



11th February, 1930 – 27th December, 2019

Full Court Reference in the memory of

Late Hon'ble Mr. Justice S. Mohan

Former Judge, Supreme Court of India

held on Tuesday, the 4th February 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 6th February,2020

Shri Gautham Mohan,
41, Venkatakrisna Iyer Road,
Raja Annamalaipuram,
Chennai- 600028.

Sir,

There was a Full Court Reference in the Hon'ble Chief Justice's Court on 4th February,2020 in the memory of late Hon'ble Mr. Justice S.Mohan, former Judge, Supreme Court of India. Rich tributes were paid to His Lordship by Hon'ble Shri S.A. Bobde, Chief Justice of India, Shri K.K. Venugopal, Learned Attorney General for India and Shri Dushyant A Dave, President, Supreme Court Bar Association. After the references were read, two minutes' silence was observed. 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 heart-felt condolences of the Officers and members of the staff of the Supreme Court Registry to you and other members of the family.

Yours sincerely,



Registrar

Encls: As above

*List of Business for 4th February, 2020 in respect of
Full Court Reference*



SUPREME COURT OF INDIA

LIST OF BUSINESS FOR TUESDAY THE 04TH FEBRUARY, 2020

CHIEF JUSTICE'S COURT

AT 10.30 A.M.

**FULL COURT REFERENCE IN THE MEMORY OF LATE
HON'BLE MR. JUSTICE S. MOHAN , FORMER JUDGE ,
SUPREME COURT OF INDIA .**

Coram of Hon'ble Judges at the Full Court Reference

- ❖ *Hon'ble Shri S. A. Bobde, Chief Justice of India*
- ❖ *Hon'ble Mr. Justice N. V. Ramana*
- ❖ *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*

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Reference made on 4th February, 2020

by

Hon'ble The Chief Justice of India

Shri S. A. Bobde

in the memory of

Late Mr. Justice S. Mohan

Former Judge, Supreme Court of India

We have assembled here to mourn the demise of Mr. Justice Shanmugasundaram Mohan, former Judge, Supreme Court of India, who left on his eternal journey on 27th December 2019 at a hospital in Chennai. Mr. Justice Mohan was born at Udumalpet, Coimbatore District, Tamil Nadu in the then British India on 11th February 1930 where his father was posted as an Honorary Magistrate at that time. A sterling moment in his life came at a very tender age of 5 years, when Mahatma Gandhi Ji had visited his hometown as well as their house, and young Justice Mohan received blessings from Mahatma Gandhi himself.

A brilliant student all through his growing years, Mr. Justice Mohan was awarded the University Gold Medal for securing a first class in the law course of the University of Madras in 1952, after which he went on to complete his Masters in Law in 1954 in Constitutional & International Laws. In the year 1954, Justice Mohan enrolled and started practice as an Advocate before the Madras High Court.

His legal acumen and advocacy skills were recognized soon enough, and he came to be appointed as Assistant Government Pleader and thereafter as Special Government Pleader for the Government in the years 1966 and 1969 respectively. Justice Mohan was appointed as the Advocate General of Madras in 1971 and he served in that capacity till February 1974 when he was appointed and took oath as an Additional Judge of the Madras High Court. Made permanent Judge of that High Court in August 1975, Justice Mohan went on to become the Acting Chief Justice of Madras High Court on 13th December 1988. On 26th October 1989 Justice Mohan became the Chief Justice of the High Court of Karnataka. During this tenure, he also served as the acting governor of Karnataka.

On 07th October 1991, Justice Mohan was elevated to be a Judge of this Hon'ble Court, and he served this Institution with distinction, until demitting office on 11th February 1995. The records of the Supreme Court Registry reflect that Justice Mohan was a Bench Member in 414 judgments, of which he himself had authored 198 judgments. Most of the judgments authored by Justice Mohan were on Constitutional law, including the one which he delivered on behalf of the Constitution Bench in Raghunathrao Ganpatrao vs. Union of India [(1994) Supp.(1) SCC 191] holding that the 26th Amendment to the Constitution in the year 1971 was valid and intra vires, and its provisions abolishing Privy Purses, Personal Rights and Privileges of erstwhile Rulers of Indian States were not violative of the basic structure of the Constitution. In a path-breaking Judgment of its times delivered in Arvinder Singh Bagga vs. State of U.P. & Ors. [(1994) 6 SCC 565], Justice Mohan held that compensation was payable to the victims of cruelty and atrocities by the Police, in an action under Article 32 of the Constitution.

Justice Mohan was also a prolific bilingual writer and he authored numerous books both in English and in Tamil. "Justice Triumphs", "Wild Blooms", "Random Reflections", "His Many Splendored Gem" and "Law and Social Justice" are some of his well acclaimed books in English. A well-read intellectual and a multi-faceted personality, Justice Mohan was conferred honorary doctorate degrees by four Universities, including three foreign Universities in China, Morocco and Mongolia.

After retiring as a Judge of this Hon'ble Court, Justice Mohan served as the Chairman, National Cyber Safety and Security Standards as well as the Chairman, Pay Revision Committee of Public Sector Undertakings, Government of India.

Justice Mohan associated himself with several social and cultural bodies both in India as well as across the world, and his rich contributions to the cultural field brought recognition to him on the world stage too. Justice Mohan went on to become the President of the World Academy of Arts and Culture and also served as the President of the World Congress of Poets for as many as six terms.

One of the lesser known facts about Justice Mohan was his love for nature and an abiding interest in gardening. It is said that even during his brief term as the Acting Governor of Karnataka, he had got portions of the vacant Raj Bhawan lands readied and fruit groves planted there.

Justice Mohan's wife Mrs. Thilakavathi Mohan pre-deceased him, and he is survived by their son, Mr. Gautham Mohan and daughter, Ms. Sumati Subramaniam, and his beloved grandchildren.

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

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Reference made on 4th February, 2020

by

Attorney General For India

Shri K. K. Venugopal

in the memory of

Late Mr. Justice S. Mohan

Former Judge, Supreme Court of India

My Lord the Chief Justice of India, Justice S.A. Bobde, Hon'ble Judges of the Supreme Court of India, Shri Tushar Mehta, Addl. Solicitors General of India present here, President of the Supreme Court Bar Association, Shri Dushyant Dave, President of the Advocate-on-Records Association, Shri Shivaji Jadhav, family members of Justice S. Mohan, my colleagues at the Bar and friends.

The passing away of a judge before whom one has been appearing for a long number of years is always a sad event. Late Justice Mohan was a dynamic person, full of life and a very amiable judge. I had the opportunity of appearing before him both in Madras High Court as well as the Supreme Court. He was extremely popular with the members of the Bar as demonstrated by the fact that lawyers and the Advocate General have come from Chennai to attend this reference.

The Hon'ble Chief Justice has just told us about his earlier years at the Bar and about his adorning the benches of the Madras High Court, and Karnataka High Court as Chief Justice and finally the Supreme Court of India. He was an excellent judge, who was party to a very large number of seminal judgments and has himself been the author of many judgments that disclose the kind heart that he had. To quote from a judgment delivered by him in a case of dowry death:¹

“Everytime a case relating to dowry death comes up it causes ripples in the pool of the conscience of this Court. Nothing could be more barbarous, nothing could be more heinous than this sort of crime. The root cause for killing a young bride or daughter-in-law is avarice and greed. All tender feelings which alone make humanity disappear from the heart. Kindness which is the hallmark of human culture is buried. Sympathy to the fairer sex,

¹ *Smt. Paniben vs. State of Gujarat 1992 SCR (2) 197*

the minimum sympathy is not even shown. The seedling which is uprooted from its original soil and is to be planted in another soil to grow and bear fruits is crushed.”

Later, in another thought provoking judgment² of his he said:

“Of late, this Court is coming across many cases in which appointment on compassionate ground is directed by judicial authorities. Hence, we would like to lay down the law in this regard. The High Courts and the Administrative Tribunals cannot confer benediction impelled by sympathetic consideration. No doubt Shakespeare said in Merchant of Venice:

*The quality of mercy is not strain'd;
It droppeth, as the gentle rain from heaven.
Upon the place beneath it is twice bless'd;
It blesseth him that gives, and him that takes;*

These words will not apply to all situations. Yielding to instinct will tend to ignore the cold logic of law. It should be remembered "law is the embodiment of all wisdom". Justice according to law is a principle as old as the hills. The Courts are to administer law as they find it, however, inconvenient it may be.”

He was a poet and won recognition for his poems. His publications were varied, in English as well as Tamil- books of poetry, and books on law and the Constitution. He was recognized as a Poet and was made President of the World Congress of Poets during the years 1986 and 2007. This international organization would meet at different cities in the world. I myself, and I believe many of the Judges were beneficiaries of his talent as he would unfailingly send us a poem to greet us every New Year's Day.

He had a passion for music and was a connoisseur, especially in the field of Carnatic Music, which was recognized by the world famous Kalakshetra Foundation at Tiruvanmyur, Chennai which made him the Chairman of the institution.

Being a multi-faceted person, one would not be surprised to know that he was a sportsperson and I believe that he was responsible for introducing in the Supreme Court of India an annual Tennis Tournament played between the Judges and the Lawyers.

² LIC vs. Asha Ramachandra Ambedkar & Anr. 1994 SCC (2) 718

It was, therefore, not surprising that this very talented judge was appointed by the Govt. of Tamil Nadu in as many as four Commissions of Enquiry including one on the death of 17 persons during a police crackdown in Tirunelveli in July, 1999. Among the other recognitions conferred on him was the Chairmanship of the National Cyber Safety and Security Standards.

I remember very well the day Karnataka Law Society invited Justice Mohan who was then the Chief Justice of the Karnataka High Court to preside over a function at my Alma Mater Raja Lakhamgouda Law College on the occasion where the alumni were being felicitated. Justice Mohan and I were friends at the Bar and I was therefore not surprised when he during the course of his speech announced, of course without consulting me, that I will make a large donation to the Institution. The audience cheered and I happily waved my hand in response. His humour and liveliness brought good cheer to the listeners wherever he went.

We have lost a great soul and all that we can do in this reference is to remember the humane qualities which he possessed. His departure is a loss to the Bar, the Judiciary and also a tragic loss to his family. He leaves behind his son Gautam Mohan and daughter Sumati Subramanian. We extend our deepest condolences to the members of his family.

xxxxx

Reference made on 4th February, 2020

by

Shri Dushyant A. Dave (Sr.)

President, SCBA

in the memory of

Late Mr. Justice S. Mohan

Former Judge, Supreme Court of India

Hon'ble Mr. Justice Sharad Bobde, The Chief Justice of India and His Companion Justices of the Supreme Court of India, Shri K.K. Venugopal, Ld. Attorney General for India, Shri Nadkarni, Ld. Additional Solicitor General of India, Sh. Kailash Vasdev, Vice-President and other office bearers and members of the Executive Committee of SCBA, distinguished members of the Bar, Mr. Jadhav, President, Advocates on Record Association, Mr. Vijay Narayan, Advocate General, Tamil Nadu, Family Members of Late Justice S. Mohan, Secretary General and other officials of the Registry, Ladies and Gentleman.

Justice S. Mohan, a Judge, Poet, Author, a connoisseur of Carnatic Music, avid tennis and cricket player, adorned this great institution admirably between October 1991 to February 1995.

Seeking divine blessings to make him "A Tree", Justice Mohan very aptly sings,

“Weary I am of earning my daily bread

Let me be rid of this World of hatred,

*Where calumny is common.. jealousy, the creed
Acrimony is in abundance, smallness is the breed,*

*Pray make me a tree like the one in the forest,
For a tired traveler under my shade could rest.*

*Pray make me a tree like the one in the forest,
For the singing birds to perch and nest.*

.....

*Yet it felled, I remain faithful to the 'Sire'
As logs of woods, to kindle many a fire
Reduced to cinder and ashes without a trace,
Uno dust I return with no ill grace”*

Little wonder that he served as the President of the World Congress of Poets between 2004-2010.

The Gentleman in him had wide interest as reflected in that fact that he presided over Kalakshetra Foundation in Thiruvannamiyur and St. John's Ambulance Association, Tamilnadu. With all his passions he found time to author number of books in English and Tamil including collections of poems, a remarkable feat after remarkable innings as a lawyer, advocate general, Judge of the High Court, the Chief Justice of High Courts and ultimately as the Judge of the Supreme Court of India. Few can boast of such a fulfilling life.

On death of such a man, we can only have beautiful memories and no sorrow as said by Gurudev Tagore, "Let life be beautiful like summer flowers and death be like autumn leaves".

Justice Mohan emerges as a Jurist par excellence in his Judgments but also comes out as a Social Reformer. In Unni Krishnan, J.P. & Ors. v. State of Andhra Pradesh & Ors, he declares,

"The fundamental purpose of education is the same at all times and in all places. It is to transfigure the human personality into a pattern of perfection through a synthetic process of the development of the body, the enrichment of the mind, the sublimation of the emotions and the illumination of the spirit. Education is a preparation for a living and for life, here and hereafter."

In Khedat Mazdoor Chetna Sangath v. State of M.P. & Ors., Justice Mohan bemoans the approach the police and magistracy towards human dignity and declares,

"It cannot be said that the day of the silent poor is over. There is anger and bitterness among those who are poverty stricken. One should have regard to these aspects in enforcing law. We are of the confirmed view that the law enforcement problem has always been and remain a human problem."

He therefore, holds,

"We are of the view that Magistracy requires to be sensitised to the values of human dignity and to the restraint on power. When it allows an inhuman conduct on the part of the police, it exhibits both the indifference and insensitiveness to human dignity and the constitutional rights of the citizens. There could be no worse lapse on the part of the judiciary which is the sentinel of these great liberties. "

He then quotes, Joseph Adison,

"Better to die ten thousand deaths than wound my honour."

and then concludes by declaring ,

"if dignity or honor vanishes, what remains of life. "

These words remain stark reminder even in present context.

Yet again, in *Raghunathrao Ganpatrao v. Union of India & Anr.*, in concurring judgment for the constitution Bench, Justice Mohan speaks philosophically in stating,

"No doubt, unity and integrity of India would constitute the basic structure as laid down in Kesavananda Bharati case but it is too far-fetched a claim to state that the guarantees and assurances in these articles have gone into the process of unification and integration of the country. One cannot lose sight of the fact that it was the will of the people and the urge to breathe free air of independent India as equal citizens that brought about the merger of these princely States.."

For the Judges, he gives a serious caution, in *Mangilal v. State of MP*, Justice Mohan says,

"A judge must be of sterner stuff. His mental equipoise must always remain firm and undeflected. It is essential that a judge should not allow his personal prejudice to go into the decision-making as was remarked by Scrutton, L.J. in R v. Bath Compensation Authority:

"The object ... is not merely that the scales be held even; it is also that they may not appear to be inclined."

A closed mind is antithetical to fair hearing. Prejudice tends to corrupt the ability to exercise independent judgment. It has a tendency to intrude upon a free mind and may influence the outcome.."

Perhaps, the vision of Justice Mohan reflected in his jurisprudence and indeed in his entire life appears to be , "an unshakable faith in the capacity of men and women of the law to resolve difficult and contentious issues through the application of reason tempered by reason and humility."

He comes out as a man who was guided by Spirituality more than rituals of the religion even as Judge, perhaps because he believed as Justice Stevens once wrote in his dissent that,

"Whenever we remove a brick from the wall that was designed to separate religion and government, we increase the risk of religious strife and weaken the foundation of our democracy."

Both loved and loathed in the Courtroom, Justice Mohan was sometimes criticized for the way he treated tenants yet praised for his judicial temperaments and rulings. He was a Judge of the mettle as once described about Judge Stephen Rinehardt that,

"Judges these days, they go along to get along. Not many. He continued to do whatever he felt right."

Yes, Justice Mohan will live for long.

I join, Hon'ble the Chief Justice and the distinguished Attorney General for India in offering salutation to Late Justice S. Mohan and on behalf of the Supreme court Bar Association and the Executive Committee and offer out deepest condolences to his son Mr. Gautham Mohan and daughter Shrimati Subramaniam and other members of the Family.

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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 Vasdev (Sr.),
Vice President,
Supreme Court Bar Association.*
- ❖ *Sh. Ashok Arora,
Hony. Secretary,
Supreme Court Bar Association.*

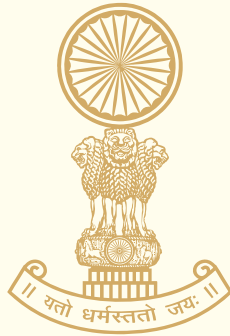
- ❖ *Shri Shivaji M. Jadhav,*
President,
Supreme Court Advocates-on-Record Association.
- ❖ *Shri Prashant Kumar,*
Vice President,
Supreme Court Advocates-on-Record Association.
- ❖ *Shri Snehasish Mukherjee,*
Hony. Secretary,
Supreme Court Advocates-on-Record Association.

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*Family Members of
Late Hon'ble Mr. Justice S. Mohan
Former Judge, Supreme Court of India
at the Full Court Reference*

- ❖ *Sumati Subramanian, Daughter*
- ❖ *Lalitha Gautham, Daughter-in-law*
- ❖ *M. Kandasamy, Nephew*
- ❖ *Ashwin Krishna Kandasamy, Grandnephew*

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THE SUPREME COURT OF INDIA

New Delhi - 110001

India