

STRUCTURE OF OUR JUDICIAL SYSTEM

Justice D. S. Sinha

Hon'ble Mr. Justice A.N. Gupta, Chairman, Mr. D.P. Gupta, Director of the Institute. Mr. N.K. Mehrotra, Principal Secretary (Judicial) & L.R., U.P. Government, Faculty Members and all the loving brethren of Judicial fraternity.

I am delighted to be here with you on this occasion of inauguration of Refresher Training Programme for Additional District Judges conducted by the Institute of Judicial Training and Research, Uttar Pradesh, Lucknow. I thank the authorities of the Institute immensely for giving me this opportunity. Mr. U.C. Dhyani, Mr. Justice Gupta, Mr. Mehrotra and other speakers have described courts as temple of justice. It is customary to describe courts as temples of justice, with the Judge as presiding deity. Such a comparison suggests, to my mind, the purity of thought and deed and transcendence of the duality leading to unison in a noble purpose i.e. dispensation of justice, according to law, not rough justice, at various levels, including the foundation level at which you are.

In the organic structure of our judicial system, the level held by you occupies the place of eyes, ears, hands and legs, without which the higher levels cannot function. To be precise, the subordinate judiciary holds a pivotal position in the body of our judicial system. Subordinate judiciary is the root from which stem and on which stand all other higher levels of judiciary.

Exactly, what I mean to say is that the subordinate judiciary directly hears the parties to a dispute, considers their pleadings of woes and makes attempts at resolution of the conflicting claims of the rival parties, directly at the inception. With the effective assistance of the lawyers, not the pseudo one merely donning the Lawyers' -robes, horoscope of the case, i.e. pleading is charted at the subordinate judiciary. The intricate job of meaningful reading and interpretation of the horoscope is at subordinate judiciary. In the process, it undertakes the fine job of sifting truth which is, more often than not, found inextricably mixed with falsehood and perjury. Thus, the

Inaugural Address by the Chief Guest Hon'ble Mr. Justice D.S. Sinha the Acting Chief Justice of the High Court of Judicature at Allahabad at the Refresher Training Programme of Additional District Judges on Saturday, the 6th May, 2000 at Institute of Judicial Training & Research, Uttar Pradesh, Lucknow.

distinguished advantage that the subordinate judiciary enjoys is indisputably superior. It is through the critical view of subordinate judiciary and the dispassionate value of its functioning that the true picture of the Indian Judiciary, as a whole, presents itself to the nation.

The mind of the Indian Judiciary can be known to the millions only through the actions of subordinate judiciary. For an overwhelming majority of the litigants what is real and existing is the subordinate judiciary only. Without a healthy subordinate judiciary, there cannot be a healthy judiciary. Nothing is, therefore, more important for us all than to preserve, protect and defend the independence and integrity of the subordinate judiciary.

Only an independent subordinate judiciary will prove to be an asset to the nation. It is, therefore, essential for the successful functioning of the judiciary as a whole that the subordinate judiciary is encouraged to think independently and to act justly and decide fairly between the parties. In a heterogeneous society such as ours where caste loyalties are still strong and in poverty ridden and illiterate country such as ours where political power is feared and money is worshipped, the threat to the independence of judiciary arises as much from the society as from the State. Only a well trained and well informed subordinate judiciary can be trusted to be independent and equal to its task of rendering justice.

Let us remind ourselves of what Lord Bacon said in his essay on Judicature "The principal duty of a judge is to suppress force and fraud". Elaborating these golden words of Lord Bacon observed Lord Denning, M.R. "As a part of this it is the duty of a judge to denounce wrong doing when it is established before him. He speaks for all law abiding citizens. His words uphold the opinion of good. And shake confidence of the wicked. By condemning wrong doing, he re-inforces the moral sanction on which law and order so much depend".

In the millennium year, the first thing we in the judiciary shall have to take care of, is to see that the arrears of court cases which have mounted till now get eradicated at the earliest. This cannot be possible without the full and unstinted co-operation of the members of the Bar and the presiding judges, as partners in the great task of administration of justice. Human hope has its limits and waiting endlessly is not possible in the current life style. The consumer of justice wants unpolluted, expeditious and inexpensive justice. In absence of it, instead of taking recourse to law, he may be tempted to take law in his own hands. This is what the judicial

system shall have to guard against so that people do not take recourse to extra judicial methods to settle scores and seek redress of their grievance. If this tendency proliferates it would be a sad day for the constitutional democracy to which we are all wedded. The lack of a speedy dispute resolution mechanism has a direct impact on the level of lawlessness in our society. A peaceful society is a necessary precondition for any kind of development. Let me, however, hasten to add that the over-flowing dockets of the Courts all over the country should not be taken as a sign of failure of the system but a sign of faith in the administration of justice by those who are involved in litigation. Public resort to Court to suppress public mischief is a tribute to the justice delivery system. Though it is a fact that arrears have mounted and the judiciary cannot escape criticism yet it cannot be denied that the Executive as well as the Legislature are also partly responsible therefor. Besides taking their own time to fill up the vacancies, the Executive has invariably failed to provide necessary infrastructure to enable the judiciary to function normally. The financial control being with the Executive, many courts have to function without the requisite infrastructure, specially furniture or library, and adequate efficient staff. In spite of all odds against us, we are functioning to the satisfaction of the majority of the people.

One of the causes of delay in the disposal of cases is "Judge made". Lack of punctuality, laxity, lack of control over the case file and court proceedings contribute in no small measure to the delay in disposal of cases. The grant of unnecessary adjournments, on the mere asking or on account of "strike call", add to the problem. Court time is sacrosanct and no Judge or the member of the Bar has any right to waste it. The Judges at all levels must always respect the court time and remain punctual. No laxity in that behalf is permissible. Not adhering strictly to court timings is serious aberration. It must be avoided at all costs. The delay in pronouncing judgements is yet another aspect on which we, the judges, at all levels must address ourselves. It causes anguish to the litigant and can become a cause of "suspicion". The inordinate delay in delivering judgements is almost inexcusable. Let us on this occasion resolve not to become parties to slow motion justice.

It is well known that Rule of Law sustains democracy and it is equally true that to a bold and independent judiciary is assigned the task of maintaining Rule of Law. The impartiality and independence of the judiciary, however, depends on the high standards of conduct followed by judges.

Only if the highest possible standards are adhered to, can the faith of the common man in the judiciary be maintained. The judiciary cannot afford to adopt an uncritical attitude towards itself. We Judges, at all levels, must make ourselves accountable and ensure that our actions are transparent and are within the parameters set by the Constitution. The judiciary must follow those standards of morality and behaviour which it sets for others, and as a matter of fact before laying down standards of behaviour for others the judiciary must demonstrate that the same standards apply to it and are being followed by it. Constant evaluation of the functioning of the institution needs, therefore, to be encouraged. The greatest threat to the independence of judiciary is the erosion of credibility of the judiciary in the mind of public, for whatever reasons. Lord Denning once said : “Justice is rooted in confidence, and confidence is destroyed when right minded go away thinking that ‘the Judge is biased.’”

It cannot be gainsaid that if a Judge decides wrongly, out of motives of self-promotion, he is no less guilty of corruption than a Judge who decides wrongly out of motives of financial gain. In either case the incumbent of the office cannot be said to be worthy of being a Judge. His conduct affects the credibility of the Institution. Constant vigil by the Judges is, therefore, absolutely necessary. There must be proper balancing of judicial independence on the one hand and the behaviour and conduct of Judges who operate the justice delivery system on the other. “Cerberus must not be seduced from vigilance by a sop”. The greatest asset and the strongest weapon in the armory of the judiciary, said Justice H.R. Khanna in his Tagore Law Lectures in 1985 is “the confidence it commands and the faith it inspires in the minds of the people in its capacity to do even handed justice and keep the scales in balance in any dispute”. By and large the Uttar Pradesh Judiciary has enjoyed immense public confidence. The common man considers the judiciary as ‘the ultimate guardian of his rights and liberties’. This institution has stood the test of time, and we owe it to the great institution to which we belong that we maintain the confidence of the common man in the judiciary by giving even handed justice in all cases. No institution can take, for granted, the respect of the community, which has high expectations and constantly demands proof of utility of the institution.

I wish all the success.



Thanks again.