

A POLE STAR IN THE LEGAL GALAXY: A Tribute to Ashok Desai

By Dr Milind Sathe

On 13th April 2020, a pole star from the legal galaxy left us for another celestial abode.

Ashok Haribhai Desai, popularly called *Ashok-bhai* by the legal fraternity, was a legend in law; a magician in the courts; a saviour of democracy and civil liberties; a philosopher and thinker; a keen appreciator of art, culture, and music; a voracious reader; a gifted orator; an ardent follower of Buddhist philosophy; and, much more. His departure from these fields has left a void that can never be filled.

Ashok-bhai was born to Haribhai Desai, a leading criminal lawyer, in Pune. After graduating from Fergusson College in Pune, *Ashok-bhai* shifted to Bombay (now Mumbai), to complete his Law Degree from the Government Law College in the city. Thereafter, he joined the London School of Economics (LSE), during which time he was one of the first few students from Great Britain to be invited on a study visit to China. He graduated from the LSE with a BSc in Economics. He was also called to the Bar from Lincoln's Inn in London; thereafter, he began his practice in Bombay. He was designated as Senior Advocate on 8th August 1977.

A Captivating New Voice

I first heard of *Ashok-bhai* when I was studying at the Government Law College. He was an activist of civil liberties during the Emergency as well as in the post-Emergency era. I later learnt that, at the Bombay Bar Association, he was at the forefront of passing resolutions condemning the Emergency and the attack on the independence of the judiciary. The Emergency was lifted in January 1977, and the Janata Party came to power in March 1977.

Many organisations were established at that time for the protection of civil and democratic rights, and to ensure that an Emergency-like situation never arises again. *Ashok-bhai* was actively involved in the People's Union for Civil Liberties (PUCL), one such organisation that had been founded by (the late Justice) VM Tarkunde and (the renowned socialist and senior lawyer) MA Rane. I had attended one of the meetings organised by the PUCL at the Sunderbai Hall (New Marine Lines). The theme of the meeting was 'Independent judiciary: The foundation of democracy', and it was addressed, inter alia, by Ram Jethmalani, MC Chagla, JC Shah, and others.

But *Ashok-bhai's* vote of thanks left an indelible impression on me, and I became his fan for life. I still remember what he had said: "I feel like a village flute player coming to perform after the great performance of Severino Gazzelloni." Even though his address was meant to

be just a vote of thanks, it presented deep insights on subjects such as freedom of speech and expression and democratic rights. Far from being a village flautist, his performance made him shine through like a superstar.

Ashok-*bhai* was an enchanting public speaker. I heard every public speech that he delivered in Bombay/Mumbai thereafter, keeping track of them through the ‘engagement column’ of newspapers.

During my days at the Government Law College, I heard him address the court in a public interest litigation filed by two members of the Socialist Party, PB Samant and Mrinal Gore, questioning the compulsory exaction of donations from cement and sugar manufacturers by the several public trusts that had been set up by Barrister AR Antulay, the then Chief Minister of Maharashtra. This petition, which was in the nature of a public interest litigation (although, in those days, it was not called ‘public interest litigation’), was argued by Ashok-*bhai* before Justice B Lentin in Court No. 6 of the Bombay High Court. Justice Lentin allowed that writ petition and passed severe strictures against the Chief Minister, making famous the phrase “quid pro quo”, which was established through the donations made by the cement and sugar companies to Antulay’s trusts, to obtain favours from the government. The Chief Minister had to resign. And Ashok-*bhai*, from being a stalwart in the legal profession, became an overnight international celebrity.

An Inspirational Guru

I joined the legal profession in 1982, and watched him in one of the most celebrated civil trials in the Bombay High Court at that time. That trial was before Justice SP Bharucha, in the case Om Prakash Berlia vs National Rayon Corporation. The team of plaintiffs was led by KS Cooper, assisted by GA Thakkar, Suresh Parekh, and Ashok Modi, and the junior counsel was Vasant Kotwal. The team of defendants was led by Fali Nariman, assisted by RP Bhat, Ashok-*bhai*, TR Andhyarujina, DR Dhanuka, Iqbal Chagla, and the junior counsel were Rafique Dada and Goolam Vahanvati. Since my senior DR Dhanuka was also briefed in the case, I had the opportunity to watch all these stalwarts in action, in the court. Although Ashok-*bhai* did not continue to be a part of that case for long, it was my first encounter with him as a lawyer, where I observed him work as Senior Advocate from close quarters.

It was when I was briefed with him by Kanga & Company in a case that our guru-*shishya* bond began. One of the early cases in which I assisted him was a petition challenging the election of two Shiv Sena leaders as members of the Maharashtra Legislative Council. In fact, it was my first election petition. The person who was not allowed to contest had filed an election petition challenging the election of the two Shiv Sena leaders as members of the Maharashtra Legislative Council, one of them being Pramod Navalkar. The petitioner challenged their election on the grounds that his own nomination had been improperly rejected. There were meetings at Ashok-*bhai*’s residence at Ram Mahal, near KC College,

which I have since visited on numerous occasions. I did a lot of research for the case, guided by *Ashok-bhai*. We succeeded on the grounds that improper rejection of a nomination itself was sufficient to set aside the elections, as the requirement of election results being materially affected was not necessary to be established in case of improper rejection of a nomination. *Ashok-bhai* argued the matter with great finesse, stressing on Section 100 of the Representation of the People Act, 1951.

Thereafter, I assisted him in another matter involving interstate trade and commerce. Maharashtra had prohibited the import of grass from Gujarat. It was the first time that I was working on issues relating to Articles 301 to 304 of the Constitution of India, with respect to interstate trade and commerce. This gave me an opportunity to study various judgements of the Supreme Court pertaining to this subject, especially of cases such as *Atiabari Tea Co.*, *Rajasthan Automobiles*, etc. (which were later overruled in 2016 by a nine-judge Bench in the case of *Jindal Steel*) as well as the decisions of the US Supreme Court and the Australian High Court (equivalent to the Indian Supreme Court). *Ashok-bhai* never made a junior feel how stupid or irrelevant a job the latter had done; instead, he would encourage the junior in his unique, pleasant style. We succeeded in that case too.

In 1989, after the five-year term of Rajiv Gandhi as Prime Minister was over, a new government, led by VP Singh of the Janata Dal and supported by other parties, came to power. *Ashok-bhai* shifted to Delhi as Solicitor General of India. Soli Sorabjee became the Attorney General for India. The Bombay Bar felicitated both of them. At the party, organised at the poolside of the then Oberoi Hotel, *Ashok-bhai* regaled the audience and highlighted the differences between law practice in Bombay and Delhi. At that time, the Khalistan Movement in Punjab and other parts of North India was at its peak, and there were terrorist threats all over. Given this context, *Ashok-bhai* said, “When I went for a walk in Lodhi Gardens, four black cat commandos accompanied me. I told them, ‘Please don’t escort me on my walk. No one knows me in Delhi. If the terrorists see me with commandos, they might think I am someone worth killing.’” That was classic *Ashok-bhai*!

Before he shifted to Delhi, I had worked on several matters with him. In fact, the maximum number of cases that I had worked on as a junior were with *Ashok-bhai*, second only to the higher number of cases I had worked on with my senior DR Dhanuka. When *Ashok-bhai* asked me if I would like to shift to Delhi along with him, I was only six years into the legal profession. As my practice was just taking root in Bombay, I wasn’t sure if moving to Delhi would be wise decision. Besides, there was quite some uncertainty over the VP Singh government. If the government failed, *Ashok-bhai* might come back to Bombay. And if I had to come back to Bombay, I would have to start all over again. So I decided not to accept *Ashok-bhai*’s generous and kind offer—a decision, sometime I regret.

In June 1991, after VP Singh was defeated, a new government that was led by PV Narasimha Rao came to power and Ashok-bhai demitted office of Solicitor General of India. Ashok-bhai settled in Delhi by then and began his private practice in the Delhi High Court and the Supreme Court. He had rented a house in the Lodhi Gardens area. He used to hold meetings in the conference room on the first floor, which he had immaculately and elegantly furnished with legal curios and caricatures. I continued to assist him in cases at Delhi.

An important case that I was working on, along with him, at that time (it is still pending), was related to the Constitutional validity of Chapter VIII-A of the Maharashtra Housing and Area Development Act (MHADA), 1976. This chapter provides that the tenants of a Category 'A' cessed building (i.e., those buildings constructed prior to 1st September 1940) were eligible to form a co-operative housing society and apply for the acquisition of the land and the building from the landlord. The government would first acquire such a land and building (to transfer to the tenants thereafter), and the compensation payable was 100 months' net rent recovered by the landlord. These provisions were challenged by the Property Owners' Association before the Bombay High Court. The Bench, headed by Justice M.L. Pendse, upheld the validity of the Act. Against this judgement of the High Court, an appeal was filed by the Property Owners' Association. I had appeared in that case on behalf of the tenants' association. Ashok-bhai appeared on behalf of MHADA, and I was assisting him on behalf of MHADA as well.

In 1986, when Chapter VIII-A was introduced in the MHADA Act, Ashok-bhai had been its principal architect. I had attended the several meetings held at Ashok-bhai's residence, at that time. Some of these meetings had been attended by Murli Deora (MP from South Bombay) too, who was propagating the cause of the tenants. Several drafts were prepared and exchanged with the government departments, and Chapter VIII-A was finalised with Ashok-bhai's invaluable inputs.

This challenge to Chapter VIII-A and the challenge to the Bombay High Court judgement was listed before a Bench of two judges on Monday, 7th December 1992. On the previous day (Sunday, 6th December 1992), we were having a conference at Ashok-bhai's house in Delhi, when the news of the demolition of the Babri structure at Ayodhya came in. The atmosphere became tense. We were worried about what would happen that evening or the next day. Ashok-bhai and I did attend the Supreme Court the next day. The Chapter VIII-A case was referred by a Bench of two judges to a Bench of three judges. Later that day, Ashok-bhai asked me how I would go back to Bombay, because the disturbance had started in the city by then. He checked if I needed any assistance during my remaining stay in Delhi, and asked me to call him after I reached my home in Bombay. That was Ashok-bhai, ever so kind, gentle, and caring.

In the meantime, the provisions of the Bombay Rent Act of 1947 had been challenged on the grounds that, over a period of time, they had become unconstitutional, although they might have been valid at the time of enactment. The petitioner was Malpe Vishwanath Acharya, and the matter was decided by a Bench of two judges, headed by Justice BN Kirpal. The Bench did not strike down the Rent Act as the Maharashtra government had assured the court of enacting a new legislation. The Maharashtra Rent Control Act, 1999, was accordingly enacted. The provisions of the new Act were also challenged. The challenge to Chapter VIII-A of the MHADA Act and the challenge to the new Maharashtra Rent Control Act were clubbed together. These cases were referred by a Bench of two judges to a Bench of three judges, by the Bench of three judges to a Bench of five judges, by the Bench of five judges to a Bench of seven judges, and lastly, by the Bench of seven judges to a Bench of nine judges, where the challenge is currently pending. At every stage, I had occasion to work closely with Ashok-*bhai*: preparation from historical documents on the Rent Act, different committee reports, and other material, statistics, and documents. All these meetings and conferences would demonstrate Ashok-*bhai*'s perfection, thoroughness, and deep insight of the humane aspect of the matter.

An Astute Advocate

Yet another important case on which I worked with Ashok-*bhai* was related to the acquisition of land for Reliance Industries Limited's Jamnagar Refinery. Large tracts of barren land were acquired by the Gujarat state. Four farmers, amongst others, whose lands had been acquired, had challenged the acquisition in the Gujarat High Court on the grounds that no proper notices under Section 4 of the Land Acquisition Act, 1894, had been issued, and that the provisions of Section 5A of the Act had been violated. The challenge was accepted in the Gujarat High Court by a Bench consisting of Chief Justice BN Kirpal and Justice HL Gokhale. Reliance Industries Limited and the State of Gujarat filed appeals in the Supreme Court. Ashok-*bhai* was briefed in that matter on behalf of Reliance, and I was assisting him. The case was listed before the Bench headed by Justice SC Agrawal. For this case, we had many conferences with Ashok-*bhai*, and we made preparation for every conceivable point. We had prepared over 100 notes.

Ashok-*bhai* would always ask us to prepare for something other than the obvious. This time too, he had asked us to prepare the layout of the refinery on a sheet measuring 5' x 5'. One of the conditions in the environmental clearance for the refinery was to create a green zone, by planting trees in a 500-metre zone around the periphery of the refinery. Ashok-*bhai* asked us to plot those trees on the sheet, showing the green area, the refinery complex, farm tanks, labour colony, housing for the employees, and other infrastructure. The four petitioners holding a few acres of land each, who had complained about the acquisition and at whose behest the entire acquisition was set aside, were marked by four red dots. Other infrastructure, to be created for villagers, such as roads, a school, a community hall, etc., was

also shown. That this was going to be world's largest green refinery was adequately brought out through the sketch.

When the matter was called out in the Supreme Court, instead of a voluminous court case record running into 5,000 pages, Ashok-*bhai* simply handed this blueprint to the judges and the other side. He then presented the argument: "This is the infrastructure we are going to create. A green zone of 700 hectares. We are creating additional infrastructure too, as a part of corporate social responsibility. But here are the four gentlemen who are objecting to it," saying so, he pointed at the four red dots. "We are willing to compensate them at whatever rate Your Lordships decide or order." Both the plan and his argument were so impressive that nothing else was required. The judges of the Supreme Court asked Shanti Bhushan and Anil Divan, the petitioners' lawyers, that they must agree only to the enhancement of compensation. The Supreme Court appointed the former Chief Justice of the Bombay High Court, PD Desai, to decide the compensation for the entire acquisition, which would be binding on Reliance but not on the farmers, and they could still ask for further enhancement. Thus, the acquisition was upheld. That was Ashok-*bhai*, truly a magician in the court.

There was another case, which pertained to awarding the Panna-Mukta oilfields by the Government of India to a consortium of ONGC. The public interest litigation challenging this action was dismissed by the Delhi High Court. The case had received media attention as one self-serving police officer had opened a preliminary enquiry. He complained about how he was being pressurised to close the case. He then resigned to join politics and law. In the Supreme Court, this case was a textbook case study for dealing with a hostile court and turning it in your favour. The Bench headed by Justice SP Bharucha was hearing the argument about the ONGC officers allegedly leaking information before the bidding process began. Senior Advocate B Sen, who appeared on behalf of ONGC, would answer the queries. Sen and Setalvad (Senior Advocate, who appeared on behalf of Enron) used to occupy the first row in the court, along with their juniors. Ashok-*bhai* and I used to sit in the second row, on the right side—this was in Court No. 3. Justice Bharucha would coax Ashok-*bhai* to speak when B Sen would answer any query, "We want the gentleman behind you to answer!" I would whisper to Ashok-*bhai*, persuading him to answer. But he would only say, "The judges have coloured arguments before them—half facts, and our answers will not satisfy them now, but may instead turn them against us irreversibly. We will answer, in our turn." He handled the matter so carefully and skilfully that the petitioners' appeals were dismissed, and the Delhi High Court judgement was upheld.

He was known to gauge the pulse of the judges and prepare arguments accordingly. Although we would prepare several alternate arguments, when the judge would ask something different in the court, Ashok-*bhai* would get straight to the point that was never discussed during preparation and sway the proceedings in his argument's direction. During conferences, in addition to the subject of the matter, he used to spend some time on other aspects such as the

philosophy and psychology of judges, their backgrounds, the judgements they had rendered in their parent High Court and the subsequent High Court as Chief Justice, etc. This research and insights were invaluable. He firmly believed that all these were important factors impacted the decision-making process which the judges followed as well as the decision itself.

I remember a discovery we made while working on a case for the State Bank of Saurashtra, arising from the security scam of 1992. A cheque of around Rs.500 crore was issued to the State Bank of Saurashtra by the National Housing Bank and was delivered to Harshad Mehta, who deposited it with the State Bank of Saurashtra. The amount was credited to Mehta's account since he had brought the cheque. The National Housing Bank sued the State Bank of Saurashtra for the recovery of this money. The case, heard in the Special Court by Justice SN Variava, was decided against the State Bank of Saurashtra. We appealed in the Supreme Court, and the matter came up before Justice Sabharwal, Justice Tarun Chatterjee, and Justice SB Sinha. During our research, Ashok-*bhai* realised that Justice SB Sinha, Justice Umesh Banerjee, and Justice Ruma Pal were from the Calcutta High Court, and all three of them were in the Supreme Court at that time. There was a full Bench decision of the Calcutta High Court, consisting of these three judges and headed by Justice SB Sinha. The judgement, authored by Justice Banerjee, somewhat supported our argument. The three judges were now in the Supreme Court, but they had arrived in the Supreme Court in the reverse order. Therefore, in the Supreme Court, Justice Ruma Pal was the senior most, Justice Umesh Banerjee was next, and Justice SB Sinha became the junior judge. We were about to cite the judgement of Justice Banerjee before the Supreme Court, and that would have been a complete disaster. We eventually found another judgement of Justice Sinha on the subject. That was the court craft and genius of Ashok-*bhai*.

A Lover of All Things Fine

During the hearing of the State Bank of Saurashtra's case in the Supreme Court in November, the Bench had been assigned a matter related to the engineering and medical colleges' admissions. The Bench would hear those matters on a priority basis; hence, despite being listed at serial number one, our matter would never be taken up first. We would assess the situation, on such days, by noon; we often realised that our matter was not likely to be called out. Our team consisted of me, Darius Khambata, and Jai Munim (of Bachubhai Munim & Co.). Ashok-*bhai* would then say, "Boys, come along!", so we would accompany him to Lodhi Gardens. He would change in his car, from his court attire to a sweater and walking shoes. We would only take off our gowns and bands and go on a walk with him, in our black trousers and black jackets, from one end of Lodhi Gardens to the other. The three of us—Darius, Jai, and I—with our black attire would look like black cat commandos accompanying Ashok-*bhai*. At the other end of Lodhi Gardens, Ashok-*bhai*'s man Friday, Shatrughan, would wait for us with the coffee, sandwiches, and other items that he would have procured for us, for lunch, from a local Barista outlet. We would have our lunch in the Lodhi Gardens

precincts. This routine—of a walk, followed by lunch, in the Lodhi Gardens—continued for several November and December afternoons. Ashok-*bhai* was a fitness freak, and he never missed his daily walk, swim, and yoga session.

He was a great follower of Satya Narayan Goenka, the Vipassana guru, and had done a seven-day meditation course at Igatpuri, Maharashtra . Taking inspiration from him, I too did that course later, only to realise how difficult it is to live for seven days without speaking, newspapers, or telephone calls, and in complete seclusion.

There has been no versatile and multifaceted person in the legal profession as Ashok-*bhai*. He was comfortable in the company of politicians like Madhu Dandavate, Sharad Pawar, Mulayam Singh, and others, just as he was with Lord Denning, Lord Templeman, and Lady Sandra Day O'Connor (former Associate Justice of the Supreme Court of the United States). He enjoyed watching performances of Bharatanatyam, Kathak, or even Lavani, and he was fond of music—be it Hindustani, Carnatic, or Western Classical. He relished the concerts of Pandit Bhimsen Joshi and Dr Balamurali Krishna. His most favourite, though, was Pandit Kumar Gandharva. He was also fond of Marathi, English, Hindi, and Gujarati theatre. It would be difficult to find one thing that Ashok-*bhai* did not like, except, of course, hypocrisy and communal politics.

He had a rare collection of morning ragas, afternoon ragas, evening ragas, and night-time ragas—both vocal and instrumental. He also had recordings of a rare *jugalbandi* between Pandit Bhimsen Joshi and Dr Balamurali Krishna. I have seen his collection graduate from cassettes and CDs to DVDs and other digital avatars.

At his residence, while his collection of pens, pencils, colourful lamps, post-its, and curios sat on his table, a range of music would play in the background—even during conferences. At first, I used to wonder how people will focus on the matter to be discussed with music playing continuously in the background, but I later realised that, far from being distracting, it was quite soothing—a way for Ashok-*bhai* to remain calm and composed. In fact, we would miss the music during the conferences on days when it was not on. The music varied as per the occasion, mood, time, or his latest collection.

Ashok-*bhai* was a great political, legal, and philosophical thinker. He was a brilliant conversationalist and could keep his listeners spellbound with stories, anecdotes, and his sense of humour. Govindrao Talwalkar, an illustrious editor of *Maharashtra Times*, was Ashok-*bhai*'s neighbour in Ram Mahal at Churchgate. I had learnt from Ashok-*bhai*'s conversations that both of them used to have animated discussions on politics and current affairs. Sometimes, the editorials of *Maharashtra Times* would reflect Ashok-*bhai*'s thoughts and ideas.

After a few years at his Lodhi Gardens house, Ashok-*bhai* got a plot from the Delhi Development Authority in an auction. He had a house constructed on that land, which later became his ‘B-111, Defence Colony’ house. He personally supervised the construction of that house; both he and Suvarna-*ben* (his wife and companion of over 50 years) had tastefully furnished the house and decorated the interiors. During its construction, on several occasions, I remember having a mobile conference with him. I had visited this house several times, even while it was under construction. The conferences were held in his car, as we travelled from his Lodhi Gardens house to this plot at Defence Colony, from where we would then head to the Supreme Court—sometimes in the reverse order. On some days, after a morning conference, there would be a special conference in the car, on our way to the Supreme Court.

His house at B-111, Defence Colony, had a conference room in the basement, a huge well-appointed library, and a secretarial area. The library not only had law tomes, but also books on every conceivable subject. The living rooms and bedrooms were on the first and second levels; and the kitchen, on the first level. When a long-drawn matter had to be discussed, if the next day was not so busy, Ashok-*bhai* would invite us home in the evening, to join him for drinks or dinner. I had never heard of a drink called Campari, a pink-coloured, artificial aperitif that looked and tasted like bitter cough medicine. Ashok-*bhai* loved it. I too tried having Campari with tonic water, just as he would have it, and eventually began enjoying it.

We would either have dinner at his house or eat out. We have dined at House of Ming at The Taj Mahal Hotel on Mansingh Road, on several occasions. The Peking duck was one of his favourite Chinese dishes. He would take us to a variety of restaurants that he would have discovered and treat us to extraordinary cuisines. One of the places he really liked to eat at was Ploof—the name refers to the sound a water drop makes when falling into a surface of water.

More striking than the building and its décor, what stood out at his Defence Colony house was the humane touch that Suvarna-*ben* gave it. She was always there, smiling and welcoming. In Mumbai matters she would occasionally drop into the conference room to say, “Hello!” to the Mumbai wallahs. She was the perfect hostess. And to Ashok-*bhai*, Suvarna-*ben* was his constant source of inspiration and pillar of support. She was also an accomplished Manipuri performer in her own right.

A Generous Gentleman

Ashok-*bhai* always looked forward to his summer vacation in May–June in Seattle, at his daughter’s place. His meticulous, methodical, and perfect way of preparing for the legal cases percolated into his travel plans too. From medicines for two months, forex, contact details, everything would be organised. A few months before May, he would open his ‘Seattle Basket’ and start putting in things to be carried there, so that he missed nothing due to oversight.

Similarly, he had a ‘Bombay Basket’, which he filled with things he wanted to take to Bombay, on his next trip to the city.

His home-cum-office in Delhi had three power centres, and he never interfered with their functioning. The first was Bhanvar—his cook’s son from Bombay, who had eventually become the cook in his Delhi house. Bhanvar often said that he and Harsh (Ashok-*bhai*’s son) had grown up together in Bombay. The second was Ashok-*bhai*’s super-efficient court clerk, Sharma-*ji*. And the third was his man Friday, the clever court attendant, Shatrughan. Ashok-*bhai* looked after these three people like a father. I recall how he took care of Sharma-*ji* after the latter had suffered a heart attack. He did the same for Shatrughan when the latter had an accident in the Supreme Court complex: Shatrughan was standing behind Ashok-*bhai*’s car, taking out some papers from the trunk. The driver of another car, which was reversing, did not notice Shatrughan and hit him. Shatrughan’s legs were caught between the two cars and he was badly injured. Naturally, he was hospitalised for a long time. Ashok-*bhai* took complete care of him till Shatrughan could move about again and was ready to join office. That was the extent and genuineness of Ashok-*bhai*’s humanity and compassion.

A Respected Pioneer

During his tenure as Solicitor General of India, when VP Singh’s government was in power, and thereafter as Attorney General for India in the regimes of Deve Gowda and IK Gujral, Ashok-*bhai* established high standards for law offices in India, which are still difficult for anybody else to match or better. In that period, he created a new record—as the Solicitor General and Attorney General with the highest number of reported judgements, yet again an unmatched feat. As the Solicitor General, he argued almost every important case on behalf of the Government of India. Neither did he shirk his own responsibility, nor did he hesitate to instruct the government to make amends where he found gaps in its functioning. That was the forthrightness of Ashok-*bhai*. He would say what was necessary, and not act as a mere mouthpiece of the government.

It is no surprise then that his services to humanity as a lawyer were recognised by the Government of India, and he was honoured with the Padma Bhushan. The Law Luminary Award was presented to him in 2001.

He has moulded a retinue of juniors from Bombay and Delhi, several of whom are designated senior advocates, judges of High Courts, and judicial officers in other judicial institutions today.

In the early 1970s, Ashok-*bhai* had argued what can be safely described as ‘the first public interest litigation in Bombay’. Filed by Piloo Mody and others, it challenged the allotment of the plots at Backbay Reclamation. Justice Gandhi had heard the matter. The judgement

pioneered the concept of public interest and the public trust doctrine, much before the Supreme Court recognised these principles.

During his years in Bombay, *Ashok-bhai* defended the Marathi play written by playwright Vijay Tendulkar, ‘Sakharam Binder’, which was sought to be banned by an order that the Maharashtra Stage Performance Scrutiny Board had passed under the Bombay Police Act, 1951. That decision, which was challenged in the Bombay High Court, was set aside by Justice Kania (who later became the Chief Justice of India). *Ashok-bhai* requested the learned judge to watch the play, and a special performance was organised for the court. Thereafter, when the case was argued, the police order as well as the rule framed under the Bombay Police Act were struck down. Thus, theatre performances were released from the clutches of pre-censorship by the Maharashtra Stage Performance Scrutiny Board.

Yet another decision for which *Ashok-bhai* is credited, in the art and literature fields, pertains to the performance of the play ‘Ghashiram Kotwal’ (also written by Vijay Tendulkar). Brahmins from Pune had challenged the performance on the grounds that the play was derogatory to their image. This was also successfully defended by him in the Bombay High Court.

The making of ‘Sakharam Binder’ was subsequently made into a play in 2016; it was called ‘Sex and Censorship’. This performance even had two persons enact the characters of *Ashok-bhai* and Justice Kania, thus acknowledging the role each of them had played in keeping the freedom of speech and expression alive.

Being actively concerned about the legal fraternity, *Ashok-bhai* took a keen interest in matters related to the service tax and later on the GST levied on the legal profession. Cases challenging these levies were filed in the Bombay High Court and the Delhi High Court respectively, which subsequently moved up to the Supreme Court (where they are currently pending). He followed the progress of these cases minutely and would have at least 3–4 conversations on the subject in a year with me, since the Bombay Bar Association was the petitioner in the Bombay High Court, and later in the Supreme Court.

His first important case, which became a leading law on the interpretation of Article 14 of the Constitution of India as well as who constitutes ‘State’ under Article 12, was *Ramana Dayaram Shetty vs International Airport Authority of India*. This case was argued by *Ashok-bhai* in Delhi, while he was practising in Bombay. In 1978, a landmark decision was given out in this matter, pertaining to both Article 14 and Article 12 of the Constitution, although the petitioners did not get any relief. The law laid down by the Supreme Court in *Ramana Dayaram Shetty’s* case continues to be a guiding light even today on the subject of fairness in government action.

Although Ashok-*bhai* has argued a large number of cases both in the Bombay High Court and the Supreme Court, a few must be mentioned: PV Narasimha Rao's case about parliamentary privileges; Vineet Narain's case about Jain dairies and continuing mandamus; the Narmada Dam case, pertaining to environmental clearance received for the Sardar Sarovar Project; and, Amarinder Singh's case relating to legislative privilege and the right of a legislative house to expel a member for unbecoming conduct. This is, of course, in addition to the several commercial cases he argued, which have filled volumes of Law Reports.

The Shining Star

Ashok-*bhai* had stopped appearances in courts since the past few years. I had the opportunity to meet him last year, after a long time, when he attended the felicitation function of Nitin Thakker, held on the latter's completion of 50 years in law practice. Nitin-*bhai* too was one of his juniors. I then met Ashok-*bhai* again in Delhi, at a function organised by the Bar Association of India, in February 2020. I was privileged to dine with him at that function, where he also met his old friend VR Reddy (former Solicitor General of India and the Chairman of the Bar Council of India) and caught up on old times. Last month, I met him at a function in Willingdon Club, where his failing health was obvious despite him being amid the Mumbai crowd. That day, he had said that he wanted to go home early.

Even though he moved to Delhi, Ashok-*bhai* took great pride in being a member of the Bombay Bar Association. In 1966, he had written a well-researched article on the Bombay Bar Association, on the occasion of the centenary of the Association's recorded history. In 2016, with great enthusiasm, he had also attended the event marking the sesquicentenary celebrations of the Association's recorded history. A few years ago, he had delivered a lecture on public interest litigations at the Bombay Bar Association, as a part of the Association's continuing legal education programme.

In Ashok-*bhai*'s death, we have lost a legend in law, a magician of court craft, and a genius who will not only be remembered for the development of law, but also for the protection of democratic rights, civil liberties, and humanity. Ashok-*bhai* truly followed the Buddhist philosophy 'Fashion your life as garland of beautiful deeds' throughout his life. There has been and there will be nobody like him ever, on the legal horizon. We have indeed lost our pole star.

(The author is Senior Advocate, Bombay High Court and President – Bombay Bar Association)
