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Integrity of Judicial Officers: Judicial trend

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ABSTRACT

The subordinate judiciary is the kingpin in the hierarchical system of administration of justice. A heavy responsibility lies on the trial judge to build a solemn unpolluted atmosphere in the dispensation of justice. Judicial officers do discharge a very sensitive and important constitutional role. Judicial officers must aspire and adhere to a higher standard of honesty, integrity and probity in their judicial life. The first and foremost quality required in a Judge is integrity. Honesty and integrity are regarded as the hallmarks of judicial probity. Dishonesty is, thus, considered as the stark antithesis of judicial probity. It is well recognized that Judicial service is not merely an employment nor judges merely employees, rather they are holders of public offices of heavy trust and responsibility. A Judge is judged not only by his quality of judgments but also by the quality and purity of his character. They cannot act even remotely unworthy of the office they occupy. Thus, for a democracy to thrive and the rule of law to survive, justice system and the judicial process have to be strong and every Judge must discharge his judicial functions with integrity, impartiality and intellectual honesty. It is high time that the judiciary took utmost care to see that the temple of justice does not crack from inside, which will undermine public confidence in the administration of justice system. The paper is an endeavor to examine the trend of the Supreme Court on the integrity of the judicial officers for ensuring an efficient and accountable subordinate judiciary in the country.

I. INTRODUCTION

Literally the term 'integrity' means moral uprightness. Its other dictionary meanings are honesty, probity, sincerity, uprightness, virtuousness, righteousness, decency and many more. In short it depicts sterling character with firm adherence to a code of moral values. Maintenance of honesty in the judicial service is a paramount matter. The judgment of a judicial officer is ordinarily accepted based upon the reasons it is arrived at. However, people also look at 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. The Judicial officers manning the subordinate judiciary cannot have two standards, one in the court and another outside the court. They must have only one standard of rectitude, honesty and integrity.

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They cannot act even remotely unworthy of the office they occupy. A high standard of honesty, endurance and legal soundness is required of a judge.

As a public servant, a Judge should always remember that he is there to serve the public. Impeccable integrity should be reflected both in public and personal life of a Judge. Judges must remember that they are not merely employees but hold high public office. The service which the judges render to the society is to ensure justice is delivered and injustice is redressed. Standard of conduct and rectitude required of a judge both on and off the bench are high. A judge should not indulge in any conduct which will undermine public confidence in the integrity and impartiality of the court. He must perform the judicial function without fear and favour. The judges must remain always honourable. The Courts of higher judiciary have been constantly monitoring the working of subordinate judiciary in the country. The paper discusses the trend of the Supreme Court of India on the integrity of judicial officers for ensuring an efficient and accountable subordinate judiciary.

II. SUBORDINATE JUDICIARY OF INDIA

Chapter VI of the Constitution of India deals with subordinate judiciary, the courts at district level below the High Courts in a state. As per Article 233 of the Constitution, district judges are appointed by the Governor of the State in consultation with the High Court. Article 234 provides that the appointments other than district judges to the judicial service of a state shall be made by the Governor of the State as per Rules after consultation with the Public Service Commission and the High Court. As observed by a nine-Judge Bench of the Supreme Court², appointment of a person to be a District Judge rests with the Governor, but he cannot make the appointment unless there has been an effective and meaningful consultation with the High Court or the High Court has recommended the appointment. The power of the Governor under Article 233(1) in the matter of appointment of District Judges can only be exercised in consultation with the High Court. In other words, the High Court's recommendation for the appointment of judicial officers of Subordinate Courts should be accepted by the State Government and the Governor is bound to act on the High Court's recommendation only. Efficient and proper judicial administration being the main object, both the High Court and the State Government must necessarily approach the question in a detached manner³.

Earlier, minimum three years' practice as a lawyer was an essential qualifications for appointment as a judicial officer at the lowest rung. However, in *All India Judges' Association*

² Supreme Court Advocates-on-Record Association and Ors. v. Union of India, (1993) 4 SCC 441.

³ Madan Mohan Choudhary v. State of Bihar and Others, (1999) 3 SCC 396.

(III) case⁴, the Supreme Court accepted the Shetty Commission Report⁵ and discarded three years' practice as unnecessary. Now a fresh law graduate, without any practical skills like conduct in the court, can become a judicial officer. Article 235 empowers the High Court to control over the district courts and courts subordinate thereto including the posting and promotions and disciplinary proceedings, the grant of leave to judicial officers of the State. The High Court is the custodian of the dignity and majesty of law in the State, concerning not only itself but also all courts subordinate to it. The exercise of control by the High Court over subordinate courts is effective enough to make its influence felt in determining the integrity, independence and efficiency of the services so as to have a material effect on the quality of justice administered by those courts. The word "control" referred to in Article 235 is used in a comprehensive sense to include general superintendence of the working of the Subordinate Courts. In other words the control vested in the High Court under this Article is complete control, subject only to the power of the Governor in the matter of appointment and promotion of District Judges. The provision under this Article is to ensure independence of subordinate judiciary. The control of High Court over subordinate judiciary is comprehensive, exclusive and effective and it is to subserve the basic feature of the Constitution that is independence of judiciary⁶.

III. INSPECTION BY THE HIGH COURT

Inspection of the subordinate courts is one of the most important functions which the High Court performs for control over the subordinate courts. The object of such inspection is for the purpose of assessment of the work performed by the Subordinate Judge, his capability, integrity and competency. Since Judges are human beings and also prone to all the human failings, inspection provides an opportunity for pointing out mistakes so that they are avoided in future and deficiencies, if any, in the working of the subordinate court, remedied. Inspection should act as a catalyst in inspiring Subordinate Judges to give the best results. Inspection of a subordinate court is thus of vital importance. It has to be both effective and productive. Inspection of subordinate courts is not a one-day or an hour or a few minutes' affair. It has to go on all the year round by monitoring the work of the court by the Inspecting Judge. A casual inspection can hardly be beneficial to a judicial system. A Judge is required to decide the case only on the basis of the facts on record and the law applicable to the case. If a Judge decides a case for any extraneous reasons then he is not performing his duty in accordance with law. In

⁴ All India Judges' Association and Others v. Union of India and Others, (2002) 4 SCC 247.

⁵ Report on service conditions of Judges submitted on 11 November, 1999.

⁶ Prakash Singh Badal and Another v. State of Punjab and Others (2007) 1 SCC 1.

such situation the High Court would take appropriate steps for weeding out the person who is polluting the justice delivery system. In *Nawal Singh v. State of U.P. and another*⁷, the Supreme Court observed that judiciary cannot afford service of persons of doubtful integrity or who have lost their utility. It was also reiterated that for keeping the stream of justice unpolluted, repeated scrutiny of service records of judicial officers after a specified age/completion of specified years of service provided under the Rules is a must by each and every High Court as the lower judiciary is the foundation of the judicial system.

As observed by the Supreme Court in *High Court of Judicature at Bombay through its Registrars v. Shirishkumar Rangrao Patil and Another*⁸ the mandate of Article 235 of the Constitution is that the High Court has to maintain constant vigil on its subordinate judiciary. In the instant case, the Court also observed that the lymph nodes (cancerous cells) of corruption constantly keep creeping into the vital veins of the judiciary and need to stem it out by judicial surgery lies on the judiciary itself by its self-imposed or corrective measures or disciplinary action under the doctrine of control enshrined in Articles 235. Thus, Article 235 of the Constitution of India enables the High Court to assess the performance of any judicial officer at any time with a view to discipline the black sheep or weed out the deadwood, and this constitutional power of the High Court cannot be circumscribed by any rule or order. The High Court alone is entitled to initiate, to hold enquiry and to take a decision in respect of dismissal, removal, reduction in rank or termination from service, but the formal order to give effect to such a decision has to be passed only by the State Governor on the recommendation of the High Court. It is now settled that the control of the subordinate judiciary under Article 235 is vested in the High Court. After the appointment of the judicial officers by the Governor, the power to transfer, maintain discipline and keep control over them vests in the High Court. In *Chandra Singh v. State of Rajasthan*⁹, the Supreme Court emphatically held:

“Article 235 of the Constitution of India enables the High Court to assess the performance of any judicial officer at any time with a view to discipline the black sheep or weed out the deadwood. This constitutional power of the High Court cannot be circumscribed by any rule or order...The nature of judicial service is such that it cannot afford to suffer continuance in service of persons of doubtful integrity or who have lost their utility.”

IV. TREND OF THE SUPREME COURT

The Supreme Court of India in catena of cases consistently held that dishonesty is the stark

⁷ (2003) 8 SCC 117.

⁸ (1997) 6 SCC 339.

⁹ (2003) 6 SCC 545.

antithesis of judicial probity. It has amply been reiterated by the Apex Court that judicial officers must aspire and adhere to a higher standard of honesty, integrity and probity. The behaviour of a Judge has to be of an exacting standard, both inside and outside the court. In *C. Ravichandran Iyer v. Justice A.M. Bhattacharjee*¹⁰, the Supreme Court observed:

“Judicial office is essentially a public trust. Society is, therefore, entitled to expect that a Judge must be a man of high Integrity, honesty and required to have moral vigour, ethical firmness and impervious to corrupt or venial influences. He is required to keep most exacting standards of propriety in judicial conduct. Any conduct which tends to undermine public confidence in the integrity and impartiality of the Court would be deleterious to the efficacy of judicial process. Society, therefore, expects higher standards of conduct and rectitude from a Judge... It is, therefore, a basic requirement that a Judge's official and personal conduct be free from impropriety; the same must be in tune with the highest standard of propriety and probity. The standard of conduct is higher than that expected of a layman and also higher than that expected of an advocate. In fact, even his private life must adhere to high standards or probity and propriety, higher than those deemed acceptable for others. Therefore, the Judge can ill-afford to seek shelter from the fallen standard in the society.”

In *Daya Shankar v. High Court of Allahabad*¹¹, the Supreme Court held: “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 the case of *Tarak Singh v. Jyoti Basu*¹², the Supreme Court observed: “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 justice 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.” It was also observed that 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.

In the landmark case of *R.C. Chandel v. High Court of MP*¹³, the Supreme Court held:

“The standard of conduct expected of a judge is much higher than that of an ordinary person.

¹⁰ (1995) 5 SCC 457.

¹¹ (1987) 3 SCC 1.

¹² (2005) 1 SCC 201.

¹³ (2012) 8 SCC 58.

The judicial service is not an ordinary government service and the Judges are not employees; judges hold the public office; their function is one of the essential functions of the State. In discharge of their functions and duties, the judges represent the State and the office that a Judge holds is an office of public trust. It further held that a Judge must be a person of impeccable integrity and unimpeachable independence. He must be honest to the core with high moral values. When a litigant enters the courtroom, he must feel secured that the Judge before whom his matter has come, would deliver justice impartially and uninfluenced by any consideration.”

In *Shrirang Yadavrao Waghmare v. State of Maharashtra*¹⁴, the Supreme Court observed:

“The first and foremost quality required in a Judge is integrity. The need of integrity in the judiciary is much higher than in other institutions. The judiciary is an institution whose foundations are based on honesty and integrity. It is, therefore, necessary that judicial officers should possess the sterling quality of integrity... A Judge is judged not only by his quality of judgments but also by the quality and purity of his character. Impeccable integrity should be reflected both in public and personal life of a Judge. One who stands in judgments over others should be incorruptible. Every Judge must discharge his judicial functions with integrity, impartiality and intellectual honesty.”

The Apex Court, in the case of *Ram Murti Yadav v. State of Uttar Pradesh and Another*¹⁵, held that a person discharging judicial duties acts on behalf of the State in discharge of its sovereign functions and dispensation of justice is not only an onerous duty but has been considered as akin to discharge of a pious duty, and therefore, is a very serious matter. The standards of probity, conduct, integrity that may be relevant for discharge of duties by a careerist in another job cannot be the same for a judicial officer... It has to be kept in mind that a person seeking justice, has the first exposure to the justice delivery system at the level of subordinate judiciary, and thus a sense of injustice can have serious repercussions not only on that individual but can have its fall out in the society as well. It is therefore absolutely necessary that the ordinary litigant must have complete faith at this level and no impression can be afforded to be given to a litigant which may even create a perception to the contrary as the consequences can be very damaging.”

Recently, in *Sadhna Chaudhary v. State of Uttar Pradesh*¹⁶, the Supreme Court observed: “Judicial officers do discharge a very sensitive and important constitutional role. They not only keep in check excesses of the executive, safeguard citizens' rights and maintain law and order.

¹⁴ (2019) 9 SCC 144.

¹⁵ (2020) 1 SCC 801.

¹⁶ Civil Appeal No. 2077 of 2020 decided on 6 March, 2020.

It is courts, which uphold the law and ensure its enforcement. They instil trust of the constitutional order in people, and ensure the majesty of law and adherence to its principles. Hence, it is necessary that any corruption or deviation from judicial propriety by the guardians of law themselves, be dealt with sternly and swiftly.”

V. CONCLUSION

It is evident from the judgments examined in the preceding paragraphs that integrity of a judge is a basic pillar of the entire justice system and the public has a right to demand an irreproachable conduct from anyone performing judicial functions. 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. It is apt to say that a judge must be a person of impeccable integrity and unimpeachable independence. Judicial officers must remind themselves that the judiciary floats only over the confidence of the people in its probity and such confidence is the foundation on which the pillars of the judiciary are built. They are expected to have high standards and ethical firmness. The credibility of the judicial system is dependent upon the judges who man it. Therefore, any departure from the pristine codes and values of discipline and disciplined conduct on the part of the judicial officers must be taken seriously lest the very foundation of the system would be shaken. The conduct of every judicial officer should be above reproach. Considering the nature of the judicial office and the independence of the judiciary, personal conduct and official conduct of men who preside over this branch of state has to be approached with care and caution. When the edifice of judiciary is built heavily on public confidence and respect, the damage by an obstinate Judge would rip apart the entire judicial structure. The personal conduct of a Judicial Officer must be free from any taint. This basic structure of the subordinate judiciary cannot be compromised at any cost.
