

Judicial Ethics and Conduct of Judicial Officers

- I.) Important observations in K.P.Singh vs. High Court of H.P. & ors. in LPA No. 163 of 2009, decided on 21.4.2011, by Division Bench of Hon'ble H.P. High Court, comprising of:

*Hon'ble Mr. Justice Kurian Joseph, Chief Justice and
Hon'ble Mr. Justice Deepak Gupta, Judge.*

Per Justice Kurian Joseph, C.J.

“Integrity according to Oxford dictionary is moral uprightness; honesty. It takes in its sweep, probity, innocence, trustfulness, openness, sincerity, blamelessness, immaculacy, rectitude, uprightness, virtuousness, righteousness, goodness, cleanness, decency, honour, reputation, nobility, irreproachability, purity, respectability, genuineness, moral excellence etc. In short it depicts sterling character with firm adherence to a code of moral values. ‘Judiciary is an integrity institution’. Therefore, Judicial Officers should possess the sterling quality of integrity. Integrity is the hallmark of judicial discipline apart from others as reminded by the Apex Court in **Tarak Singh vs. Jyoti Basu, (2005)1 SCC 201**. To quote:

“ Integrity is the hallmark of judicial discipline, apart from others. It is high time the judiciary took utmost care to see that the temple of justice does not crack from inside, which will lead to a catastrophe in the judicial-delivery system resulting in the failure of public confidence in the system. It must be remembered that woodpeckers inside pose a larger threat than the storm outside.”

Under the Bar Council of India Rules, an advocate shall, at all times, comport himself in a manner befitting his status as an officer of the court, a privileged member of the community; and a gentleman, bearing in mind that what may be lawful and a moral for a person who is not a member of the Bar, or for a member of the Bar in his non-professional capacity may still be improper for an advocate.

These attributes apply with equal force, nay, with stronger vigor to Judicial Officers. In **High Court of Judicature for Rajasthan vs. Ramesh Chand Paliwal, (1998) 2 SCC 72**, Judges have been described as ‘*hermits*’, further reminding that, “they have to live and behave like hermits, who have no desire or aspiration, having shed it through penance. Their mission is to supply light and not heat”. In **Tarak Singh’s case (supra)**, having regard to the plain truth that the judiciary is

also manned by human beings and yet in view of their privileged position, it was cautioned as follows:

“There is nothing wrong in a Judge having an ambition to achieve something, but if the ambition to achieve is likely to cause a compromise with his divine judicial duty, better not to pursue it. Because, if a Judge is too ambitious to achieve something materially, he becomes timid. When he becomes timid there will be a tendency to make a compromise between his divine duty and his personal interest. There will be a conflict between interest and duty.

In **High Court of Judicature at Bombay vs. Uday Singh, (1997) 5 SCC 129**, in the matter of maintenance of discipline, the Apex Court stated as follows:

.....“Maintenance of discipline in the judicial service is a paramount matter. Acceptability of the judgment depends upon the credibility of the conduct, honesty, integrity and character of the officer. The confidence of the litigating public gets affected or shaken by lack of integrity and character of Judicial Officer.”.....

In **Daya Shankar vs. High Court of Allahabad, (1987) 3 SCC 1**, the Supreme Court set the following standard:

“Judicial officers cannot have two standards, one in the court and another outside the court. They must have only one standard of

rectitude, honesty and integrity. They cannot act even remotely unworthy of the office they occupy.”

In **High Court of Judicature at Bombay vs. Shashikant S. Patil, (2000) 1 SCC 416**, in more emphatic words, it was stated that dishonesty is the stark antithesis of judicial probity, and

.....“ A dishonest judicial personage is an oxymoron”.....

Having regard to certain sporadic instances of lack of probity and integrity among some of the personnel who man this high office, it is high time that specific standards are set with regard to value system to be adopted and followed by the members serving in the temple of justice. No doubt, they are more self imposed than imposed. While dispensing justice, the messenger is also important as the message itself. A judge is judged not only by the quality of his judgments, but also by the quality and purity of his character and the measurable standard of that character is impeccable integrity reflected transparently in his personal life as well. One who corrects corruption should be incorruptible. That is the high standard, the public has set in such high offices of institutional integrity. Therefore, any departure from the pristine codes and values of discipline and disciplined conduct on the part of the judicial officers will

have to be viewed very seriously lest the very foundation of the system would be shaken and, if so, that will be the death knell of democracy.....

.....Honesty and integrity are the hallmarks of judicial probity. Dishonesty and lack of integrity are hence the basic elements of misconduct as far as a Judicial Officer is concerned.....

.....We may end up this epilogue quoting from the decision of the Supreme Court regarding the role of the High Court in such situations, reported in **High Court of Judicature Vrs. Shashikant Patel (supra)**:

“ Dishonesty is the stark antithesis of judicial probity. Any instance of a High Court condoning or compromising with a dishonest deed of one of its officers would only be contributing to erosion of the judicial foundation. Every hour we must remind ourselves that the judiciary floats only over the confidence of the people in its probity. Such confidence is the foundation on which the pillars of the judiciary are built.”

II.) Registrar General, Patna High Court vs. Pandey Gajendra Prasad, 2012 STPL(Web) 305 SC

“ There is no gainsaying that while it is imperative for the High Court to protect honest and upright judicial officers against motivated and concocted allegations, it is equally necessary for the High Court not to ignore or condone any **dishonest** deed on the part of any judicial officer. It needs little emphasis that the subordinate judiciary is the kingpin in the hierarchical system of administration of justice. It is the trial judge, who comes in contact with the litigant during the day to day proceedings in the court and, therefore, a heavy responsibility lies on him to build a solemn unpolluted atmosphere in the dispensation of justice which is an essential and inevitable feature in a civilized democratic society. In High Court of Judicature at Bombay vs. Shashikant S. Patil, (2000) 1 SCC 416, highlighting a marked and significant difference between a judicial service and other services, speaking for a bench of three Judges, K.T. Thomas, J. observed as follows:

“23. The Judges, at whatever level they may be, represent the State and its authority, unlike the bureaucracy or the members of the other service. Judicial service is not merely an employment nor the Judges merely employees. They exercise sovereign judicial power.

They are holders of public offices of great trust and responsibility. **If a judicial officer “tips the scales of justice its rippling effect would be disastrous and deleterious”. A dishonest judicial personage is an oxymoron.”**

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In **Rajendra Singh Verma (Dead) Through LRs. vs. Lieutenant Governor (NCT of Delhi), (2011) 10 SCC 1**, reiterating the principle laid down in *Shashikant S. Patil & Anr. (supra)*, this Court observed as follows:

“In case where the Full Court of the High Court recommends compulsory retirement of an officer, the High Court on the judicial side has to exercise great caution and circumspection in setting aside that order because it is a complement of all the Judges of the High Court who go into the question and it is possible that **in all cases evidence would not be forthcoming about integrity doubtful of a judicial officer.**”

It was further observed that:

“**If that authority bona fide forms an opinion that the integrity of a particular officer is doubtful, the correctness of that opinion cannot be challenged before courts.** When such a constitutional function is exercised on the administrative side of the High Court, any [pic] judicial review thereon should be made only with great care and circumspection and it must be confined strictly

to the parameters set by this Court in several reported decisions. When the appropriate authority forms bona fide opinion that compulsory retirement of a judicial officer is in public interest, the writ court under Article 226 or this Court under Article 32 would not interfere with the order.”
