

News

The Supreme Court brings a suo motu case regarding the practice of investigating agencies calling for legal counsel.



This comes days after Senior Advocates Arvind Datar and Pratap Venugopal were summoned by the Enforcement Directorate (ED), causing a stir.

On Wednesday, the Supreme Court ruled that the investigative authorities may not personally call upon attorneys regarding their clients' cases since doing so would directly jeopardize the administration of justice.

When addressing a lawyer's petition after being called by Gujarati police regarding a client's case, the bench of **Justices KV Viswanathan and N Kotiswar Singh** took suo motu cognizance of the matter.

"Permitting the investigation agencies/police to directly summon defence counsels or lawyers who advised parties in a given case would seriously undermine the autonomy of the legal profession and would even constitute a direct threat to the independence of the administration of justice," the Supreme Court stated.

It also said that such an action is inherently untenable.

The Attorney General for India, R Venkataramani, the Solicitor General of India, Tushar Mehta, the Chairman of the Bar Council of India (BCI), Manan Kumar Mishra, Vikas Singh, the President of the Supreme Court Bar Association (SCBA), and Vipin Nair, the President of the Supreme Court Advocates-on-Record Association (SCAORA), were all consulted by the Court on the matter.

It presented the following queries for thought:

1. Should the police, prosecution, or investigating agency call the lawyer personally if they are just involved in the matter as an advisor to the party?
2. Should the agency summon someone directly or should a judicial oversight be recommended for such an extraordinary occasion, assuming that the role of the individual is more than just that of a lawyer?

The Court emphasized that as the effectiveness of the administration of justice is at risk, each of these issues must be thoroughly addressed.

Given the significance of the case, the Court mandated that it be referred to the Chief Justice of India (CJI) for further guidance.

In the meantime, the Gujarati police called the lawyer, and the court granted him temporary reprieve.

"There shall be a stay on the High Court order and a stay on the operation of summons and any other notices issued to the petitioner," the court stated.

This comes days after Senior Advocates **Arvind Datar** and **Pratap Venugopal** were summoned by the Enforcement Directorate (ED) to participate in an investigation into the Employee Stock Option Plan (ESOP) that former Religare Enterprises Chairperson Rashmi

Saluja had received from Care Health Insurance (CHIL).

Following strong resolves from bar bodies throughout India, both summonses were withdrawn. In a subsequent circular, the ED requested that its personnel refrain from summoning counsel in contravention of Section 132 of the Bharatiya Sakshya Adhiniyam, 2023.

Importantly, SCAORA had already urged the Court to take suo motu attention of the increasing number of cases in which investigative authorities summon lawyers in a letter to CJI **BR Gavai**.

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