

**FULL COURT REFERENCE IN THE MEMORY OF
LATE MR. JUSTICE S.M. SIKRI, FORMER CHIEF JUSTICE OF INDIA**

BY HON'BLE SHRI M.H. KANIA, CHIEF JUSTICE OF INDIA

ON 9TH OCTOBER, 1992.

Mr Attorney General, Mr President of the Supreme Court Bar Association, Members of the Bar, Ladies and Gentlemen,

We are gathered here this morning to mourn the death of Justice S.M. Sikri, former Chief Justice of India who died early in the morning of 24th of September last.

Justice Sikri was one of the best examples of a person who, as it were, strayed into the field of law and made good, in fact, made it right to the top. He was born in Lahore and completed his early education there. His father was a distinguished doctor and following his footsteps, Justice Sikri went to London with the idea of studying medicine. Fortunately for the legal profession and the judiciary he changed his mind at some stage and joined the Trinity College, Cambridge and later took up the study of law. He was called to the Bar by the Lincoln's Inn. He started practice at Lahore in 1930 and joined the chambers of Mr Jagannath Agarwal, a leading lawyer of the Lahore High Court who had an extensive practice both in civil and criminal law. Justice Sikri practised for quite a few years in the trial courts where he came into direct contact with the litigants and witnesses and the knowledge of human nature and behaviour he gained there helped him throughout his career. He was known for the thoroughness of the preparation he put into his cases and for his grasp of case-law. He appeared in a number of cases in the Lahore High Court and the other Courts in Punjab and later in the Federal Court and the Supreme Court of India. He appeared for a short time for the State of Punjab before the Das Commission which inquired into certain charges against the former Chief Minister of Punjab Sardar Pratap Singh Kairon. He became the Assistant Advocate General of Punjab in 1949. In 1961 he was appointed as the Advocate General of that State and occupied that position till he was elevated to the Supreme Court in 1964. Justice Sikri was the first lawyer appointed directly to the Bench of the Supreme Court. As a lawyer, he came into contact with many legal giants of the former days like Sir Tej Bahadur Sapru, Mr P.R. Das, Mr Bulabhai Desai. He studied their advocacy and methods to good purpose. Justice Sikri was known for his interest in the study of International Law and he attended a number of conferences on that subject. He was the alternate representative of our country to the United Nations Committee on Codification and Development of International Law and also a member of the International Law Association Committee on Rivers in 1955. He participated as an Indian delegate in the Law of Sea Conference at Geneva in 1958 and attended the World Peace through Law Conferences held in Tokyo and Athens. He took active interest in the work of the Indian branch of the International Law Association.

In court, he was known for the patient and courteous hearing he gave to the advocates but without allowing them to waste time in mere repetition.

Lawyers often looked to his court for some relief by way of an occasional whiff of humour. As a Judge of the Supreme Court he was a party to the decisions in several leading cases like the *Golaknath case*¹, the *Bank Nationalisation case*² and the *Privy Purses case*³. He was the Presiding Judge of the five Judge Bench which decided the batch of election petitions where the election of the late Mr V.V. Giri as the President of India was challenged. The hearing of that case was marked by the dignity and decorum with which it was conducted and this was no small tribute to the handling of cases by Justice Sikri. He was amiable and gentle by nature and known for his simplicity and generosity. He became the Chief Justice of India on the retirement of Chief Justice Shah in 1971 and retired in April 1973. One may recall that it was on his retirement that the controversy about supersession took place when Justice A.N. Ray became the Chief Justice of India.

Justice Sikri came from a well-to-do family. After retirement he enjoyed several years of active life but for the last few years he suffered from Parkinsonism which made movements difficult for him. In spite of this he did not lose his capacity to enjoy life. I am told that for several years, although he had to be helped into his clothes because of his ailment, yet he went to the Golf Club, held a golf stick steadily and enjoyed a game of golf. In fact, till fairly recently he was a regular feature on the Delhi Golf Club. Unfortunately, as his disease became more advanced, it was not longer possible for him to enjoy his favourite game and for the last few months he was bedridden. To a person as active and full of life as Justice Sikri, his ailment must have been extremely irksome and frustrating. Perhaps death came to him as a relief. It must, however, have come as a sad loss to his family. He leaves behind him wife and a son to whom our hearts must go in sympathy. May his soul rest in peace!

ADDRESS BY THE ATTORNEY GENERAL OF INDIA

My Lords,

On behalf of my colleagues and the Bar of this country, I fully associate myself with the sentiments expressed by my Lord the Chief Justice of India at the sad demise of Mr Justice Sarva Mittra Sikri, former Chief Justice of India who passed away in the fullness of years on 24th September, 1992.

Born on April 26, 1908 Mr Justice Sikri after his early education proceeded to England for further studies. He started his legal practice at Lahore in the chambers of Mr Jagannath Agarwal whom he used to describe as his Guru. In the course of his successful career at the Bar he held many important appointments and handled important cases. After having worked as Assistant Advocate General, Punjab for a short time he was appointed Legal Adviser in the Ministry of Works, Mines and Power in November 1949.

He was appointed Advocate General, Punjab on July 2, 1951 and held that post till his appointment as a Judge of this Court. As Advocate General he

1 *Golaknath v. State of Punjab*, AIR 1967 SC 1643

2 *R.C. Cooper v. Union of India*, (1970) 1 SCC 248

3 *Madhav Rao Scindia v. Union of India*, (1971) 1 SCC 85

appeared for the State of Punjab before the Justice Das Commission which was appointed to probe into the allegations against the then Chief Minister. He was a member of the Law Commission from 1955 to 1958 under the chairmanship of the late Mr M.C. Setalvad where his colleagues were Mr N.A. Palkhivala and the late Mr Justice M.C. Chagla.

On February 3, 1964, he became the first person to be directly elevated from the Bar of this country to be a Judge of this Court. As a Judge of this Court he was a member of the Benches which delivered some of the most decisive judgments that shaped the Constitution of India, including the judgments in *Golaknath*¹, *R.C. Cooper*², the *Privy Purses case*³, and the elections of the President and Vice-President of India.

He was appointed Chief Justice of India from 22-1-1971 and presided over this Court in what were to prove to be among its most turbulent years. He had the distinction of heading the Bench which decided *Kesavananda Bharati*⁴ and retired a day after delivering the judgment in that case. He made no secret about his disapproval of the events subsequent to his retirement and the appointment of his successor, a chapter of legal history which is thankfully a thing of the past. Some years after his retirement, he served as the Chairman of Railway Accidents Inquiry Committee between 1978-1980.

I personally knew Mr Justice Sikri. In the 1960's when he was Advocate General of Punjab and was arguing Dr Kapoor's case where allegations of mala fides were made against the Chief Minister, he used to stay at the Hotel Janpath. I too was staying there for a week when we got acquainted and used to meet regularly for lunch. Thereafter I used to meet him on my visits to Delhi. He was a very affable person and popular amongst his friends. In addition to being a bridge enthusiast, he was a very keen golfer. Though some disease in the later years of the life resulted in shaking of his hands, he continued to frequent the golf course with his clubs. Though he has gone in the fullness of years, he will be sorely missed by his friends and the legal community of this country.

May his soul rest in peace.

REFERENCE BY SHRI R.K. JAIN, PRESIDENT

SUPREME COURT BAR ASSOCIATION

My Lord the Chief Justice, My Lords, and the Members of the Bar. We have assembled here today to pay tributes to Justice Sarva Mittra Sikri, former Chief Justice of India, who passed away in the early hours of September 24, 1992.

Born on April 26, 1908 in Lahore and educated at Trinity College of England, Justice Sikri was later called to the Bar at Lincoln's Inn. He started

- 1 *Golaknath v. State of Punjab*, AIR 1967 SC 1643
- 2 *R.C. Cooper v. Union of India*, (1970) 1 SCC 248
- 3 *Madhav Rao Scindia v. Union of India*, (1971) 1 SCC 85
- 4 *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225

practising Law at Lahore in 1930 and had his legal training under Mr Jagannath Aggarwal, a leading Lawyer of Lahore and became Assistant Advocate General of Punjab in 1949. Mr Justice Sikri was also Advocate General of Punjab. He achieved the unique distinction of being the first Supreme Court Judge directly from the Bar. On January 22, 1971, he became Chief Justice of India and retired on April 25, 1973.

A good tennis player, Mr Sikri represented his college and won medals and certificates of appreciation. He also used to play golf and bridge.

Justice Sikri was a member of the Indian Law Commission between 1955 and 1958, Chairman, Railway Accidents Inquiry Committee, from 1978 till 1980, President of Indian Branch of International Law Association from 1971 till 1973 and Chairman of the Sir Gangaram Hospital Trust. He was also the Chairman of the Citizens Commission on the 1984 riots.

Known for his interest, knowledge and study of International Law, Mr Justice Sikri attended a number of conferences on international law and was an alternate representative on Codification and Development of International Law. He was also a member of the International Law Association Committee on Rivers in 1955. He also represented India at various International Conventions.

He appeared for a brief period for the State of Punjab before the Das Commission which inquired into charges against Mr Pratap Singh Kairon, former Chief Minister of Punjab.

Justice Sikri was well known for his legal acumen and thoroughness. He wrote judgments in many important cases.

In *Kesavananda Bharati v. State of Kerala*¹ a historic judgment of this Hon'ble Court, Chief Justice Sikri was one of the subscribers of the view that though the power of Parliament to amend the Constitution is otherwise plenary, it can not, however, amend or alter or abrogate the basic foundation and structure of the Constitution.

In another important decision namely *Union of India v. H.S. Dhillon*² Justice Sikri speaking for the majority took the view that the Parliament can rely on the residuary powers and powers under the Concurrent List to defend an Act of Parliament.

Justice Sikri said: (SCC p. 808, para 87)

“There is no principle that we know of which debars Parliament from relying on the powers under specified Entries 1 to 96, List I and supplement them with the powers under Entry 97, List I and Article 248, and for that matter powers under entries in the Concurrent List.”

The real self of Justice Sikri came out in *Vivian Rodrick v. State of W.B.*³, where he said that delay in disposal of a case of death sentence by the courts would be a ground for commutation of sentence.

1 (1973) 4 SCC 225

2 (1971) 2 SCC 779

3 (1971) 1 SCC 468

Speaking for the Court Justice Sikri said: (SCC p. 471, para 6)

a "It is now January 1971, and the appellant has been for more than six years under the fear of sentence of death. This must have caused him unimaginable mental agony. In our opinion it would be inhuman to make him suffer till the Government decides the matter on a mercy petition. We consider that this is now a fit case for awarding the sentence of imprisonment of life."

b Again in *D.R. Nim v. Union of India*⁴ speaking for a Constitution Bench, Justice Sikri observed that in Government service stop-gap arrangement cannot last for years. This view was followed in number of subsequent judgments of this Hon'ble Court.

c Justice Sikri was courteous both to the members of the Bar and the Bench. He was equally courteous to the Staff of the Court. Even after his retirement, he continued to have relations with the legal fraternity and never missed a chance to attend functions organised by the Bar. Justice Sikri will be remembered by the legal fraternity for a long time.

d Justice Sikri is survived by his wife and a son. I on behalf of the members of the Bar and my own behalf offer my heartfelt condolences to the bereaved family. May his soul rest in peace.
