

CRITICISM, THE JUDICIARY AND A WORD OF ADVICE

**On free speech, there must be a forum to moderate dialogue between the players —
lawyers, journalists and the public**

The fires created and stoked by Justice Arun Mishra using the power of contempt to convict Prashant Bhushan for free speech still rage. While so, here comes another contempt action, by a Madras High Court Judge. The Tamil actor, Suriya, who supports public causes, had issued a statement highlighting what he felt was differential treatment, viz. that when due to fear of the novel coronavirus, the court is delivering justice through video conferencing, it is asking students to go and write the National Eligibility cum Entrance Test (for admission to medical courses) without fear. The judge, Justice S.M. Subramaniam, in a letter, has requested the Chief Justice of the Madras High Court to initiate proceedings for contempt.

Possible solutions

The judge is well-esteemed, and was in the news recently for a generous donation to support young lawyers in these difficult times. So for court watchers, this was a bit of a surprise. One other matter for surprise was that this letter was given by an undisclosed source to the media; this is hardly proper, it is a letter of importance addressed to the head of the judiciary in the State, and if the confidential nature had been maintained, the Chief Justice could have dealt with it in a variety of ways — discussed it quietly with the judge, perhaps bring about a softening of view, involving other senior members of the Court for a considered decision, etc. A simple solution would have been for the court's Registry to issue a statement explaining how the factual position is obviously different, and that while online court hearings are a viable alternative, none such exists for NEET. Now, the harsh glare of publicity, with strong voices weighing in advocating actions of extreme ends (throw the letter out/throw the actor in) only makes things more difficult for the Chief Justice.

Freedom of speech is not just Article 19(1)(a) of the Constitution; it is an article of faith for courts and judges, because they, above all, know that it is essential for the functioning and survival of a democracy, and for making government accountable to the people. The courts are constitutionally cast as Defenders and Protectors of the public right to free speech and expression. It is a tragic inversion to see judges being cast as the ones who want to limit and abridge it. This is not for the well-being of the institution and those who man it and depend on it, and that means a great many of us.

Avoiding controversy

Judges know that much depends on the factual setting of the case. Now, if only some quiet deliberation had taken place, could not the senior judges have considered if it was rational, wise and prudent to pitch their tent opposing a sea of anxious parents who are quite justifiably petrified about the prospect of their child catching this dreaded infection? God forbid, if such were to happen, we know it is human nature to look elsewhere to blame, and the courts closeted in closed rooms hearings are easy objects to blame. To go in for contempt on this issue will invite and exacerbate this. And the actor seems to have a favourable public image, especially among the youth. Why do we want to go looking for trouble, could have been the question very easily asked; not so easy to answer, and that would have ended the matter.

Somewhere here one also gets the feeling that the place of criticism and critiquing in a democracy is not being properly understood. As George Orwell said, freedom is the right to tell people what they do not want to hear. And the response of authority to criticism should echo the words popularly attributed to Voltaire — I disagree with everything you say, but I shall defend to the death your right to say it. Judges are holders of high public office and are not immune from being criticised. They must bear it and carry on, safe in the knowledge that their rightful actions and their garnered reputations are their ultimate shield, and that ill-mannered and ill-meant speech will be

recognised for what it is and shunned by people. We want our judges to have broad shoulders with the ability to shrug off such comments, and focus on the matters that matter.

A platform and guidelines

There are multiple voices in the current narrative on this subject; lawyers objecting to their criticism of judges' acts of commission and omission being proscribed, journalists' fear of chilling effect on free speech, and public bewilderment at what is going on. But there is another set of voices we need to pay close attention to — and these are of judges who have passed strong judgments in seminal cases in favour of free speech and expression, who now can be heard saying that some things have gone too far. And so there is need for introspection, communication and understanding on all sides.

We also need a forum for moderating dialogue between leaders of these three communities, where concerns and apprehensions can be discussed between them, all of whom want the best for the country and its institutions and people. What could then emerge is a clear set of guidelines, of what is acceptable and what is not. And one can then be sure that the latter category are acts so undefendable that no supporter of free speech will support them, for rights are indeed subject to restrictions; the latter must be reasonable and minimal, but must be obeyed for the former to have full play.

Meanings of Difficult Words :

- ❖ **inequitable** (adjective) – biased, unfair, unjust, discriminatory.
- ❖ **amount to** (verb) – be regarded as, comprise, be equivalent to, be tantamount to, be equal to.
- ❖ **virtual** (adjective) – effective, practical.
- ❖ **de-industrialisation** (noun) – a process of social and economic change caused by the removal or reduction of industrial capacity or activity in a country or region, especially of heavy industry or manufacturing industry.
- ❖ **stagnation** (noun) – lack of activity/development.
- ❖ **give up** (phrasal verb) – abandon, forgo, renounce, relinquish, discontinue.
- ❖ **call** (noun) – demand, appeal, need, necessity.
- ❖ **de-industrialise** (verb) – reduce industrial activity in a country or region.
- ❖ **trap** (noun) – deception, trick, ploy.
- ❖ **pile on** (phrasal verb) – intensify, amplify, exaggerate.
- ❖ **diplomacy** (noun) – negotiation, discussion, talks, dialogue.
- ❖ **call on** (phrasal verb) – demand, ask, request/appeal, urge (to do something).
- ❖ **superficially** (adverb) – apparently, seemingly, outwardly.
- ❖ **even-handed** (adjective) – fair, just, equitable, impartial.
- ❖ **deliberate** (adjective) – intentional, planned, conscious, purposeful.
- ❖ **set aside** (phrasal verb) – cancel, annul, overrule, overturn.
- ❖ **climate change** (noun) – a long-term change in the Earth's climate, or of a region on Earth.
- ❖ **distinguish** (verb) – recognize a difference.
- ❖ **vis-a-vis** (preposition) – in relation to, with regard to.
- ❖ **unmistakable** (adjective) – noticeable, evident, striking, clear-cut.
- ❖ **ratchet up** (phrasal verb) – to increase something by a series of small amounts.
- ❖ **arena** (noun) – a place of activity.
- ❖ **subsequently** (adverb) – afterwards, later on, eventually.
- ❖ **meteorological** (adjective) – relating to the branch of science that deals with phenomena (events) of the atmosphere or weather.
- ❖ **up the ante** (phrase) – to increase demands/stakes (in a tough condition) even though it has risks; To take an action that raises the risks.
- ❖ **on a par with** (phrase) – comparable with, equivalent to, as equal to, on a level with.
- ❖ **add insult to injury** (phrase) – make bad situation worse.
- ❖ **per capita** (adverb & adjective) – per person, for each, individually.

- ❖ **undergo** (verb) – go through, experience, be subjected to.
- ❖ **contraction** (noun) – In economics, it refers to a decline in national output as measured by gross domestic product.
- ❖ **yardstick** (noun) – standard, point of reference, guideline.
- ❖ **reckoning** (noun) – calculation, estimation, computation.
- ❖ **punch above one's weight** (phrase) – become involved in an activity (or) try to achieve or perform at a higher level than expected (beyond one's ability).
- ❖ **track record** (noun) – previous performance, previous accomplishments, previous achievements.
- ❖ **renewable energy** (noun) – energy generated from the natural resources (such as water, wind, solar energy).
- ❖ **ambitious** (adjective) – difficult, exacting, demanding, formidable, challenging.
- ❖ **compliant** (adjective) – accommodating, cooperative, adaptable; governable, manageable.
- ❖ **on track** (phrase) – on course, on target, on schedule.
- ❖ **Paris Agreement/Accord** (noun) – The Paris Agreement builds upon the Convention (agreement) and for the first time brings all nations into a common cause to undertake ambitious efforts to combat climate change and adapt to its effects, with enhanced support to assist developing countries to do so.
- ❖ **accelerated** (adjective) – hastened, expedited, quickened.
- ❖ **decade** (noun) – a period of ten years.
- ❖ **in absolute terms** (phrase) – measured by itself, not in comparison with other things.
- ❖ **in terms of** (phrase) – with regard to, as regards, regarding, concerning.
- ❖ **cumulative** (adjective) – collective, aggregate, total.
- ❖ **count** (verb) – matter, enter into consideration, be significant.
- ❖ **lie behind** (phrasal verb) – be the actual (mostly concealed) reason for something.
- ❖ **given** (preposition) – considering, taking into account, bearing in mind.
- ❖ **inevitable** (adjective) – unavoidable, unpreventable.
- ❖ **phase out** (phrasal verb) – eliminate, remove, discontinue, get rid of (something in gradual stages).
- ❖ **obscure** (verb) – conceal, hide/cover, screen.
- ❖ **dependence** (noun) – reliance on, seeking support from, leaning/clinging to.
- ❖ **fossil fuel** (noun) – non renewable resources (or fossil fuels such as coal, oil and natural gas are formed from the buried/deposited organic materials).
- ❖ **phaseout** (noun) – a process of discontinuing something in phases.
- ❖ **amply** (adverb) – sufficiently, satisfactorily, (more than) enough.
- ❖ **fuzzy** (adjective) – indistinct, blurred, unclear.
- ❖ **carbon neutrality** (noun) – it means annual zero net CO2 emissions; Carbon neutrality means every ton of anthropogenic (human caused or influenced) CO2 emitted is compensated with an equivalent amount of CO2 removed (e.g. via carbon sink or carbon sequestration).
- ❖ **carbon sink** (noun) – also known as carbon sequestration; a natural environment (forest or reservoir) which absorbs and stores carbon (greenhouse gases) from the atmosphere and thereby maintain a balance. (carbon sequestration is the process by which the forest removes and stores carbon from the atmosphere).
- ❖ **climate emergency** (noun) – a situation in which immediate steps to be taken to reduce climate change and avoid likely unrepairable damage to the environment caused by it.
- ❖ **posture** (noun) – position, approach, attitude, standpoint, view.
- ❖ **alongside** (preposition) – together with.
- ❖ **environmentalist** (noun) – conservationist, preservationist, eco-activist.
- ❖ **summon up** (verb) – invoke, raise, arouse, kindle, awaken.
- ❖ **bear the brunt** (phrase) – to suffer or endure the worst part of something (force/burden/pressure) when a very bad or unpleasant thing happens.
- ❖ **mitigation** (noun) – alleviation, reduction; lessening.
- ❖ **demonise** (verb) – to show someone/something as evil/wicked/bad.
- ❖ **miraculously** (adverb) – remarkably, extraordinarily, incredibly, unbelievably.

- ❖ **inequality** (noun) – Inequality is simply defined as “the state of not being equal, especially in status, rights and opportunities; imbalance, unevenness, disproportion, disparity.
- ❖ **de-growth** (noun) – Degrowth is a political and economic theory which emphasises changing priorities of society from economic growth and production to a society based on sustainability, well-being, concern for environment and co-operation.
- ❖ **neglect** (noun) – disregard, ignoring, indifference to, unconcern.
- ❖ **pursuit** (noun) – aspiration, quest, search.
- ❖ **accompany** (verb) – occur with, be present with, coincide with, coexist with.
- ❖ **multilateral** (adjective) – involving many different organisations.
- ❖ **unsensitized** (adjective) – hypersensitive; not made sensitive.
- ❖ **undifferentiated** (adjective) – identical, similar, alike.
- ❖ **rhetoric** (noun) – the art of speaking or writing effectively & persuasively or impressively (but, often lacking substance); bombast, loftiness, hyperbole/extravagant language.
- ❖ **incumbent** (noun) – the current/present holder/occupant of an office.
- ❖ **tellingly** (adverb) – significantly.
- ❖ **embrace** (verb) – welcome, accept, adapt, take up.
- ❖ **indeed** (adverb) – in fact, actually.
- ❖ **call out** (phrasal verb) – criticize.
- ❖ **reliance on** (noun) – confidence in, dependence, belief in.
- ❖ **overwhelming** (adjective) – very strong, forceful, compelling, uncontrollable.
- ❖ **rhetorical** (adjective) – relating to the art of speaking or writing effectively & persuasively or impressively (but, often lacking substance); oratorical, overblown, extravagant, bombastic.
- ❖ **wilful** (adjective) – deliberate, intentional, purposeful.
- ❖ **convention** (noun) – rule, code; agreement, accord, protocol, treaty.
- ❖ **unravel** (verb) – solve, resolve, clear up, clarify, sort out (something complex).
- ❖ **cease** (verb) – end, halt, stop.
- ❖ **decommission** (verb) – withdraw something from operation; deactivate, demobilize.
- ❖ **imply** (verb) – say indirectly, suggest, indicate.
- ❖ **decadal** (adjective) – relating to a period of ten years.
- ❖ **substantially** (adverb) – considerably, significantly, largely.
- ❖ **wind potential** (noun) – wind power or energy capability/capacity.
- ❖ **at best** (phrase) – simply, merely, only.
- ❖ **necessity** (noun) – (essential) requirement, prerequisite, indispensable thing.
- ❖ **transition** (noun) – change, shift, transformation.
- ❖ **binding** (adjective) – compulsory, imperative, mandatory, necessary.
- ❖ **regrettably** (adverb) – unluckily, sadly, unhappily.
- ❖ **hover** (verb) – remain at a level.
- ❖ **persistent** (adjective) – continuous, constant, chronic, permanent, lingering.
- ❖ **reverse** (verb) – alter, change.
- ❖ **deployment** (noun) – the bringing of resources into effective action.
- ❖ **expose** (verb) – reveal, uncover, disclose, lay bare.
- ❖ **supply chain** (noun) – a network between a company and its suppliers to produce and distribute a specific product to the final buyer.
- ❖ **far more** (phrase) – a lot more, much more.
- ❖ **truism** (noun) – cliché, banality, overworked/hackneyed saying, platitude.
- ❖ **unanimously** (adverb) – without opposition, agreed to by everyone involved.
- ❖ **reiterate** (verb) – repeat, say again, restate.
- ❖ **long-standing** (adjective) – long-established, deep-rooted, fixed, persistent, continuing (for a long time).
- ❖ **global warming** (noun) – it is the unusually rapid increase in Earth’s average surface temperature over the past century primarily due to the greenhouse gases released as people burn fossil fuels.