



18th December, 1932 – 13th April, 2020

Full Court Reference in the memory of

Late Shri Ashok H. Desai

Senior Advocate

*held on Friday, the 10th December 2021
at 10.30 a.m. in the Auditorium at 3rd Floor, 'C' Block,
Additional Building Complex, Supreme Court of India*

INDEX

<i>Sl. No.</i>	<i>Description</i>	<i>Page Nos.</i>
1.	<i>Letter from the Registrar, Supreme Court of India</i>	<i>1</i>
2.	<i>List of Business at 10:30 A.M. for 10th December 2021 held in the Auditorium at 3rd Floor, 'C' Block, Additional Building Complex, Supreme Court of India</i>	<i>2</i>
3.	<i>Coram of Hon'ble Judges at the Full Court Reference</i>	<i>3 - 4</i>
4.	<i>Reference made by Ld. Attorney General for India</i>	<i>5 - 8</i>
5.	<i>Reference made by the President, Supreme Court Bar Association (SCBA)</i>	<i>9 - 15</i>
6.	<i>Reference made by Hon'ble the Chief Justice of India</i>	<i>16 - 19</i>
7.	<i>List of Attendees at the Full Court Reference</i>	<i>20</i>
8.	<i>Family members of Late Shri Ashok H. Desai, Senior Advocate</i>	<i>21</i>

Letter from the Registrar, Supreme Court of India

Avani Pal Singh
Registrar
Supreme Court of India



F.No.99/Ref/2021/SCA(Genl)
Dated the 15th December, 2021

Mrs. Suverna Ashok Desai,
B-111, Defence Colony,
New Delhi-110024.

Madam,

There was a Full Court Reference in the Auditorium of the Additional Building Complex, Supreme Court of India on 10th December, 2021 in the memory of late Shri Ashok H. Desai, Senior Advocate. Rich tributes were paid to Shri Desai by Shri K.K. Venugopal, Learned Attorney General for India, Shri Vikas Singh, President, Supreme Court Bar Association and Hon'ble Shri N.V. Ramana, Chief Justice of India. 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 (AG)

Encls: As above

*List of Business for 10th December, 2021 in respect of
Full Court Reference*



SUPREME COURT OF INDIA

LIST OF BUSINESS FOR FRIDAY THE 10TH DECEMBER, 2021

**AUDITORIUM AT 3RD FLOOR, 'C' BLOCK, ADDITIONAL
BUILDING COMPLEX, SUPREME COURT OF INDIA INSTEAD
OF THE COURT OF THE HON'BLE CHIEF JUSTICE OF INDIA
AS ORIGINALLY FIXED.**

AT 10.30 A.M.

**FULL COURT REFERENCE IN THE MEMORY OF LATE SHRI
ASHOK H. DESAI AND LATE SHRI SOLI J. SORABJEE,
SENIOR ADVOCATES.**

Coram of Hon'ble Judges at the Full Court Reference

❖ *Hon'ble Shri N.V. Ramana, Chief Justice of India*

❖ *Hon'ble Mr. Justice Uday Umesh Lalit*

❖ *Hon'ble Mr. Justice A.M. Khanwilkar*

❖ *Hon'ble Dr. Justice D.Y. Chandrachud*

❖ *Hon'ble Mr. Justice L. Nageswara Rao*

❖ *Hon'ble Mr. Justice Sanjay Kishan Kaul*

❖ *Hon'ble Mr. Justice S.Abdul Nazeer*

❖ *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 B.R. 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*
- ❖ *Hon'ble Mr. Justice Abhay S. Oka*
- ❖ *Hon'ble Mr. Justice Vikram Nath*
- ❖ *Hon'ble Mr. Justice J.K. Maheshwari*
- ❖ *Hon'ble Ms. Justice Hima Kohli*
- ❖ *Hon'ble Mrs. Justice B.V. Nagarathna*
- ❖ *Hon'ble Mr. Justice C.T. Ravikumar*
- ❖ *Hon'ble Mr. Justice M.M. Sundresh*
- ❖ *Hon'ble Ms. Justice Bela M. Trivedi*
- ❖ *Hon'ble Mr. Justice Pamidighantam Sri Narasimha*

xxxxx

Reference made on 10th December, 2021

by

Attorney General For India

Shri K. K. Venugopal

in the memory of

Late Shri Ashok H. Desai

Senior Advocate

Hon'ble Chief Justice of India – Justice NV Ramana, Hon'ble Judges of the Supreme Court, the Solicitor General of India – Shri Tushar Mehta, the Additional Solicitors General of India, President of the Supreme Court Bar Association – Shri Vikas Singh and Office Bearers of the SCBA, President and Office Bearers of the Supreme Court Advocates on Record Association, members of the Bar, ladies and gentlemen:

1. Ashok Haribhai Desai was a crusader for civil liberties and constitutional values. Long before he came over to Delhi in 1989 as Solicitor General of India, he made waves in Bombay by taking on powerful politicians. It was the early 1980s, when litigation by public spirited citizens was still an unfamiliar idea and when few dared to take on the rich and powerful, especially on grounds of corruption. Ashok Desai appeared, pro bono¹, for socialist leaders P. B. Samant and Mrinal Gore, in a writ petition² filed against the then Chief Minister of Maharashtra, A. R. Antulay, challenging the distribution of cement – a controlled commodity at the time – and alleging wrong doing by the Chief Minister. The Bombay High Court's finding³ that there was nexus and quid pro quo between the allotments made in favor of certain builders and donations

¹ On a specific question as to costs, Ashok Desai submitted to the Bombay High Court that no fees whatsoever has been charged by any of the Petitioner's counsel or instructing attorney, but that the Petitioners have incurred out-of-pocket expenses amounting to Rs.14,386/-. The High Court awarded a sum of Rs.7,500/- as costs to the Petitioner, payable by the State Government. See Padmakar Balkrishna Samant and Ors. v. State of Maharashtra and Ors., 1982 (1) Bom CR 367.

² Writ Petition No. 1165 of 1981, Padmakar Balkrishna Samant and Ors. v. State of Maharashtra and Ors., AIR 1981 Bom 422.

³ Padmakar Balkrishna Samant and Ors. v. State of Maharashtra and Ors., 1982 (1) Bom CR 367 and in appeal, State of Maharashtra and Ors. v. Padmakar Balkrishna Samant, 1982 (84) Bom LR 427.

made by them resulted in Antulay's resignation. Though the criminal proceedings pursued by R. S. Nayak against Antulay failed, Justice Lentin's finding that *quid pro quo* had been established was upheld by the Supreme Court. Ashok had remarked at the time that "That in itself should be enough indictment against any political figure".⁴

2. Ashok's fight against Antulay was not without consequences. While arguing the case, he had used a statement made by Antulay inside the legislative assembly. For this, he was served with a privilege notice for daring to use a statement which was not printed formally by the Assembly. Fortunately, the Assembly was dissolved soon thereafter and the motion lapsed.⁵ His experience with the breach of privilege notice led him to comment that "it is used as a tool to discipline critics and has a chilling effect". He advocated thereafter for the codification of the law on parliamentary privilege because he felt that the absence of codification avoided the mandate of fundamental rights, particularly the freedom of speech and expression.⁶

3. On being appointed as the Solicitor General of India in 1989, Ashok Desai moved to Delhi. He held the position for only a year, till December 1990. Later in 1996, he became the Attorney General for India. When the then President, Shri K. R. Narayanan declined to dismiss the Kalyan Singh Government and impose President's Rule in Uttar Pradesh in 1997, and had returned the Cabinet Resolution, it became the first time that the President had returned a file on imposition of President's Rule. But if the file was sent the second time around, the President would have no option but to sign the proclamation. Fortunately, the Cabinet accepted the President's decision after being advised by Ashok Desai that he would be unable to defend the decision in Court if President's Rule is imposed.⁷

⁴ Mahesh Jethmalani, "A.R. Antulay case: Halfway off the hook", *India Today*, 15 June 1985, available at: <https://www.indiatoday.in/magazine/indiascope/story/19850615-a.r.-antulay-case-halfway-off-the-hook-770130-2013-12-17>.

⁵ Ashok H. Desai, *An excess of privilege*, *Indian Express*, 9 August 2006, available at: <https://archive.indianexpress.com/news/an-excess-of-privilege/10229/2>.

⁶ *Ibid.*

⁷ *Cabinet Reverses Decision to Clamp President's Rule in Uttar Pradesh*, *Business Standard*, available at: https://wap.business-standard.com/article-amp/specials/cabinet-reverses-decision-to-clamp-presidents-rule-in-uttar-197102301128_1.html.

4. *In fact, earlier that year, Ashok had averted a major constitutional crisis by successfully pleading before the Supreme Court to stay the judgment of the Allahabad High Court which would have ended President's Rule in Uttar Pradesh without any elected government taking its place. Ashok was defending the President's Rule which had been reimposed in Uttar Pradesh after the Assembly elections because the Governor had found that no political party was in a position to form a stable government, and which was continuing for over a year. He had argued that a floor test was not meant to be held for the very formation of the Government, that is, a leader is never elected on the floor of the House but by a group of legislators belonging to a single party or coalition and the floor test is held only to ascertain whether a government has majority support in the House.*

5. *A year later, when Shri K.R. Narayanan had to decide whether to impose President's Rule in Bihar by dismissing the Rabri Devi government in 1998, he consulted constitutional experts, including Ashok Desai, to study whether dismissing the elected government on the law and order situation has legal validity and constitutional precedents. The Cabinet Resolution recommending imposition of President's Rule was returned. But when the recommendation was sent to him for the second time, Shri Narayanan, finally signed the proclamation after considering the report of the Governor on the deteriorating law and order situation.*

6. *When Ashok retired from office on 06 May 1998, Shri K. R. Narayanan hosted a dinner in his honour at Rashtrapati Bhavan with four invitees only – Ashok, Soli, Fali and me. He is perhaps the only Attorney General to have been granted such an honour at the time of retirement, and it is but a small indication of the immense respect and high esteem that he had earned. In 2001, he was awarded the Padma Bhushan in recognition of his distinguished service.*

7. *His contribution to law, human rights and free speech is enormous. In 1972, he successfully defended Vijay Tendulkar's play, which had faced a ban on grounds of obscenity. His efforts have also led to the striking down of censorship laws in Maharashtra. Some of his other landmark cases include the Vineet Narain judgment delineating the powers of the CBI, the Narmada Dam case and the Salwa Judum case before the Supreme Court. One of the last landmark cases that he appeared in before the*

Supreme Court was before a Constitution Bench in Navtej Singh Johar's case⁸ challenging the criminalization of homosexuality. His success in the case and in the many other cases before this, is the success of generations who can live freely and with dignity.

8. Ashok Desai was highly spiritual in life. He practiced Buddhism and took a keen interest in reading books on religion and Buddhism, particularly. I remember giving him an antiquarian book on Buddhism, which he was delighted to receive. He read voraciously and would always be armed with new stories and fascinating tidbits to share whenever we got together. He was a kind man and a gentle soul.

9. His passing in April 2020 at the age of 77 was untimely and left a void. One year on, he is still dearly missed. I convey my deepest condolences to his wife, Suvarna, whom we address as Suvernaben, with whom he shared a partnership for several decades and to his wonderful children Harsh, Ami and Jay, who radiate warmth and compassion, just as their father did. Ashok Desai is a celebrated figure and our cherished memories of him gives us strength and comfort to accept his departure.

xxxxx

⁸Navtej Singh Johar and Ors. v. Union of India and Ors. (2018) 10 SCC 1.

Reference made on 10th December, 2021

by

Shri Vikas Singh (Sr.)

President, SCBA

in the memory of

Late Shri Ashok H. Desai

&

Late Shri Soli J. Sorabjee,

Senior Advocates

Hon'ble the Chief Justice of India, Hon'ble Judges of this Court, Ld. Attorney General of India, Law Officers, Members of the family of Late Mr. Ashok H. Desai, Members of the family of Late Mr. Soli Sorabjee, Members of Executive Committee of SCBA, Shivaji Jadhav, President SCAORA, Members of Executive Committee of SCAORA and Members of the Bar.

My role in the SCBA brings with itself a substantial set of challenges. None more so than the task which has been set out for me today of paying tribute to men as multi-faceted as Mr. Ashok H. Desai and Mr. Soli Sorabjee, who touched the lives of so many and inspired countless others.

Shri Ashok H. Desai

(18 December, 1932 - 13 April, 2020)

(Attorney General for India :- 9 July, 1996 - 6 May, 1998)

Mr. Ashok Desai, known as Ashok Bhai amongst his friends and colleagues, left for the heavenly abode on 13th April 2020. Born in December 1932, the son of a criminal lawyer, Ashok bhai did his schooling in Bombay. Thereafter he studied at the Fergusson College in Pune. He graduated with a law degree in 1952 from Government Law College, Bombay where he counted among his peers legal legends like Anil Divan and Soli Sorabjee. Later he joined the London School of Economics and graduated in 1956 with a BSc in Economics. During his time there, he was one of the first students to be invited on a study visit to China in the summer of 1955. After his graduation, he was called to the Bar from Lincoln's Inn, London in 1956.

He returned to our shores soon thereafter and his early stomping ground was the High Court of Bombay where he took on the most pressing legal challenges. His career was informed not only by his prodigious knowledge of the law but also by his many interests outside of the field. He was famously a voracious reader (Shakespeare, Laski, and Marx rolled off his tongue as easily as legal tenets did in court). His gentleness, humanity and profound sense of empathy were no doubt due to his love of literature, poetry, and philosophy all of which help contextualise the human experience and provide substance and justification for the very laws that we spend our lives arguing over. He appeared in a large number of cases in the Bombay High Court and the Supreme Court particularly those involving issues of accountability in public life & transparency in Governance. It is of little surprise then that he chose to expend considerable energy and time in fighting for the rights of those who were amongst the most vulnerable citizens of this country. He agitated the courts against the evils of pre-censorship in the famous Sakharam Binder case, where he fought for the famous playwright Vijay Tendulkar and won him the right to stage his play free of the fetters that the government at the time had sought to impose. It is common these days to have powerful politicians resign from office due to allegations of corruption, but we cannot forget that it was thanks to his efforts, through a PIL, that the once-mighty Mr. A R Antulay had to resign when credible allegations of corruption surfaced against him. The case played an important part in animating the debate around political accountability and probity in public life, both within legal circles and beyond. Always generous to a fault, Ashokbhai, chose to spend his time not only using his legal acumen in court but also helping the general public understand the often esoteric ways of our legal system. From 1963 to 1969, he was the Legal Correspondent for Times of India. He was Professor of Law in Law College, Bombay from 1964 and Lecturer in Law in Bombay College of Journalism from 1967-1972. He was also part of the Harvard International Seminar in 1967. All this culminated in him being designated as a Senior Advocate by the Bombay High Court on 8th August 1977. From 1986-1988 he was the Chairman of the Committee on Administrative Law of International Bar Association.

Ashokbhai moved from Bombay to New Delhi in 1989, when he was appointed Solicitor General of India by then Prime Minister V.P. Singh. He held the post from 18th December 1989 to 2 December 1990. Although this stint lasted only for a year he left a lasting impression as an able law officer and it wasn't long before he was called to

shoulder the responsibility of Attorney General under both the H.D. Devegowda and I.K. Gujral governments between 9th July 1996 & 6th May 1998. His clients though were not merely limited to the high and mighty. His doors were ever open to the common man for whom he fought with great passion and vigour. His advocacy, for 12 long years of rendering pro bono service, brought an end to the ravages of the Salwa Judum in a judgment that is now considered a milestone in the annals of Indian jurisprudence. He also served as the Vice President of the Bar Association of India and President of the Inns of Court (India) Society. In 1990 he was the Consultant to the Commonwealth Workshop on Administrative Law at Lusaka, Zambia. In 1997 he presented India's Report to the United Nations Committee on Human Rights in Geneva. In the same year, he represented India at W.T.O. Appellate Body in Patent litigation filed by the United States against India. Thereafter, in 1998, he led the Indian delegation to the United Nations Preparatory Committee on Money Laundering Bill in Vienna.

Ashokbhai demonstrated the significance of being a good human being in order to become a good lawyer. He was one of the lawyers who fiercely defended the rights of the LGBTQ+ community in the challenge to Section 377. Innumerable awards and felicitations were showered upon him including the Golden Anniversary Rotary Prize from the University of London in 1956. In 2001 he was awarded the Padma Bhushan and the Law Luminary Award. In September 2009 he also was given an honorary doctorate in "recognition of his contribution to the field of law and jurisprudence" by the North Orissa University.

His legal astuteness was ably complimented by this equanimity, no doubt brought on by his enduring commitment to Buddhism. The result was that virtually anyone who ever had a conversation would remember the grace with which he wore his many laurels. He exhorted his fellow lawyers, and would say that "if you over-celebrate the wins, you will have to over-mourn the losses." He is survived by his wife Mrs. Suverna Desai and children Harish who is a Bombay based lawyer, Ami and Jai.

It is fitting I suppose, for me to end my address with a quote from William Shakespeare who said that 'the evil that men do lives after them, the good is oft interred with their bones'. We may have lost, Ashokbhai's presence amongst us but let us pledge to keep the great amount of good he did alive through our actions going forward.

Shri Soli J. Sorabjee

(9 March, 1930 - 30 April, 2021)

(Attorney General for India :- 1989-1990 and 1998-2004)

Mr. Soli Sorabjee, a man who lived a truly remarkable life and whose commitment towards human rights inspired and guided many great legal luminaries to join this profession. A stalwart warrior of humanity, he showed immense compassion towards others and devoted his life to further the dreams and aspirations of our forefathers. We lost Mr. Sorabjee to COVID-19 on 30th April 2021. He indeed practised till the very end and in his demise, the country has lost one of the greatest legal minds in India.

The eminent jurist Mr. Sorabjee was born on 9th March 1930 in Bombay to a Parsi family. He studied at St. Xavier's College, Mumbai and later went to Government Law College, Mumbai, where he was a contemporary of luminaries like Fali Nariman, Ashok Desai, and Murlī Bhandare. In 1953, he commenced his legal practice in the Bombay High Court. He was designated as a Senior Advocate by the Supreme Court of India in 1971. With his polish and erudition, he dominated the Supreme Court. Following the footsteps of his mentor Nani Palkhivala, he greatly contributed to the development and interpretation of the country's constitutional jurisprudence. He was a part of several landmark cases, one being the Keshvananda Bharti case which protected the rights of the individual against the State. Even though he was born into an affluent business family, he was never drawn towards a commercial career. As a senior counsel, he generously mentored and promoted many of his juniors such as Harish Salve, Abhishek Manu Singhvi, Gopal Subramaniam, S. Ganesh, Anant Haksarand, Hon'ble Justice U.U. Lalit who all rose to key positions later in life. Even our Secretary Ardhendu Mauli Prasad has been mentored by him. He often advised the young lawyers and insisted that one should choose their practice or profession based on their interest and not just to make money out of it. He took up many matters pro bono throughout his 7-decade long glorious career. During the Emergency (1975-1977), he provided legal assistance to many political prisoners arrested under the draconian MISA, despite the same bringing him under the shadow of possible imprisonment. His heart ached due to the extraordinary suspension of fundamental rights including the right to life. Being a magnanimous man with a big heart, he worked on the Citizen's Justice Committee which

represented the 1984 anti-Sikh riots victims pro bono. Another crucial case he represented was the watershed St Xavier's College, Ahmedabad petition against Gujarat State, which upheld the rights of minority bodies to set up and run their educational institutions.

He became the Solicitor General of India and held the post from 1977 to 1980. As the Solicitor General, he was involved in cases that shaped the fundamental rights available to the citizens at large and made the judiciary a stronger 3rd pillar of democracy. In Maneka Gandhi v Union of India, he appeared before the court with commendable grace and accepted the resolution of the dispute. He also appeared in S. R. Bommai v. Union of India, which imposed restrictions on President's rule, and I.R. Coelho v. State of Tamil Nadu, which held that laws passed under the Ninth Schedule of the Constitution are not exempt from judicial review. He appeared in the case of B.P. Singhal v. Union of India, in which the Supreme Court held that State Governors could not be dismissed without due cause. His zealous participation towards the furtherance of the fundamental right to freedom of speech and expression earned him the title of "crusader of free speech" in the legal fraternity. He defended the freedom of the press in many landmark cases in the Supreme Court of India. He was instrumental in revoking censorship orders and bans on publications. He aided the petitioner in Shreya Singhal v. Union of India which dealt with restrictions on online speech under the Information Technology Act, 2000. A few years ago, he came to the rescue of Jawaharlal Nehru University students who were charged with sedition for expressing their dissent.

He served the office of the Attorney General of India twice with great rigour from 9th December 1989 to 2nd December 1990, and then again from 7th April 1998 till 2004. Being a renowned human rights lawyer, he was appointed by the UN as a Special Rapporteur for Nigeria, in 1997, to report on the human rights situation in that country. Following this, he became a member and later Chairman of the UN-Sub Commission on the Promotion and Protection of Human Rights, from 1998 to 2004. In 1998 he became a member of the United Nations Sub commission on Prevention of Discrimination and Protection of Minorities. He has also served as member of the Permanent Court of Arbitration at The Hague from 2000 to 2006. In 2006 he was appointed as an Honorary Member of the Order of Australia for service to Australia-India bilateral legal relations.

He was the chairman of Transparency International and the Convenor of the Minority Rights Group. He was also Vice-President of the Commonwealth Lawyers Association and a member of the Committee on Arms Control and Disarmament Law of the International Law Association.

He was a prolific writer and authored many books on the law of censorship in India and through his articles and essays explored the nuances of “Freedom of Expression” in India. Expressing his opinions upon the recent legal developments on freedom of speech and expression, he rightfully noted that “If dissent is not allowed, it'll take different forms”. He tirelessly defended the freedom of speech and the protection of human rights and was honoured with the Padma Vibhushan award in March 2002.

Mr. Sorabjee was a man of varied interest and wore many hats. Apart from being a legal wizard, the genial Mr. Sorabjee lived his life to the fullest. He had a passion for jazz, poetry, and literature. He began life as a classical music enthusiast, but by mistake, the salesman at Bombay's iconic Rhythm House dispatched to him a record of Benny Goodman instead of the Brahms Hungarian Rhapsodies that he had ordered. He found the unfamiliar notes intriguing, and slowly developed an abiding passion for jazz. He was the first president of the Jazz India Association and loved to play the clarinet. He was a collector of vinyl records of jazz and was known as a jazz aficionado. His arguments in the court were often accompanied by verses from great English poets. Adorning great mimicking skills, he was often able to supplant the court proceedings with healthy humour. He resonated with the quote of one of his favorite essayists, William Hazlitt “The soul of a journey is liberty, perfect liberty, to think, feel, do just as one pleases... We go on a journey chiefly to be free of all impediments and of all inconveniences.”

Mr. Sorabjee is survived by his wife Zena, a dedicated Bahai social worker, his daughter Zia Mody, head of the leading legal firm AZB, his son Hormazd, who edits a popular auto magazine, and another son Jehangir, who is a leading doctor. His life mirrors out his ambition to guard the fortress of fundamental rights in India. He has an unblemished career wherein he treated his juniors with respect and is remembered by

all with admiration. His ubiquitous influence is likely to inspire generations of lawyers to come.

I, on behalf of the Supreme Court Bar Association, offer my heartfelt condolences to the members of the family of Late Mr. Ashok Desai and Late Mr. Soli Sorabjee. May their souls rest in divine peace.

xxxxx

Reference made on 10th December, 2021

by

Hon'ble The Chief Justice of India

Shri N. V. Ramana

in the memory of

Late Shri Ashok H. Desai

&

Late Shri Soli J. Sorabjee,

Senior Advocates

My Brother and Sister Judges, learned Attorney General Shri K. K. Venugopal, learned Solicitor General Shri Tushar Mehta, learned law officers, Shri Vikas Singh, President, Supreme Court Bar Association, Shri Shivaji M. Jadhav, President, Supreme Court Advocates-on-Record Association, Members of the Bar, Family members of late Shri Ashok H. Desai, family members of late Shri Soli J. Sorabjee, ladies and gentlemen.

We have assembled this morning to express our profound grief on the passing away of two doyens of the Bar - Shri Ashok H. Desai and Shri Soli J. Sorabjee. It would be difficult to describe the work and achievements of these two legends.

Shri Ashok H. Desai

Shri Ashok H. Desai, former Attorney General for India and former Solicitor General of India was born on 18th December, 1932. After finishing his schooling in Bombay, he studied at the Fergusson College in Pune. He graduated with a law degree in 1952 from the Government Law College, Bombay. Later, he enrolled at the London School of Economics (LSE). After graduating with a B.Sc. from the London School of Economics in 1956, the same year he was called to the Bar from Lincoln's Inn, London.

Shri Desai started his practice in Bombay High Court in 1956. He was designated as a Senior Advocate on 8th August, 1977. As an Advocate, he appeared in many cases in the Bombay High Court and the Supreme Court, particularly those involving issues of great public importance. He made immense contribution to Indian jurisprudence, by enriching legal dialogues within the courtroom. He was a champion of civil liberties and was part

of several notable cases of such as the case of A.R. Antulay, Narmada Dam case, the Salwa Judum case, Navtej Singh Johar case and much more.

Shri Ashok H. Desai was a man who wore many hats. He was a Legal Correspondent for a leading news daily. He was also passionate about teaching law and journalism. Interestingly, he remains one of the few advocates who had the rare distinction of being both a Solicitor General and an Attorney General. He also represented India at several international forums. He was Vice President of the Bar Association of India and President of the Inns of Court (India) Society. Moreover, he was an acclaimed author who has written many articles and chapters in several publications.

His hard work, dedication and extra-ordinary work ethics was exemplary. He was the recipient of several honors and titles. He was awarded the Golden Anniversary Rotary Prize by the University of London in 1956. In the year 2001, Shri Ashok H. Desai was awarded India's third-highest civilian honor the "Padma Bhushan" as well as the Law Luminary Award. He was also honored by the Supreme Court of India on Law Day in 2016 in "recognition of his contribution to the development of Constitutional Law of India".

I had the opportunity to brief Shri Desai during my days as a young lawyer. I will always remember him for his extraordinary wit. Even during the most heated arguments, he had the ability to induce laughter and reduce tension. I shall always remember him as one of the finest gentlemen I had the good fortune to work with.

Shri Ashok H. Desai has always valued moral principles. He believed means are equally important as ends. He always took care of his juniors and guided them along the right path. He was also known beyond the legal circle due to his fine taste in art and literature.

He will always be remembered for his contributions to the legal profession and society at large.

He left for heavenly abode on 13th April, 2020 and is survived by his wife, Smt. Suverna, his three children, Harsh, Jay, and Ami, son-in-law Shri Tushar J. Mehta and grandson Shri Aadit Mehta.

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

Shri Soli J. Sorabjee

Shri Soli Sorabjee was born on 9th March 1930 in Bombay. He started his legal practice in 1953 in the Bombay High Court. He was designated as Senior Advocate by the Supreme Court of India in 1971. Shri Soli J. Sorabjee served as the Additional Solicitor General and the Solicitor General of India in the 1970s. He served the Office of the Attorney General for India twice, first from 1989 to 1990 and then from 1998 to 2004, with great distinction.

*His work has spread over nearly seven decades in defending fundamental rights and human rights. His faith in the Constitutional ideals was unshakeable. His defense of civil liberties during the Emergency, his outspoken views and erudite opinion pieces are all well known. He was a part of some of the most iconic Constitutional cases in the country— as a junior assisting Nani Palkhivala in *Golaknath* and *Kesavananda Bharti*, and as counsel before the Court in *Maneka Gandhi*, *D.C. Wadhwa* and *S.R. Bommai* to name a few. He was one of the few lawyers about whom it could be said, without any exaggeration, that he made an indelible mark on the jurisprudence of this country.*

It was in recognition of his work that the President of India conferred upon him the Padma Vibhushan for his contribution in defending Freedom of Speech and human rights in March, 2002.

His work was not limited only to the domestic arena. He was renowned internationally and was closely associated with the United Nations in multiple capacities, particularly with respect to the protection of human rights. He also represented the Government of India before the International Court of Justice. Soli Sorabjee was appointed an Honorary Member of the Order of Australia in March 2006.

I briefed him a few times as an advocate and saw him in action many times. The very first time I briefed him was in 1988. The briefing was completely different from what I had expected. He had read the entire file before I had even reached and knew every detail. The briefing lasted for just 5 minutes. He asked me only two questions, which were the very same questions posed by the bench during the hearing. His experience and expertise were unparalleled.

He was grace personified. His modesty, humility and kindness are worth emulating by all. He lived his life on his own terms and pursued his diverse passions with great energy. His love for jazz music is well known and was the President of the Delhi Jazz Association for many years. He was also the President of the India International Center.

India's pre-eminent jurist, legal scholar and human rights advocate departed for heavenly abode on 30th April 2021. His death due to Covid was shocking. His memory will always endure. Soli Sorabjee will always be remembered as a legend who added strength to the pillars of democracy. His words, actions and principles should serve as a guide to everyone in the profession.

Soli Sorabjee is survived by his wife Mrs. Zena Sorabjee, daughter Zia Mody, and sons- Jehangir and Hormazd. His daughter-in-law Naheed Sorabjee is here today along with Smt. Zena Sorabjee. Zia Mody is present online. We are glad for your presence today.

My Brother and Sister Judges join me in conveying our deepest condolences to the family. Soli Sorabjee touched so many lives. May his spirit continue to live forever! May the Almighty grant everlasting peace to the departed soul.

xxxxx

List of Attendees at the Full Court Reference

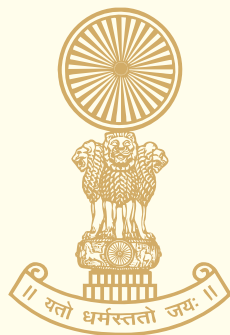
- ❖ *Shri K.K. Venugopal,
Ld. Attorney General for India.*
- ❖ *Shri Tushar Mehta,
Solicitor General of India.*
- ❖ *Shri Vikas Singh, (Sr.)
President,
Supreme Court Bar Association.*
- ❖ *Shri Pradeep Kumar Rai, (Sr.)
Vice President,
Supreme Court Bar Association.*
- ❖ *Shri Ardhendumauli Kumar Prasad,
Hony. Secretary,
Supreme Court Bar Association.*
- ❖ *Shri Shivaji M. Jadhav,
President,
Supreme Court Advocates-on-Record Association.*
- ❖ *Shri Manoj K. Mishra,
Vice President,
Supreme Court Advocates-on-Record Association.*
- ❖ *Shri Joseph Aristotle S.,
Hony. Secretary,
Supreme Court Advocates-on-Record Association.*

xxxxx

***Family Members of
Late Shri Ashok H. Desai
Senior Advocate
at the Full Court Reference***

- ❖ *Ms. Suverna Ashok Desai, Wife*
- ❖ *Shri Harsh Ashok Desai, Son*
- ❖ *Dr. Ami Desai Mehta, Daughter*
- ❖ *Shri Tushar Mehta, Son-in-law*
- ❖ *Aadit Mehta, Grandson*
- ❖ *Shri Jay A. Desai, Son*

xxxxx



THE SUPREME COURT OF INDIA

New Delhi - 110001

India