

# In memoriam

## Ashok Desai 1932-2020

IT was Madhu Dandavate, Minister of Finance in the Janata government, who, in December 1989, brought Ashok Desai from Bombay to Delhi. Ashokbhai came to the capital as the Solicitor General of India, in what was part of Soli Sorabjee's (the then Attorney General) team in the V.P. Singh government. Once here, he never went back.

Ashokbhai's shift to Delhi left behind a void in the Bombay Bar, which was never quite filled. To fully understand his place in the pantheon, a little digression is required. The Bombay Bar (to the unfamiliar) was the premier Bar of India from the 1950s all the way till the mid-80s. It gave to independent India its first Attorney General, Motilal Setalvad, and its first Chief Justice, Justice Harilal Kania. In the fifties, its unquestioned leader was Sir Jamshedji Kanga, who in turn made way for his two Chamber Juniors – Nani Palkhivala and H.M. Seervai.

Active private practice, however, soon eluded both of them, as Seervai went on to become Advocate General of Maharashtra, and thereafter, spent many years as A.G., away from his practice, writing his magnum opus, *Constitutional Law of India*. Nani too, soon left active practice and settled down in the comfort of the fourth floor (management) of Bombay House. He would occasionally leave the Tata boardrooms to argue important constitutional cases: R.C. Cooper (the bank nationalization challenge), Madhav Rao Scindia (the privy purses case) and, of course, Kesavananda Bharti (the fundamental rights case). He also would step out once a year to address a large crowd, in one of Bombay's maidans, to speak on the Union Budget.

So, with the partial exit of these stalwarts, the baton was handed over to two other chamber mates from Kanga's stable – Fali Nariman and Soli Sorabjee. Theirs was a fierce rivalry that lasted through a large part of their lives, and propelled both to the pinnacle of not only the Bombay Bar, but also the Supreme Court Bar. However, Fali left Bombay for Delhi in 1972, and Soli in 1977. The void post Soli's exit, left the Bombay Bar without any one undisputed leader. Anil Divan in the Writ Court, along with young Atul Setalvad, a brilliant K.S. Cooper, a successful Ashok Desai, and a very

young Iqbal Chagla, all made their mark, but none quite dominated the scene.

All this prevailed till the middle of April 1982. The date is clearly etched in my memory because my friend Navroz Seervai could not come to Delhi on the 17th of April 1982, to attend my wedding with Manik. He was instructing Ashok Desai in the Antulay case. Ashokbhai, despite a large commercial practice, had been no stranger to fighting for public causes. He had fought the case against the banning of Vijay Tendulkar's play *Sakharam Binder*; appeared for Pilo Mody in the Backbay Reclamation case; and during the Emergency had appeared for the *Bombay Law Reporter*. But, the Antulay case was to define Ashokbhai more than any other. Justice Lentin's judgement not only unseated a Chief Minister, it also coronated Ashokbhai as the undisputed leader of the Bombay Bar.

Those in the know inform me that after the Antulay case, Ashokbhai, with his shrewd eye for the big chance, increased his fee fourfold and, despite that, doubled his practice. He would charge 100 GMs (gold mohors) before the Antulay case; post that, he increased his fee to 400 GMs and never looked back. From 1982 till 1989, he remained the unquestioned king of the Bombay Bar. His affable nature and acute advocacy made him the darling of both the Bar and the Bench. Legend has it that when he shifted to Delhi, it took five Senior Counsel to come forward and absorb his practice.

On a personal note, though I had worked with Ashokbhai in the Swadeshi Polytex matter quite closely, in the year 1983 in the Supreme Court (the matter had gone on for months), it was not till the early '90s, when he began private practice in the Supreme Court, that he and I became really good friends. It was from '91 onwards that Ashokbhai and I began a regular, and later, a constant interaction, both on professional and personal fronts. The two cases that I personally remember interacting with him on extensively, were the Simbhaoli Sugar Mills case in the Delhi High Court and the Sharad Pawar election case in the Supreme Court.

Ashokbhai's style of advocacy was quite unique. He was pleasantly pushy and quietly persistent. If the judge did not bite on a particular point, he adroitly

sidestepped to another one, in order to pierce the judge's defences. He rarely got flustered, no matter how hostile the judge was to the arguments advanced and would always keep the atmosphere in court pleasant. As he once said to me, 'Raian, I never like to be told that a judge is against me, because I don't want it to subconsciously make me more defensive or aggressive when I address him.' Like all great advocates, he was able to ensure, many more times than not, that his client came out of court better off than when he went in.

Getting to know him at the personal level, as well as I did, I realized that Ashokbhai was a man of many parts and varied interests. His love for music encompassed both western and Indian classical. He was fond of literature. He married Suvarna, who, along with her sister, was one of the most famous Manipuri dancers of her time. Socialist in his political ideology and tending towards Buddhism in matters of religion, Ashokbhai was also a practitioner of Vipassana meditation. His simplicity and austerity encompassed a modern mind. Popular with all, he was admired, respected and loved by those who worked with him, especially his juniors. He was a very kind and caring friend, offering help when needed in the most unobtrusive and gentle kind of way. His friendship was rock solid.

Ashokbhai was a man of quiet principle, setting for himself very high standards of probity. I was particularly pleased that when the United Front government came to the fore in 1996, Vinod Pande, former Cabinet Secretary, and I, in some small measure, were able to persuade V.P. to speak to the then PM, Deve Gowda, to make Ashokbhai the Attorney General. Both Vinod and I felt it would be a fitting culmination to a glorious career. The Prime Minister agreed on one precondition, that he would first offer it to Fali Nariman, and only if Fali declined, would he appoint Ashokbhai. Factually, the then PM offered Fali both the position of Attorney General and also the post of Law Minister. It was only when Fali declined that Ashokbhai became Attorney General.

On the point I raised earlier, of Ashokbhai holding himself quietly to the highest standards, I remember years later Arun Jaitley, as Law Minister in Atalji's government, telling me that he had personally examined the records and found Ashokbhai was the only AG who had never once asked for special exemption as AG to appear for a private party.

Before I end this tribute, I want to allude particularly to one aspect of Ashokbhai's personality, and that was his ability to get along and be at ease with any kind of person, rich or poor, important or inconsequential.

I mentioned this to him once and the explanation he gave me was fascinating. He pointed out to me that despite being the son of Haribhai Desai, one of Bombay's leading criminal lawyers, he had studied till class 6 or 7 in a municipal school, which was called Bai Kabibai. 'You see Raian,' he said to me, 'I am, therefore, equally at home with a managing director of a large company as I am with the tonga boy's son.' With his passing away, the Bar has lost one of its true stalwarts, and both Manik and I have lost a true and good friend.

Here, I owe the reader an explanation, and the family an apology. This remembrance is a couple of months late. I had agreed to write for another paper a few months ago, but kept procrastinating. I am glad that Mala cajoled and bullied me to put pen to paper. More so because *Seminar* is a magazine that was close to Ashokbhai's heart, and he would have been glad to find himself being celebrated and remembered for posterity in its pages.

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