



THE KERALA HIGH COURT ADVOCATES' ASSOCIATION

Reg. No. ER 931/2004
High Court Building, Kochi - 682 031
Ph : 2393244, Fax : 0484 - 2394435, E-mail : k.hcaa@yahoo.com

KHCAA/HC-30/2021

28.06.2021

BEFORE THE HON'BLE CHIEF JUSTICE AND OTHER
HON'BLE JUDGES, HIGH COURT OF KERALA,
ERNAKULAM

(Submission by the President and Members of the Executive Committee of the Kerala High Court Advocates' Association along with the 2 reports on the Electronic Filing Rules for Courts (Kerala) 2021)

Most Respectfully Submitted:

KHCAA makes the following submission out of our fervent belief that the bar would get a just and fair approach from the Hon'ble Judges. KHCAA reposes unqualified confidence and speckless trust in all revered judges and naturally do believe that the submissions made herein will be considered with the warmth of oneness, the strong feeling the bar and bench are bound to maintain.

Abrupt introduction and implementation of the E-filing Rules has created a deep wound in the heart of the High Court Bar. The absence of pre-legislative consultation in the case of the Rules made exclusively for filing of cases, which forms the most vital part of the legal profession, is the cardinal aspect the Bar pointed out through our letter dated 11-5-2021, the day on which





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KHCAA came to know about the Rules which was notified only on 7-5-2021. But since Rule 1(2) provides that further procedure is required for its implementation, it was quite naturally expected that when the aforesaid patent lacuna was pointed out, the steps contemplated under Rule 1 (2) would be kept in abeyance. Apart from the legal disability emanating from the improper introduction, it was found by the Administrative Committee that the objections raised by the association against certain provisions on the reason that those were either too harsh or unworkable was correct and were decided not to be insisted. Though the rule was notified under Rule 1(2) for the High Court as well as Subordinate Courts, it was also decided that the same will not be made applicable for Subordinate Courts.

In addition to this, a very important decision was taken after long deliberations with the KHCAA at the meeting held on 17-5-2021 that the E-filing which was being introduced on the basis of the Rules notified will be "provisional for the period of lock down" and within 30 days the system will be reviewed. As the introduction of the E-filing system was explained as a purely temporary / provisional measure, the 'review' contemplated was essentially to see whether the 'Rules' and the resultant E-filing





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should undergo a test whether it should continue at all. '30 days period' mentioned in the draft placed for discussion could have served no other purpose. It was this "30 days period" that was reduced to 15 days after the discussion on 17-5-2021 on the clear understanding that the same is only to render further clarity on the provisional nature of the implementation of the Rules and the E-filing system in accordance with the said rules.

When this was explained in the General Body of the Association which met on the same day at 6 p.m. the members supported the decision unanimously. But the General Body decided to stick on to physical filing alone and resolved that members should not use the E-filing mode.

On 18-5-2021, the Hon'ble Members of the Administrative Committee met the Advocate General and Chairman of the Bar Council and the aforesaid decision that the implementation of E-filing was only provisional and the same was introduced to tide over the lock down period was reiterated to them also. The Bar Council Chairman immediately thereafter issued an official publication declaring these decisions. When the meeting of the Full Court on 18-5-2021 decided to effect the change that the





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period should be either the expiry of 15 days or lock down whichever is earlier, it was indeed a relief for the Bar. The Bar believes that it was considering the damage the introduction of the Rules caused to the credibility and majesty of this Hon'ble High Court and also to heal the wound and soothe the pain the bar suffered that said decision came from the august body of the Hon'ble Judges.

At the meeting held on 27.5.2021, this Association guaranteed its full support to any attempt to improve and modernise the system provided the stakeholders were discussed with and any changes brought in was useful to the end users mainly the members of the bar. The consensus reached in the meeting was to require the Digital University assigned to do the work to hold separate discussions with advocates and advocate clerks to include their feedback and inputs also in the study inclusive of e-filing which is specifically mentioned in the document titled 'Proposal'. When this project is in the pipeline and discussions are decided to commence soon since the study is required to be completed within 120 days, there is no justification for continuing with the e-filing system in vogue which is defective





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owing to the legal infirmities of the e-filing rules and technical flaws of the software adopted. Both these aspects, legal infirmities and technical flaws were apparent.

If any existing system is attempted to be changed, the same should be to better it and not to make it more cumbersome, clumsy and non-beneficial to the end users. KHCAA decided to appoint two committees to study the aforesaid two aspects separately so as to prepare separate reports. Draft reports were prepared and the same were circulated to all the members to give them opportunity to comment on the same and also to thereby ensure that there was absolute transparency in the study done by the Association. The reports have now been finalized and copies of the same are being submitted to the Hon'ble Chief Justice as well as all other Hon'ble Judges. We are sure that our findings cannot err because the same are based on the collective practical experience and knowhow of the bar which may kindly be reckoned with the seriousness and gravity the same deserves. If any correction is required at our end, the bar is definitely willing to do that, if pointed out. We again humbly request that the erroneous





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e-filing system as well as the legally untenable Electronic Filing Rules for Courts (Kerala) 2021 may be kept in abeyance till a flawless lawyer friendly filing system is introduced.

Yours Faithfully

Adv. Thomas Abraham, President

Adv. T. R Renjith, Secretary

Adv. S. Mohammed Al Rafi, Vice President

Adv. Renu D.P , Vice President

Adv. Appu P.S, Treasurer

Adv. Nimmy Johnson, Joint Secretary

Adv. Jessy George, E C Member

Adv. John Mani V, E C Member

Adv. Sandeep R.N. E C Member

Adv. Haritha V. A, E C Member

Adv. Sudhinkumar K, E C Member

