases of great Constitutional import during the late-seventies and the decades thereafter. The fighter in him would also lead Shri Jethmalani to file several cases as a litigant himself, taking on the State and its agencies on issues of national importance.

Carrying forward his skills as a legal luminary and his eloquence on matters of great public relevance, Shri Jethmalani also went on to serve both Houses of our Parliament, and he did so with great distinction. Post-emergency, Shri Ram Jethmalani contested the Lok Sabha elections and defeated Shri H.R. Gokhale who had been the Union Law Minister during the emergency period. Shri Jethmalani would eventually rise to become a Cabinet Minister in Government of India, holding several portfolios, including that of Law & Justice. Shri Jethmalani continued to lead an active public life in his evening years, as he remained a Rajya Sabha Member till his demise.

A multifaceted personality, Shri Ram Jethmalani was also passionate about teaching law. He had taught law at the Karachi University and also at the Government Law College, Bombay. Conferred with the Degree of Doctorate of Laws, Honoris Causa, both by the Amity University as well as by the KIIT University in 2012, Shri Ram Jethmalani remained a Professor Emeritus of Law at the Symbiosis Law College, Pune and Jawaharlal Nehru

University, Delhi. Shri Jethmalani is also considered to be one of the architects behind the establishment of the National Law School at Bengaluru.

Shri Ram Jethmalani also distinguished himself as a prolific writer, writing several books and articles on legal issues. He was a regular contributor to national dailies and weeklies, on matters of great public importance and value, besides writing on legal issues regularly for the Law Journals.

In his demise, India has lost an eminent jurist, an able administrator and a seasoned parliamentarian. Shri Jethmalani is survived by his son Mahesh, who is also a Senior Advocate and daughter Shobha, who is settled in the US.

My Brother and Sister Judges join me in conveying our heartfelt condolences to the bereaved family and we pray that Almighty give them the strength to bear such irreparable loss with fortitude.

May the departed soul rest in peace.

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List of Attendees at the Full Court Reference

- ❖ *Shri K.K. Venugopal,
Ld. Attorney General for India.*
- ❖ *Shri Tushar Mehta,
Solicitor General of India.*
- ❖ *Shri Atmaram N.S. Nadkarni,
Additional Solicitor General of India.*
- ❖ *Ms. Pinky Anand,
Additional Solicitor General of India.*
- ❖ *Shri Vikramjit Banerjee,
Additional Solicitor General of India.*
- ❖ *Shri Aman Lekhi,
Additional Solicitor General of India.*
- ❖ *Ms. Madhavi Goradia Divan,
Additional Solicitor General of India.*
- ❖ *Shri K.M. Nataraj,
Additional Solicitor General of India.*
- ❖ *Shri Sanjay Jain,
Additional Solicitor General of India.*
- ❖ *Shri Dushyant A. Dave (Sr.),
President,
Supreme Court Bar Association.*
- ❖ *Shri Kailash Vasudev (Sr.),
Vice President,
Supreme Court Bar Association.*
- ❖ *Sh. Ashok Arora,
Hony. Secretary,
Supreme Court Bar Association.*

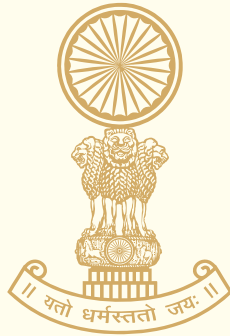
- ❖ *Shri Shivaji M. Jadhav,*
President,
Supreme Court Advocates-on-Record Association.
- ❖ *Shri Prashant Kumar,*
Vice President,
Supreme Court Advocates-on-Record Association.
- ❖ *Shri Snehasish Mukherjee,*
Hony. Secretary,
Supreme Court Advocates-on-Record Association.

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*Family Members of
Late Shri Ram B. Jethmalani
Senior Advocate
at the Full Court Reference*

- ❖ *Mr. Mahesh Ram Jethmalani*
- ❖ *Shobha Gehani*
- ❖ *Serena Jethmalani*

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THE SUPREME COURT OF INDIA

New Delhi - 110001

India