



# *Hand Book of Trainee Judicial Officers*

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# **HAND BOOK OF TRAINEE JUDICIAL OFFICERS**



**CHANDIGARH JUDICIAL ACADEMY**  
Sector - 43 D, Chandigarh

## INDEX

Code of Conduct .....	1 - 3
Canons of Judicial Ethics .....	5 - 10
The Govt. Employees (Conduct) Rules, 1966 - Punjab .....	11 - 26
Haryana Civil Services (Government Employees Conduct) Rules, 2016 .....	27 - 43

## ARTICLES

First M.C. Setalvad Memorial Lecture delivered by Hon'ble Shri R.C. Lahoti, Chief Justice of India. ....	45 - 63
The Culture of a Judge Hon'ble Shri R.C. Lahoti, Judge Supreme Court of India .....	65 - 71

# **Code of Conduct**

## **CODE OF CONDUCT**

1. The Trainee Judicial Officers would report their joining in the administrative office of Director (Administration) before the date of commencement of the course.
2. In case any Trainee Judicial Officer does not join on the specified date, he/she shall be required to report to the Director (Administration) of the Academy for submitting the late joining as per reasons notified in the application. Such joining shall be permitted only upto two days and beyond that the papers shall be put up to the Hon'ble Board of Governors for accepting the joining.
3. Such delay in joining shall be notified to the Hon'ble High Court by the Academy with a copy to the respective District & Sessions Judge of the Sessions Division.
4. It shall be necessary for the Trainee Judicial Officers to reside in the Academy during the Induction Training Course except on holidays with the permission of the Director (Admn.). The exemption from stay under compelling special circumstances in the hostel shall be considered only by the President, Board of Governors (decided by the Hon'ble Board of Governors in its meeting dated 14.07.2014).
5. The respective rooms shall be occupied by the Trainee Judicial Officers as allotted by the Office of Registrar and possession delivered accordingly. The slip, indicating the articles delivered, shall be signed by the Trainee Judicial Officer(s) in duplicate and one such slip shall be delivered to the Hostel Incharge to be taken on the dozier to be opened by Office of Registrar of each Trainee Judicial Officer. The Trainee Judicial Officers shall have to vacate the rooms allotted to them when they are sent for field training except when the period of field training is for one week or so.
6. It is expected of the Trainee Judicial Officers that the electric energy shall be used discreetly and in a friendly manner. As and when they leave the room for a longer period, they must switch off the lights and power points including the A.C. when in use.
7. **YOGA CLASSES**
  - (i) It is compulsory to attend Yoga Classes.
  - (ii) Timing of the Yoga classes shall be notified accordingly.
  - (iii) Absence from such classes shall be notified to the Office of Registrar daily, who shall put up before the Director (Admn.) for appropriate order.
  - (iv) It shall be compulsory to attend 70% exercise classes of Yoga unless otherwise exempted for valid reasons at the request of the Trainee Judicial Officer.
  - (v) Each Trainee Judicial Officer shall be issued a mattress by the Store Incharge for the purpose of performing Yoga in the class and that this mattress shall remain with the Trainee Judicial Officer till the completion of the course and the same shall be returned to the Store Incharge.
8. Trainee Judicial Officers would be attending the lectures as per the curricula and the time-table/weekly schedule notified by the Director (Academics).
9. It shall be compulsory for the Trainee Judicial Officers to attend 85% of the lectures all around and 15% exemption or leave shall be available only on account of illness, casual

leave/leave of the kind due, sanctioned by the competent authority. No Trainee Judicial Officer shall be entitled to absent himself/herself for any other reason whatsoever.

10. Trainee Judicial Officers shall record their presence under their own signatures upon the Presence Register placed outside the Lecture Theatre. Trainee Judicial Officers shall report at the Lecture Theatre ten minutes before the commencement of the class positively. In case any Trainee Judicial Officer registers later, he or she shall enter the time while affixing signatures. The Concerned Faculty Member would be entitled to call for the explanation of the Trainee Judicial Officer. If such repetitions are more than three times, the same shall be notified through Protocol Officer. The aforesaid register shall be maintained by the Office Superintendent but shall be controlled by Protocol Officer and its staff in the course of the day and at the end shall be deposited with the Officer Superintendent to be checked at random by the Director (Academics)/Admn.

#### 11. **DRESS CODE**

- (i) The dress code shall be official i.e. Court Dress, shall be strictly adhered to during the working hours in the Academy except as and when notified differently by the Academy.
- (ii) Dress Code during meals shall be formal as may be prescribed by the Director (Admn.)
- (iii) There shall be compulsory dress code for the Yoga Classes, as may be prescribed by the Director (Admn.).
- (iv) After the Academy hours : Informal but it must be complete and decent dress.

12. Library books shall be used as per the instructions issued by the Director (Academics).

13. **ASSESSMENT REPORT** Only on satisfactory completion of the Training, the Trainee Judicial Officer shall be issued the Induction Training Certificate.

#### 14. **LEAVE : Grant of Casual Leave/Earned Leave to Trainee Judicial Officers**

There are three important situations where Casual leave is claimed by the Trainees i.e. (i) in case of emergency (ii) on Medical grounds and (iii) for other reasons.

The Director (Admn.) on arriving at the satisfaction that an emergent situation has arisen may grant casual leave to a Trainee.

Director (Admn.) shall exercise administrative control over the Trainee Judicial Officers during the period of their training, subject to confirmation of the competent Authority.

15. Medical Leave shall be accepted only after it is certified by the Medical Officer/Superintendent, Sector 16 Hospital, Chandigarh. Certificate from any other Medical Practitioner regarding illness of the Trainee Judicial Officer may be accepted by the Director (Admn.) if he is satisfied regarding the genuineness of the illness/certificate.
16. **MESS** : The Trainee Judicial Officer shall be served three meals i.e. breakfast, lunch and dinner and tea twice a day on actual charges basis per day. However, in case the Trainee Judicial Officer does not want meals to be taken in Academy for any day for valid reason including leave, he/she will indicate in advance by 24 hours to the Director (Admn.). In such a situation, he/she would not be liable to pay the charges to the

Academy for that particular day. It may be clarified that missing of one meal shall be of no consequence. However, no meal shall be served to the Trainee Judicial Officer in the room except on Medical grounds.

17. **COMPLAINTS :** Any complaint in regard to the food, service, quality etc. should be made in writing to the office of Registrar which shall be put up before the Director (Admn.) for further orders.

18. **MESS TIMINGS**

Morning Tea	6.00 AM to 6.30 AM
Breakfast	8.30 AM to 9.30 AM
Lunch	1.00 PM to 1.45 PM
Evening Tea	5.00 PM to 5.30 PM
Dinner	8.00 PM to 9.30 PM

**Note 1.** Any Trainee Judicial Officer going out of the Academy premises after the lecture timings shall be back in the premises by 8.00 PM.

**Note. 2.** In case, Trainee Judicial Officer is not joining for dinner and has duly intimated, shall have to return before 10.00 PM.

19. **DECORUM :** Trainee Judicial Officers are expected to maintain proper decorum during the period of training within and outside the Academy Campus.

Indiscipline of any kind, which may come to the notice of the Director (Admn.) or Director (Academics), at the instance of any member of the staff or otherwise, shall be viewed seriously. Any indiscipline caused by the Trainee Judicial Officer outside the Academy premises, shall also be taken as a serious misconduct. The Trainee Judicial Officers must know that even while on training, their work and conduct, for the purpose of successful completion of period of probation or the Conduct Rules as applicable to them, shall be thoroughly observed and watched.

Any complaint or dispute inter-se Trainee Judicial Officers shall be put or brought before the Director (Admn.) forthwith.

20. Trainee Judicial Officers shall be required to obtain “No Dues Certificate” from the concerned quarters within one week before the conclusion of the Course. Relieving slip shall be issued by the Office of Director (Admn.) upon production of “No Dues Certificate”.

21. **ACADEMY TIMING**

Working/Training Timings of TJOs shall be as under:

9:45 AM to 5.00 PM or as may be notified by Director (Admn.) in consultation with Director (Academics).

Director (Admn.)

Chandigarh Judicial Academy



# **Canons of Judicial Ethics**

## <sup>1</sup>CANONS OF JUDICIAL ETHICS

In 1953 the High Court issued the following circular letter to all District and Sessions Judges in the Punjab and Delhi and forwarded a set of rules for the guidance of all Judicial Officers.

I am desired by the Honorable the Chief Justice and Judges to forward herewith a set of rules framed by this Court for the information and guidance of all judicial officers. These rules have not been framed in exercise of powers conferred by any statute and must, therefore, be regarded as canons for professional conduct of judicial officers. They should be used as a reminder for judges and as indicating what the people have a right to expect from them. They are being issued as a general guide, but the enumeration of particular duties should not be construed as a denial of the existence of others equally imperative though not specifically mentioned. It is of the utmost importance that the public should have absolute confidence in the integrity and impartiality of judicial officers.

These canons of ethics should be deemed to be in addition to and not in derogation of the Government Servants Conduct Rules.

As justice delayed is justice denied, I am to request that all judicial officers should be asked to dispose of the cases pending in their Courts as early as possible. In this connection, I am to invite a reference to this Court's demi-official circular letter No. 11733-E/IX-A 16, dated the 15th December, 1949.

1. **RELATIONS OF THE JUDICIARY** — the assumption of the office of judge casts upon the incumbent duties in respect to his personal conduct which concern his relation to the state and its inhabitants, the litigants before him, the principles of law, the practitioners of law in his court, and the witnesses, jurors, assessors and attendants who aid him in the administration of its functions.
2. **THE PUBLIC INTEREST** — courts exist to promote justice, and thus to serve the public interest. Their administration should be speedy and careful. Every judge should at all times be careful in his decisions and in the conduct of the business of the court, so far as he can, to make it useful to litigants and to the community. He should avoid unconsciously falling into the attitude of mind that the litigants are made for the courts instead of the courts for the litigants.
3. **CONSTITUTIONAL OBLIGATIONS** — it is the duty of all judges in this country to support the constitution of India; in so doing, they should secure to the citizens of India the fundamental rights which have been guaranteed to them.
4. **AVOIDANCE OF IMPROPRIETY** — a judge's official conduct should be free from impropriety and the appearance of impropriety; he should avoid infractions of law; and his personal behaviour, not only in court and in the performance of judicial duties but also in his everyday life, should be beyond reproach.
5. **ESSENTIAL CONDUCT** — he should be temperate, attentive, patient, impartial, and, since he is to administer the law and apply it to the facts, he should be studious of the principles of the law and diligent in endeavouring to ascertain the facts.
6. **INDUSTRY** — he should exhibit an industry and application commensurate with the duties imposed upon him.

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1 Rules and Orders of The Punjab High Court – Volume IV

7. **PROMPTNESS AND PUNCTUALITY** — he should be prompt and punctual in the performance of his judicial duties, recognising that the time of counsel, litigants, and jurors is of value and that habitual lack of punctuality on his part justifies dissatisfaction with the administration of the business of the court.
8. **COURT ORGANIZATION** — he should organise the court with a view to the prompt and convenient despatch of its business and he should not tolerate abuses and neglect by clerks, and other assistants who are some-times prone to presume too much upon his good natured acquiescence by reason of friendly association with him.

It is desirable too that he should co-operate with other judges of the same court, and in other courts, as members of a single judicial system, to promote the more satisfactory administration of justice.

9. **CONSIDERATION FOR JURORS AND OTHERS** — he should be considerate of counsel, jurors, assessors, witnesses and others in attendance upon the court.
10. **COURTESY AND CIVILITY** — he should be courteous to counsel, especially to those who are young and inexperienced and also to all others appearing or concerned in the administration of justice in the court.

He should also require, and, so far as his power extends, enforce on the part of clerks, court officers and counsel, civility and courtesy to the court and to jurors, assessors, witnesses, litigants and other having business in the court.

11. **UNPROFESSIONAL CONDUCT OF COUNSEL** — he should utilize his opportunities to criticise and correct unprofessional conduct of counsel, brought to his attention ; and, if adverse comment is not a sufficient corrective, should report the matter at once to the high court.
12. **APPOINTEES OF THE JUDICIARY AND THEIR ALLOWANCES AND FEES** — trustees receivers, liquidators, guardians and other persons appointed by a judge to aid in the administration of justice should have the strictest probity and impartiality and should be selected with a view solely to their character and fitness. The power of making such appointments should not be exercised by him for personal, partisan or communal advantage. He should not permit his appointment to be controlled by others than himself. He should also avoid nepotism and undue favouritism in his appointments.

While not hesitating to fix or approve just amounts, he should be most scrupulous in granting or approving compensation for the services or charges of such appointees to avoid excessive allowances or fees, whether or not expected to or complained of. He cannot rid himself of this responsibility by the consent of counsel.

13. **KINSHIP OR INFLUENCE** — he should not deal with a suit, appeal or application or act in a controversy where a near relative is a party; he should not suffer his conduct to justify the impression that any person can improperly influence him or unduly enjoy his favour, or that he is affected by the kinship, rank, position or influence of any party or other person.
14. **INDEPENDENCE** — he should not be swayed by partisan or communal demands, public clamour or considerations of personal popularity or notoriety, nor be apprehensive of unjust criticism.

15. **INTERFERENCE IN CONDUCT OF TRIAL** — he may properly intervene in a trial of a case to promote expedition, and prevent unnecessary waste of time, or to clear up some obscurity, but he should bear in mind that his undue interference, impatience, or participation in the examination of witnesses, or a severe attitude on his part toward witnesses, especially those who are excited or terrified by the unusual circumstances of a trial may tend to prevent the proper presentation of the cause, or the ascertainment of the truth in respect thereto.

Conversation between the judge and counsel in court is often necessary but the judge should be studious to avoid controversies which are apt to obscure the merits of the dispute between litigants and lead to its unjust disposition. In addressing counsel, litigants, or witnesses, he should avoid a controversial manner or tone.

He should avoid interruptions of counsel in their arguments except to clarify his mind as their positions, and he should not be tempted to the unnecessary display of learning or a premature judgment.

16. **EX PARTE APPLICATIONS** — he should discourage *ex parte* hearings of applications for injunctions and receiverships where the orders may work detriment to absent parties; he should act upon such *ex parte* application only where the necessity for quick action is clearly shown; if this be demonstrated, then he should endeavour to counteract the effect of the absence of opposing counsel by a scrupulous cross-examination and investigation as to the facts and the principles of law on which the application is based, granting relief only when fully satisfied that the law permits it and the emergency demands it. He should remember that an injunction is a limitation upon the freedom of action of defendants and should not be granted lightly or inadvisedly. On applying for such relief must sustain the burden of showing clearly its necessity and this burden is increased in the absence of the party whose freedom of action is sought to be restrained even though only temporarily.

17. **EX PARTE COMMUNICATIONS** — he should not permit private interview, arguments or communications designed to influence his judicial action except in cases where provisions is made by law for *ex parte* application.

He should not permit the contents of written arguments presented to him to be concealed from opposing counsel. Ordinarily all communications of counsel to the judge intended or calculated to influence action should be made known to opposing counsel.

18. **CONTINUANCES** — delay in the administration of justice is a common cause of complaint; counsel are frequently responsible for this delay. A judge, without being arbitrary of forcing cases unreasonably or unjustly to trial when unprepared, to the detriment of parties, may well endeavour to hold counsel to a proper appreciation of their duties to the public interest to their own clients, and to adverse party and his counsel, so as to enforce due diligence in the despatch of business before the Court.
19. **JUDGEMENTS AND ORDERS** —in disposing of controverted cases, a judge should indicate the reasons for his action in an order showing that he has not disregarded or overlooked serious arguments of counsel.

He thus shows his full understanding of the case, avoids the suspicion of arbitrary conclusion, promotes confidence in his intellectual integrity and may contribute useful precedent to the growth of the law.

It is desirable that Courts of Appeal or Revision in remanding cases to granting new trials should so indicate their views on questions of law argued before them and necessarily arising in the controversy that upon the new trial counsel may be aided to avoid the repetition of erroneous positions of law and shall not be left in doubt by the failure of the court to decide such questions.

Without departing substantially from the principles enunciated above Judges should endeavour to see that their Judgements and orders are as clear and concise as the circumstances of the case permit.

20. **ADHERENCE TO LAW** — a judge should be mindful that his duty is the application of general law to particular instances, that ours is a government of law and not of men, and that he violates his duty as a judicial officer under such a system if he seeks to do what he may personally consider substantial justice in a particular case and disregards the general law as he knows it to be binding on him. He should administer his office with a due regard to the integrity of the system of the law itself, remembering that he is not a depositary of arbitrary power, but a judge under the sanction of law.
21. **IDIOSYNCRASIES AND INCONSISTENCIES** — justice should not be moulded by the individual idiosyncrasies of those who administer it. A judge should adopt the usual and expected method of doing justice, and not seek to be extreme or peculiar in his judgments, or spectacular or sensational in the conduct of the court. Though vested with discretion in the imposition of mild or severe sentences he should compel persons brought before him to submit to some humiliating act or discipline of his own devising, without authority of law, because he thinks it will have a beneficial corrective influence.

In imposing sentence he should endeavour to conform to a reasonable standard of punishment and should not seek popularity or publicity either be exceptional severity or undue leniency.

22. **BUSINESS PROMOTIONS AND SOLICITATIONS FOR CHARITY** — he should avoid giving ground for any reasonable suspicion that he is utilizing the power or prestige of his office to persuade or coerce others to patronize or contribute, either to the success of private business ventures, or to charitable enterprises. He should, therefore, not enter into such private business, or pursue such a course of conduct, as would justify such suspicion, nor use the power of his office or the influence of his name to promote the business interests of others; he should not solicit for charities, nor should he enter into any business relation which, in the normal course of events reasonably to be expected, might bring his personal interest into conflict with the impartial performance of his official duties.
23. **PERSONAL INVESTMENTS AND RELATIONS** — he should abstain from making personal investments in enterprises which are apt to be involved in litigation in the court; and, after his appointment as a judicial officer, he should not retain such investments previously made, longer than a period sufficient to enable him to dispose of them without serious loss. It is desirable that he should, so far as reasonably possible refrain from all relations which would normally tend to arouse the suspicion that such

relations warp or bias his judgment, or prevent his impartial attitude of mind in the administration of his judicial duties.

He should not utilize information, coming to him in a judicial capacity, for purposes of speculation; and it detracts from the public confidence in his integrity and the soundness of his judicial judgement for him at any time to become a speculative investor upon the hazard of a margin.

24. **EXECUTORSHIPS AND TRUSTEESHIPS** — a judge should not accept or continue to hold any fiduciary or other position if the holding of it would interfere or seem to interfere with the proper performance of his judicial duties, or if the business interests of those represented require investments in enterprises that are apt to come before him judicially, or to be involved in question of law to be determined by him.
25. **PARTICIPATION IN POLITICS** — while entitled to entertain his personal views of political questions, and while not required to surrender his rights or opinions as a citizen, it is inevitable that suspicion of being warped by political bias will attach to a judge who becomes the active promoter of the interests of one political party as against another. He should avoid making political speeches, making or soliciting payment of contributions to party funds or participation in party politics.
26. **SELF-INTEREST** — he should abstain from performing or taking part in any judicial act in which his personal interests are involved.
27. **GIFTS AND FAVOURS** — he should not accept any presents or favours from litigants or from lawyers practising before him or from others whose interests are likely to be submitted to him for judgment.
28. **SOCIAL RELATIONS** — it is not necessary to the proper performance of judicial duty that a judge should live in retirement or seclusion; it is desirable that, so far as reasonable attention to the completion of his work will permit, he continue to mingle in social intercourse. He should, however, in pending or prospective litigation before him be particularly careful to avoid such action as may reasonably tend to awaken the suspicion that his social or business relations or friendships, constitute an element in influencing his judicial conduct.
29. **A SUMMARY OF JUDICIAL OBLIGATION** — in every particular his conduct should be above reproach. He should be conscientious, studious, thorough, courteous, patient, punctual, just, impartial, fearless of public clamour, regular regardless of public praise, and indifferent to private political or partisan influences; he should administer justice according to law, and deal with his appoints as a public trust; he should not allow other affairs or his private interests to interfere with the prompt and proper performances of his judicial duties, nor should he administer the office for the purpose of advancing his personal ambitions or increasing his popularity.
30. **DRESS OF JUDICIAL OFFICERS AND LAWYERS AND ADVOCATES** — the dress of the presiding officer should be in keeping with the dignity of his office. Shorts and shirts-sleeves are quite unsuitable for the Presiding Officer of a Court. Subordinate Judges and Magistrates should wear a white shirt, black coat and necktie and grey or white trousers. The necktie will not be worn with a high collared coat. Tehsildars and Naib-Tehsildars are not required to wear black coats or any particulars design or colour of clothes.

<sup>2</sup> District and Sessions Judges and Additional District and Sessions Judges should wear a white shirt and white bands, black coat and grey or white trousers.

<sup>3</sup>The Judicial Officers who wear turbans shall be required to wear white or off white (motia) coloured turbans while functioning in the Courts.

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2 Words omitted vide Correction Slip No. 88 dated 3.4.1992

3 Added vide Correction Slip No. 75 dated 22.5.1983

**The Government  
Employees  
(Conduct) Rules, 1966  
Punjab**

**(Amended up to 29th June, 2009)**

**GOVERNMENT OF PUNJAB**  
**DEPARTMENT OF PERSONNEL**  
**(PERSONNEL POLICIES-II BRANCH)**  
**THE GOVERNMENT EMPLOYEES (CONDUCT) RULES, 1966**  
**(Amended up to 29<sup>th</sup> June, 2009)**

**1. SHORT TITLE, COMMENCEMENT AND APPLICATION -**

- (1) These rules may be called the Government Employees (Conduct) Rules, 1966.
- (2) They shall come into force at once.
- (3) They shall apply to all persons appointed to Civil services and posts in connection with the affairs of the state:

Provided that nothing in these rules shall apply to -

- (a) members of the All India Services who are subject to the All India Services (Conduct) Rules, 1954 : and
- (b) holders of any post in respect of which the Governor<sup>1</sup> may, by general or special order, declare that these rules do not apply.
- <sup>2</sup>(c) employees of the Punjab state when on deputation to another state Government or Central Government.

During the period of deputation they shall be governed by the corresponding rules of the borrowing Government.

**2. DEFINITIONS :** in these rules, unless the context otherwise requires.-

- (a) 'the Government' means the Government of the State of Punjab;
- (b) 'Government employee' means any person appointed to any Civil Service or post in connection with the affairs of the state of Punjab.

**Explanation** - A Government employee whose Services are placed at the disposal of a company, corporation, organization or a local authority by the Government shall for the purposes of these rules, be deemed to be a Government employee serving under the Government notwithstanding that his salary is drawn from sources other than from the consolidated Fund of the State.

- (c) " members of family" in relation to a Government employee included.
  - (i) the wife or the husband, as the case may be, of the Government employee, whether residing with the Government employee or not but does not include a wife or husband, as the case may be separated from the Government employee, by a decree or order of a competent Court :
  - (ii) son or daughter or step - son or step - daughter of the Government employee and wholly dependent on him, but does not include a child or step - child who is no longer in any

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1 [Substituted vide Notification No. G.S.R.65/Const./Art.-309 and 318 Amd(5)/76 dated 19-5-1976]

2 [Substituted vide Notification No. G.S.R.63/Const./Art.-309 and 318 Amd(II)/69 dated 01-08-1969]

way dependent on the Government employee or whose custody the Government employee has been deprived by or under any law;

- (iii) any other person related , whether by blood or marriage to the Government employee or to the Government employee's wife or husband and wholly dependent on the Government employee .

<sup>3</sup>(d) 'prescribed authority' means :-

<sup>4</sup>a (i) The Government, in the case of Head of Department and all other officers having the same designation as that of their Head of Department prefixed by the word " Additional" or " joint" ] and

- (ii) the Head of the Department in case of Government employees holdings any class I or any class II post excepting those preferred to in item (i)

Provided that if in a case involving a Class-I officer any sanction is proposed to be declined, the Government shall be the prescribed authority.

- (iii) Head of office in the case of Government employee holding any class III or class IV post ;
- (iv) The chairman of the Punjab Legislative Council in the case of the secretary of the said council and the secretary in the case of all other employees of the Legislative Council ;
- (v) The speaker of the Punjab Vidhan Sabha in the case of the secretary of the said Sabha and the secretary in the case of all other employees of the Vidhan Sabha ;
- (b) In respect of the Government employee on foreign service, the parent department on the cadre of which such Government employee is borne or the department of which he is administratively subordinate as member of that cadre.

**Explanation** - Foreign service for the purpose of this sub-rule means service in which a Government employee receive his substantive pay with the sanction of Government form any sources other than the revenues of the Union or a State Government.]

**3. GENERAL** - (1) every government employee shall at all time -

- (i) maintain absolute integrity;
- (ii) maintain devotion to duty<sup>5</sup>;
- (iii) do nothing which is unbecoming of a Government employee<sup>6</sup>; and
- (iv) intimate his latest permanent as well as temporary address to his appointed authority<sup>7</sup>.]

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3 [Substituted vide Notification No. G.S.R.63/Const./Art.-309 and 318 Amd(II)/69 dated 01-08-1969]

4 [Substituted vide Notification No. G.S.R.45/Const./Art.-187, 309 and 318 Amd(I)/85 dated 26-6-1985]

5 [Amended vide Punjab Government Notification No.G.S.R.-80/ Const.Arts. 187, 309 and 318/ Amd. (4)/93 dated 13-10-1993]

6 [Amended vide Punjab Government Notification No.G.S.R.-80/ Const.Arts. 187, 309 and 318/ Amd. (4)/93 dated 13-10-1993]

7 [Amended vide Punjab Government Notification No.G.S.R.-80/ Const.Arts. 187, 309 and 318/ Amd. (4)/93 dated 13-10-1993]

(2) (I) Every Government employee holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Government employee for the time being under his control and authority.

<sup>8</sup>(ii) No Government employee shall in the performance of his official duties or in the exercise of power conferred on him, act otherwise than in his best judgment except when he is acting under the direction of his official superior.

(iii) the direction of the official superior shall ordinarily be in writing. Oral direction to subordinates shall be avoid , as far as possible, where the issue of oral direction becomes unavoidable, the official superior shall confirm it in writing immediately thereafter.

(iv) A Government employee who has received oral direction from his official superior shall seek confirmation of the same in writing as possible, whereupon it shall be the duty of the official superior to confirm the direction in writing.]

**Explanation I** - Nothing in clause (ii) of sub-rule (2) shall be construed as empowering a Government employee to evade his responsibilities by seeking instructions from, or approval of a superior officer or authority when such instructions are not necessary under the scheme of distribution of powers and responsibilities.

<sup>9</sup>**Explanation II** - Without prejudice to the provision contained in this rule, no action will be initiated against any Government employee for not carrying out oral instructions of his official superior in individual cases, relating especially to postings and transfers, giving of loans, permits, or quotas and similar other matter.]

<sup>10</sup>**Explanation III** – A Government employee, who habitually fails to perform the work assigned to him within the time fixed for the purpose and with the quality of performance expected of him, shall be deemed to be lacking in devotion to duty within the meaning of clause (ii) of sub-rule (2).

**<sup>11</sup>3-A. PROMPTNESS AND COURTESY :-** no government employee, in the performance of his duties shall, - act in a discourteous manner; and adopt dilatory tactics or willfully cause delays in disposal of the work assigned to him in official dealings with public or otherwise.

**<sup>12</sup>3-B. OBSERVANCE OF GOVERNMENT'S POLICIES :-** every government employee shall, at all times-

(i) act in accordance with the policies of the Government regarding age- marriage, preservation of environment, protection of wildlife and cultural heritage;

(ii) observe the policies of Government regarding prevention of crime against women.

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8 [Substituted vide Punjab Government Notification No. G.S.R.-29/ Const./Arts. 187, 309 and 318/ Amd. (9)/82 dated 10-02-1982]

9 [Inserted vide Punjab Government Notification No. G.S.R.-86/Const./Arts. 309 and 318/68Amd. (I) dated 30-09-1968]

10 [Inserted vide Punjab Government Notification No. G.S.R.-86/Const./Arts. 309 and 318/68Amd. (I) dated 30-09-1968]

11 [Amended vide Punjab Government Notification No.G.S.R.-83/const./Arts.187, 309 and 318/Amd. (8)/2008 dated 1<sup>st</sup> August, 2008]

12 [Amended vide Punjab Government Notification No.G.S.R.-83/const./Arts.187, 309 and 318/Amd. (8)/2008 dated 1<sup>st</sup> August, 2008]

<sup>13</sup>**4 EMPLOYMENT OF NEAR RELATIVE OF GOVERNMENT EMPLOYEE IN COMPANIES OR FIRM.** <sup>14</sup>(1) No government employee shall use his position or influence directly or indirectly to secure employment for any member of his family in any company or firm.]

(2)(i) No class I officer shall, except with the previous sanction of the <sup>15</sup>[Prescribed authority] permit his son daughter or other dependent to accept employment in any <sup>16</sup>[ company or firm] with which he has official dealings or in any other <sup>17</sup>[company or firm] having official dealing with the Government:

Provided that where the acceptance of the employment cannot await prior permission of the <sup>18</sup>[prescribed authority] or in otherwise considered may be accepted provisionally subject to the permission of <sup>19</sup>[the Prescribed authority]

(ii) A Government employee shall, as soon as he becomes aware of the acceptances by a member of his family of a an employment in any company or firm, intimate such acceptance to the prescribed authority and shall also intimate whether he has or has had or has had, any official dealing with that <sup>20</sup>[company or firm]

Provided that no such intimation shall be necessary in the case of Class-I Officer if he has already obtained the sanction of or sent a report to the Government under clause (i).

(3) No Government employee shall in the discharge of his official duties deal with any matter or give or sanction any contract to any undertaking or any other person if any member of his family is employee in that undertaking or under that person, or if he or any member of his family is interested in such matter or contract in any other manner and the Government employee shall refer every such matter or contract to his official superior and the matter or contract shall thereafter be disposed of according to the instructions of the authority to whom the reference is made.

## **5. TAKING PART IN POLITICS AND ELECTIONS -**

(1) No Government employee shall be a member of or be otherwise associated with any political party or any organization which takes part in politics nor shall he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity.

(2) It shall be the duty of every Government employee to endeavour to prevent any member of his family from taking part in subscribing in aid of or assisting in any other manner any movement or activity which is or tends directly or indirectly to be subversive of the Government as law established and where a Government employee is unable to prevent a member of his family from taking part in or subscribing in aid of or assisting in any

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13 [Substituted vide Punjab Government Notification No. G.S.R.-91/Const./Arts. 309 and 318/Amd(8)/78 dated 07-08-1978]

14 [Substituted vide Punjab Government Notification No. G.S.R.-73/Const./Arts309 and 318/Amd(6)/76 dated 09-06-1976]

15 [Substituted vide Punjab Government Notification No. G.S.R.-79/Const./Arts.187,309 and 318/Amd(2)/86 dated 17-12-1986]

16 [Substituted vide Punjab Government Notification No. G.S.R.-73/Const./Arts309 and 318/Amd(6)/76 dated 09-06-1976]

17 [Inserted vide Punjab Government Notification No. G.S.R.-86/Const./Arts. 309 and 318/68Amd. (I) dated 30-09-1968]

18 [Substituted vide Punjab Government Notification No. G.S.R.-79/Const./Arts.187,309 and 318/Amd(2)/86 dated 17-12-1986]

19 [Substituted vide Punjab Government Notification No. G.S.R.-79/Const./Arts.187,309 and 318/Amd(2)/86 dated 17-12-1986]

20 [Amended vide Haryana Government Notification No. G.S.R.-10/Const./Arts.187, 309 and 318/Amd(I)/77 dated 14-01-1977]

other manner, any such movement or activity, he shall make a report to that effect to <sup>21</sup>[the prescribed authority.]

- (3) If any question arises whether a party is a political party or whether any organization takes part in politics or whether any movement or activity falls within the scope of sub-rule (2), the decision of the Government thereon shall be final.
- (4) No Government employee shall canvass or otherwise interfere with, or use his influence in connection with or take part in an election to any legislature or local authority:

Provided that-

- (i) a Government employee qualified to vote at such election may exercise his right to vote, but where he does so, he shall give no indication of the manner in which he proposes to vote or has voted;
- (ii) a Government employee shall not be deemed to have contravened the provisions of this sub-rule by reason only that he assists in the conduct of an election in the due performance of a duty imposed on him by or under any law for the time being in force.

**Explanation** - The display by a Government employee on his person vehicle or residence of any electoral symbol shall amount to using his influence in connection with an election within the meaning of this sub-rule.

- 6. JOINING OF ASSOCIATIONS BY GOVERNMENT EMPLOYEE:-** no government employee shall join, or continue to be a member of an association the objects or activities of which are prejudicial to the interest of sovereignty and integrity of india or public order or morality.

- 7. DEMONSTRATION AND STRIKES** - no government employee shall-

- (i) engage himself participate in any demonstration which is prejudicial to the interest of the sovereignty and integrity of India, the security of the state, friendly relation with foreign State, public order, decency or immorality, or which involves contempt of court, defamation or incitement to an offence, or
- (ii) resort to or in any way abet any form of strike <sup>22</sup>[or coercion or physical duress] in connection with matter pertaining to his service or the service of any other Government employee.

- 8. CONNECTION WITH PRESS OR RADIO -**

- (i) No Government employee shall except with the previous sanction of <sup>23</sup>[the prescribed authority] own wholly or in part or conduct or participate in the editing or management of, any newspaper or other periodical publication. <sup>24</sup>[or in Electronic Media].

<sup>25</sup>[(2) No Government employee shall except with the previous sanction of the Government or the prescribed authority or except in the bona fide discharge of his duties participate in

21 [Substituted vide Punjab Government Notification No. G.S.R.-79/Const./Arts.187,309 and 318/Amd(2)/86 dated 17-12-1986]

22 [Inserted vide Punjab Government Notification No. G.S.R.-65/Const./Arts.309 and 318/Amd(5)/76 dated 19-05-1976]

23 [Substituted vide Punjab Government Notification No. G.S.R.-79/Const./Arts.187,309 and 318/Amd(2)/86 dated 17-12-1986]

24 [Amended vide Punjab Government Notification No. G.S.R.-43/Const./Arts.187,309 and 318/Amd.(8)/2008 dated 1<sup>st</sup> August, 2008]

the radio broadcast or contribution an article or write a letter to a newspaper or periodical either in his own name or anonymously or pseudonymously or in the name of any other person:

Provided that no such sanction shall be required if such contribution, broadcast or writing is of a purely literary, artistic or scientific character]

**9. CRITICISM OF GOVERNMENT** - no government employee shall in any radio broadcast <sup>26</sup>[or in electronic media] or in any document published in own name or anonymously, pseudonymously or in the name of any other person or in any communication to the press or in any public utterance make any statement of fact or opinion -

- (i) which has the effect of any adverse criticism of any current recent policy or action of the Government of India, Government of Punjab or any other State Government;
- (ii) which is capable of embarrassing the relations between the Government of Punjab and the Government of India or the Government of any other State in India; or
- (iii) which is capable of embarrassing the relation between the Government of India or the Government of Punjab and the Government of any foreign State;

Provided that nothing in this rule shall apply to any statement made or views expressed by a Government employee in his official capacity or in the due performances of the duties assigned to him.

**10. EVIDENCE BEFORE COMMITTEE OR ANY OTHER AUTHORITY -**

- (1) Save as provide in sub-rule (3), no Government employee shall, except with the previous sanction of the <sup>27</sup>[prescribed authority], give evidence in connection with any enquiry conducted by any person, Committee or authority.
- (2) Where any sanction has been accorded under sub-rule (1) no government employee giving evidence shall criticize the policy or any action of the Government of India, Government of Punjab or any other Government.
- (3) Nothing in this rule shall apply to-
  - (a) evidence given at an enquiry before an authority appointed by the Government Parliament or a state Legislature; or
  - (b) evidence given in any Judicial enquiry; or
  - (c) Evidence given at any departmental enquiry ordered by authority subordinate to the Government.

**11. UNAUTHORISED COMMUNICATION OF INFORMATION** - no government employee shall, except in accordance with the right to information act, 2005 or the rules made there under or any general or special order of the government or in the

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25 [Substituted vide Punjab Government Notification No. G.S.R.-29/Const./Arts.187, 309 and 318/Amd(9)/82 dated 10-02-1982]

26 [Amended vide Punjab Government Notification No. G.S.R.-43/Const./Arts.187,309 and 318/Amd.(8)/2008 dated 1<sup>st</sup> August, 2008]

27 [Substituted vide Punjab Government Notification No. G.S.R.-79/Const./Arts.187,309 and 318/Amd(2)/86 dated 17-12-1986]

performance in good faith of the duties assigned to him, communicate directly or indirectly any official document or any part thereof or any information to any government employee or any other person to whom he is not authorized to communicate such document or information.

<sup>28</sup> [ xx xx]

**12. SUBSCRIPTIONS** - no government employee shall except with the prevision sanction of the government or of the prescribed authority, ask for or accept contributions to or otherwise associate himself with the raising of any funds or other collections in cash or in kind in pursuance of any object whatsoever.

**13. GIFTS** - save as otherwise provided in these rules, no government employee shall accept or permit any member of his family or <sup>29</sup>[any other person acting on his behalf] to accept any gift.

**Explanation** - The expression 'gift' shall include free transport, boarding, lodging, or other service or any other pecuniary advantage when provided the than a near relative or personal friend having no dealing with the Government.

**Note (I)**- A casual meal, gift or other social hospitality shall not deemed to be a gift.

**Note (II)**- A Government employee shall avoid accepting lavish hospitality or frequent hospitality form any individual having official dealing with him or form industrial or commercial firms, organisations, etc.

(2) On occasion such as weeding, anniversaries, funerals or religious function when the making of a gift it is conformity with the prevailing religious or social practice,

a Government employee may accept gifts from his near relatives but he shall make a report to <sup>30</sup>[the prescribed authority] if the value of any such gift exceeds-

- (i) <sup>31</sup>[Rs.7,000/- in the case of a Government employee holding any Group 'A' post;
- (ii) Rs.4,000/- in the case of a Government employee holding any Group 'B' post;
- (iii) Rs.2,000/- in the case of a Government employee holding any Group 'C' post; and
- (iv) Rs.1,000/- in the case of a Government employee holding any Group 'D' post.]

(3) On such occasion as are specified in sub-rule (2), a Government employee may accept gifts from his personal friends having no official dealing with him, but he shall make a report to the <sup>32</sup>[prescribed authority] if the value of any such gifts exceeds-

- (i) <sup>33</sup>[Rs.7,000/- in the case of a Government employee holding any Group 'A' post;
- (ii) Rs.4,000/- in the case of a Government employee holding any Group 'B' post;

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<sup>28</sup> [Explanation omitted vide Punjab Government Notification No. G.S.R.-29/Const./Arts.187,309 and 318/Amd(9)/82 dated 10-02-1982]

<sup>29</sup> [Substituted vide Punjab Government Notification No. G.S.R.-73/Const./Arts.309 and 318/Amd(6)/76 dated 09-06-1976]

<sup>30</sup> [Substituted vide Punjab Government Notification No. G.S.R.-79/Const./Arts.187,309 and 318/Amd(2)/86 dated 17-12-1986]

<sup>31</sup> [Amended vide Punjab Government Notification No.G.S.R.-83/const./Arts.187, 309 and 318/Amd. (8)/2008 dated 1<sup>st</sup> August, 2008]

<sup>32</sup> [Substituted vide Punjab Government Notification No. G.S.R.-79/Const./Arts.187,309 and 318/Amd(2)/86 dated 17-12-1986]

<sup>33</sup> [Amended vide Punjab Government Notification No.G.S.R.-83/const./Arts.187, 309 and 318/Amd. (8)/2008 dated 1<sup>st</sup> August, 2008]

- (iii) Rs.2,000/- in the case of a Government employee holding any Group 'C' post; and
- (iv) Rs.1,000/- in the case of a Government employee holding any Group 'D' post.]

<sup>34</sup>(4) In any other case, a Government employee shall not accept or permit any member of his family or any other person acting on his behalf to accept, any gift without the sanction of the <sup>35</sup>[prescribed authority]. If the value thereof exceeds-

<sup>36</sup>[(i) [Rs.1,500/-] in the case of a Government employee holding any Group 'A' or Group 'B' post; and

<sup>37</sup>(ii) [Rs.500/-] in the case of a Government employee holding any Group 'C' or Group 'D' post].

<sup>38</sup>**13A. PROHIBITION TO GIVE, TAKE OR DEMAND DOWRY** - no government employee shall:

- (i) give or take or abet the giving or taking of dowry;
- (ii) demand, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry.

**Explanation** - For the purpose of this rule, 'dowry' has the same meaning as in the dowry prohibition Act, 1961 (28 of 1961)].

**14. PUBLIC DEMONSTRATION IN HONOR OF GOVERNMENT EMPLOYEES** - no government employee shall, except with the previous sanction of the \*[prescribed authority] receive any complimentary help in his hour honour or in the honour of any other government employee;

Provided that nothing in this rule shall apply to -

- (1) a farewell entertainment of a substantially private and informal character help in honour of a Government employee or any other Government employee on the occasion of his retirement or transfer of any person who has recently quit the service of any government ; or
- (2) the acceptance of simple and inexpensive entertainment arrange by public bodies or institutions.

Note.- Exercise of pressure or influence of any sort on any Government employee to him to subscribe towards any farewell entertainment even if it is of a substantially private or informal character, and the collection of inscription from Class-III or Class-IV employees under circumstances for the entertainment of any government employee not belonging to Class III or Class IV, is forbidden.

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<sup>34</sup> [Substituted vide Punjab Government Notification No. G.S.R.-73/Const./Arts. 309 and 318/Amd(6)/76 dated 09-06-1976]

<sup>35</sup> [Substituted vide Punjab Government Notification No. G.S.R.-73/Const./Arts. 309 and 318/Amd(6)/76 dated 09-06-1976]

<sup>36</sup> [Amended vide Punjab Government Notification No.G.S.R.-83/const./Arts.187, 309 and 318/Amd. (8)/2008 dated 1<sup>st</sup> August, 2008]

<sup>37</sup> [Amended vide Punjab Government Notification No.G.S.R.-83/const./Arts.187, 309 and 318/Amd. (8)/2008 dated 1<sup>st</sup> August, 2008]

<sup>38</sup> [Inserted vide Punjab Government Notification No. G.S.R.-73/Const./Arts. 309 and 318/Amd(6)/76 dated 09-06-1976]

- 15. PRIVATE TRADE OR EMPLOYMENT** - (1) no government employee shall except with the previous sanction of <sup>39</sup>[prescribed authority engage directly or indirectly] in any trade or business <sup>40</sup>[or negotiate for] or undertake any other employment;

Provided that a Government employee may, without such sanction undertake honorary work of a social or charitable nature or occasional work of a literary, artistic or scientific character, subject to the condition that his official duties do not thereby suffer; but he shall not undertake or shall discontinue such work if so directed <sup>41</sup>[Prescribed Authority]

<sup>42</sup>[Provided further that if the undertaking of any such work involves holding of any elective office, he shall not seek election to any such office without the previous sanction of the Government.]

**Explanation** - Canvassing by a Government employee in support of the business of insurance agency, commissioner agency, etc. owned or managed by his wife or an any other member of his family shall be deemed to be a branch of this sub-rule.

- (2) every government employee shall report to \*[the prescribed authorities] if any member of his family is engaged in a trade or business or owns or manage an insurance agency or commissioner agency.
- (3) No Government employee shall, without the previous sanction of \*[the prescribe authority], except in the discharge of his official duties, take part in the registration promotion or management of any bank or other company which is required to be registered under the Companies Act, 1956 (1 of 1956) or any other law for time being in force or any co-operative society for commercial purposes;

<sup>43</sup>[Provided that a Government employee may take part in the registration promotion or management of-

- (i) a literary scientific or charitable society or of a company, club or similar organization the aims and object of which relate to promotion of sports, cultural or recreational activities registered under the Society Registration Act, 1860 or the Companies Act, 1956 or any other law for the time being in force; or
- (ii) a co-operative society, substantially for the benefit of Government Employees registered under the Punjab Co-operative Society Act, 1961 or any other law for the time being in force].
- (4) No Government employee may accept any fee any work done by him for any public body or any private person without the sanction of the prescribed authority.

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39 [Substituted vide Punjab Government Notification No. G.S.R.-79/Const./Arts.187,309 and 318/Amd(2)/86 dated 17-12-1986]

40 Inserted vide Punjab Government Notification No. G.S.R.-73/Const./Arts. 309 and 318/Amd(6)/76 dated 19-05-1976]

41 [Substituted vide Punjab Government Notification No. G.S.R.-79/Const./Arts.187,309 and 318/Amd(2)/86 dated 17-12-1986]

42 [Inserted vide Punjab Government Notification No. G.S.R.-29/Const./Arts.187,309 and 318/Amd(9)/82 dated 10-02-1982]

43 [Substituted vide Punjab Government Notification No. G.S.R.-29/Const./Arts.187,309 and 318/Amd(9)/82 dated 10-02-1982]

<sup>44</sup>[**15-A. SUB-LETTING AND VACATION OF GOVERNMENT ACCOMMODATION:-**

- (1) Save as otherwise provided in any other law for the time being in force, no Government employee shall sub-let, lease or otherwise allow occupation by any other person of the Government accommodation which has been allotted to him.
- (2) A Government employee, after the cancellation of the Government accommodation allotted to him, shall vacate the same within the time-limit prescribed by the allotting authority.]

**16. INVESTMENT LENDING AND BORROWING -**

- (1) No Government employee shall speculate in any stock or other investment.

**Explanation** - Frequent purchase or sale or both of shares, securities or other investment shall be deemed to be speculation within the meaning of this sub-rule.

- (2) No Government employee shall make or permit any member of his family or any person acting n his behalf to make any investment which is likely to embarrass or influence him in the discharge of his official duties.
- (3) If any question arises whether any transaction is of the nature referred to in sub-rule (1), or sub-rule (2) the decision of the prescribed authority thereon shall be final.
- (4) <sup>45</sup>[(i) No Government employee shall without previous sanction of the <sup>46</sup>[Prescribed Authority] either himself or through any member of his family or any other acting on his behalf-
- (a) lend or borrow money as principal or agent, to from any person including Bank and Financial Institution or with whom he is likely to have official dealings, or otherwise place himself under any pecuniary obligation to such person or
- (b) lend money to any person at interest or in a manner where by return in money or in kind is charge or paid;

Provided that a Government employee may, give to, or accept from, a relative or a personal friend, a purely temporary loan of a small amount free of interest, or operate a credit account with a bonafide tradesman or make an advance of pay to his private employee but such amount shall not exceed twelve months emoluments for the construction of house for purchase of built up house and six months emoluments for the purchase of conveyance and other purposes.]

- (ii) When a Government employee is appointed on transferred to a post of such nature as would involve him in the breach of any of the provision of sub-rule (2) and sub-rule (4), he shall forthwith report the circumstances to the prescribed authority and shall thereafter act in accordance with such order as may be made by such authority.

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<sup>44</sup> [Inserted vide Punjab Government Notification No. G.S.R.-83/Cocst./Arts.187,309 and 318/Amd(8)/2008 dated 1<sup>st</sup> August, 2008]

<sup>45</sup> [Substituted vide Punjab Government Notification No. G.S.R.-49/Const./Arts.187,309 and 318/Amd(6)/99 dated 25<sup>th</sup> June, 1999]

<sup>46</sup> [Substituted vide Punjab Government Notification No. G.S.R.-49/Const./Arts.187,309 and 318/Amd(6)/99 dated 25<sup>th</sup> June, 1999]

- 17. INSOLVENCY AND HABITUAL INDEBTEDNESS** - a government employee shall so manage his private affairs as to avoid habitual indebtedness or insolvency. A Government employee against whom any legal proceeding is instituted for the recovery of any debt due from him or for adjudging him as an insolvent shall forthwith report the full facts of the legal proceeding to <sup>47</sup>[the prescribe authority].

**Note** - The burden of proving that the insolvency or insolvency or indebtedness was the result of circumstances which with exercise of ordinary diligence, the Government employee could not have foreseen or over which he had no control, and had not proceeding from extravagant or dissipated habits, shall be upon the Government employee.

- 18. MOVABLE, IMMOVABLE AND VALUABLE PROPERTY** - (1)<sup>48</sup>[(i)] every government employee shall on his first appointment to any service or post <sup>49</sup>[-] submit a return of his assets and liabilities, in such form as may be prescribed by the government, giving the full particulars regarding-]

- (a) the immovable property inherited by him or owned or acquired by him or held by him on lease or mortgage either in his own name or in the name of any member of his family or in the name of any other person;
- (b) shares, debentures and cash including bank deposits inherited by him or similarly owned acquired or help by him;
- (c) other movable property inherited by him or similarly owned, acquired or help by him;
- (d) debts and other liabilities incurred by him directly or indirectly.

**Note. I** - Sub-rule (1) shall not ordinarily apply to Class IV employees, but the Government may direct that it shall apply to any such Government employee or class of such Government employees.

**Note II** - In all returns the value of items of immovable property worth less than <sup>50</sup>[Rs. 10,000] may, be added and shows as a lump sum. The value of articles of daily use such as clothes, utensils, crockery, books etc. need not be included in such returns.

<sup>51</sup>**Note. III** - Where a Government employee already belonging to a service or holding a post is appointed to any other civil service or post, he shall not be required to submit a fresh return under this clause.]

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47 [Substituted vide Punjab Government Notification No. G.S.R.-79/Const./Arts.187,309 and 318/Amd(2)/86 dated 17-12-1986]

48 [Renumbered vide Punjab Government Notification No. G.S.R.-91/Const./Arts.309 and 318/Amd(8)/78 dated 07-08-1978]

49 [Omitted vide Punjab Government Notification No. G.S.R.-91/Const./Arts.309 and 318/Amd(8)/78 dated 07-08-1978]

50 [Inserted vide Punjab Government Notification No. G.S.R.-43/Const./Arts.187, 309 and 318/Amd(8)/2008 dated 1<sup>st</sup> August, 2008]

51 [Inserted vide Punjab Government Notification No. G.S.R.-91/Const./Arts.309 and 318/Amd(8)/78 dated 07<sup>th</sup> August, 1978]

<sup>52</sup>[(ii) Every Government employee belonging to any service or holding any post in Class I or Class II shall submit an annual return in such form as may be prescribed by the Government in this regard giving full particulars regarding the immovable property inherited by him or owned or acquired by him or held by him on lease or mortgage either in his own name or in the name of any member of his family or in the name of any other person.]

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<sup>52</sup> [Inserted vide Punjab Government Notification No. G.S.R.-91/Const./Arts.309 and 318/Amd(8)/78 dated 07<sup>th</sup> August, 1978]

**PUNJAB GOVT. GAZ. (EXTRA.), SEPT. 9, 2011**  
**(BHDR 18, 1933 SAKA)**

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**GOVERNMENT OF PUNJAB**

Department of Personnel

(P.P.-II Branch)

Notification

The 8<sup>th</sup> September, 2011

**No. G.S.R.61/Const./Arts. 187, 309 and 318/Amd.(10)/2011** – In exercise of the powers conferred by the proviso to Article 309 and clause (b) of Article 318 read with clause (3) of Article 187 of the Constitution of India and all other powers enabling him in this behalf, the Governor of Punjab, after consultation with the Speaker of the Punjab Vidhan Sabha, in so far as such consultation is necessary under the aforesaid provisions and all other powers enabling him in this behalf, is pleased to make the following rules further to amend the Government Employees (Conduct) Rules, 1966, namely:-

**RULES**

1. (1) These Rules may be called the Government Employees (Conduct) (First Amendment) Rules, 1911.  
(2) They shall come into force on and with effect from the date of their publication in the Official Gazette.
2. In the Government Employees (Conduct) Rules, 1966, in rule 18, for sub-rules (2) and (3), the following sub-rule shall be substituted, namely:-

“(2) Every Government employee shall report to the prescribed authority each transaction immovable or immovable property made by way of lease, mortgage, purchase, sale, gift or otherwise, either in his own name or in the name of any member of his family, if the actual cost of such transaction exceeds one month’s gross salary of such employee”.

Provided that the prevision sanction of the prescribed authority shall be obtained if any such transaction is-

  - (i) with a person having official dealing with the Government employee; or
  - (ii) otherwise than through a regular or reputed dealers.]
- (4) The Government or the prescribed authority may at the time by general or special order, require a Government employee to furnish, within a period specified in the order, a full and complete statement of such movable or immovable property held or acquired by him on behalf or by any member of his family as may be specified in the order, Such statement shall, if so required by the Government or by the prescribed authority, include the details of the means by which. Or the source form which, such property was acquired.
- (5) The Government may exempt any category of Government employee belonging to Class III or Class IV form any the provision of this rule except sub-rule (4). No such

exemption shall, however, be made without the concurrence of the <sup>53</sup>[Chief Secretary to Government, Punjab (in Service Department)].

<sup>54</sup>**Explanation I.-** For the purpose of this rule, the expression "movable property" includes-

- (i) jewellery, insurance policies, the annual premia of which exceed <sup>55</sup>[Rs.10,000] or one sixth of the total emoluments received from government which ever is less, share, securities and debentures;
- (ii) loans and advances by such Government employee whether secured or not;
- (iii) motor-cars, motor-cycle, horses, or any other means of conveyance; and
- (iv) refrigerators, radios. <sup>56</sup>[radiograms and television sets].

<sup>57</sup>**Explanation II.-** For the purpose of this rule, Lease means, except where it is obtained from or granted to a person having official dealing with the Government employee a lease of immovable property from year to year or for any term exceeding one year or reserving a yearly rent.]

<sup>58</sup>**18A.[RESTRICTION IN RELATION TO ACQUISITION AND DISPOSAL OF IMMOVABLE PROPERTY OUTSIDE INDIA AND TRANSACTION WITH FOREIGNER ETC. -** Notwithstanding anything contained in sub-rule (2) of rule, 18, no Government employee shall except with the previous sanction of the prescribed authority.

- (a) acquire, by purchase, mortgage, lease, gift or otherwise, either in his own name or in the name of any member of his family, any immovable property situated outside India;
- (b) dispose of, by sale, mortgage, gift, or otherwise, or grant any lease in respect of any immovable property situated outside India which was acquired or is held by him either in his own name or in the name of any member of his family
- (c) enter into any transaction with any foreigner, foreign Government, foreign organization or concern-
  - (i) for the acquisition by purchase, mortgage, lease, gift or otherwise either in his own name or in the name of any member of his family of any immovable property;
  - (iii) for the disposal of, by sale, mortgage, gift, or otherwise or the grant of any lease in respect of, any immovable property which was acquired or is held by him either in his own name or in the name of any member of his family.]

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53 [Substituted vide Punjab Government Notification No. G.S.R.-65/Const./Arts.309 and 318/Amd(5)/76 dated 19-05-1976]

54 [Renumbered vide Punjab Government Notification No. G.S.R.-65/Const./Arts.309 and 318/Amd(5)/76 dated 19-05-1976]

55 [Substituted vide Punjab Government Notification No. G.S.R.-43/Const./Arts.187, 309 and 318/Amd(8)/2008 dated 1<sup>st</sup> August, 2008]

56 [Substituted vide Punjab Government Notification No. G.S.R.-65/Const./Arts.309 and 318/Amd(5)/76 dated 19-05-1976]

57 [Added vide Punjab Government Notification No. G.S.R.-65/Const./Arts.309 and 318/Amd(5)/76 dated 19-05-1976]

58 [Inserted vide Punjab Government Notification No. G.S.R.-65/Const./Arts.309 and 318/Amd(5)/76 dated 19-05-1976]

## **19. VINDICATION OF ACTS AND CHARACTER OF GOVERNMENT EMPLOYEES-**

- (1) No Government employee shall, except with the previous sanction of <sup>59</sup>[the prescribed authority] have recourse to any courts or the press for vindication of any official act which has been the subject matter of adverse criticism or an attack of a defamatory character.

<sup>60</sup>[Provided that if no such sanction is received by the Government employee within a period of three months from the date of receipt of his request by the Government, he shall be free to assume that the permission as sought for, has been granted.]

- (2) Nothing in the rule shall be deemed to prohibit a Government employee from vindicating his private character or any act done by him in his private capacity and where any action for vindicating his private character or act done by him in private capacity is taken, the Government employee shall submit to the prescribed authority regarding such action.

## **20. CANVASSING OF NON-OFFICIAL OR OTHER INFLUENCE - no government employee shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interest in respect of matter pertaining to his service under the government.**

## **<sup>61</sup>21. RESTRICTION REGARDING MARRIAGE -**

- (1) No Government employee who has a wife living shall contract another marriage without first obtaining the permission of the Government, notwithstanding that such subsequent marriage is permissible under the personal law for the time being applicable to him.
- (2) No female Government employee shall marry any person who has a wife living without first obtaining the permission of the Government .
- (3) A Government employee who has married or marries a person other than of Indian Nationality, shall forthwith intimate facts to the Government.]

## **<sup>62</sup>21-A []**

## **22. CONSUMPTION OF INTOXICATING DRINKS AND DRUGS - a government employee shall**

- (a) strictly abide by any law relating to intoxicating drinks or drugs in force in any area in which he may happen to be for the time being ;
- <sup>63</sup>[(b) not be under the influence of any intoxicating drink or drug during the course of his duty and shall also take due care that the performance of his duty at any time is not affected in any way by the influence of such drink or drug;] and

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59 [Substituted vide Punjab Government Notification No. G.S.R.-79/Const./Arts.187, 309 and 318/Amd(2)/86 dated 17<sup>th</sup> December, 1986]

60 [Added vide Punjab Government Notification No. G.S.R.-83/const./Arts.187, 309 and 318/Amd(8)/2008 dated 1<sup>st</sup> August, 2008]

61 [Substituted vide Punjab Government Notification No. G.S.R.-29/Const./Arts.187, 309 and 318/Amd(9)/82 dated 10<sup>th</sup> February, 1982]

62 [Rule 21-A omitted Punjab Government Notification No. G.S.R.-29/Const./Arts.187, 309 and 318/Amd(9)/82 dated 10-02-1982]

63 [Substituted vide Punjab Government Notification No. G.S.R.-92/Const./Arts. 309 and 318/Amd(4)/70 dated 21-09-1970]

<sup>64</sup>[(bb) refrain from consuming any intoxicating drink or drug in a public place,]

(c) not appear in a public place in a state of intoxication;

<sup>65</sup>[(d) not use any intoxicating drink or drug to excess.]

<sup>66</sup>**Explanation** - For the purpose of this rule, public place means any place or premises (including a conveyance) to which the public have, or are permitted to have, access whether on payment or otherwise.

<sup>67</sup>**[22-A PROHIBITION OF SEXUAL HARASSMENT OF WORKING WOMEN:-**

(1) No Government employee shall indulge in any act of sexual harassment of any women at her work place:

(2) Every Government employee who is in charge of a work place shall take appropriate steps to prevent sexual harassment to any women at such work place.

**Explanation:-** For the purpose of this rule 'sexual harassment' includes such unwelcome sexually determined behavior, whether directly or otherwise, as –

1. physical contact and advances;
2. demand or request for sexual favour;
3. sexually coloured remarks;
4. showing any pornography; or
5. any other unwelcome physical, verbal or non-verbal conduct of a sexual nature]

<sup>68</sup>**[22-B PROHIBITION FROM EMPLOYING CHILDREN BELOW THE AGE OF 14 YEARS:-** no government employee shall employ to work any child below the age of 14 years.]

**23. INTERPRETATION** - if any question arises relating to the interpretation of these rules, it shall be referred to the <sup>69</sup>[chief secretary to government, punjab (in service department)] whose decision thereon shall be final.

**24. DELEGATION OF POWERS** - the government may, by general or special order, direct that any power exercisable by it or any head of the department under these rule (except the power under rule 23 and this rule) shall, subject to such condition. If any, as may be specified in the order be exercisable also by such officer or authority as may be specified in the order.

**REPEAL AND SAVING** - any rules corresponding to these rule in force immediately before the commencement of these rules and applicable to the government employee to whom these rule apply are hereby repealed:

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

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64 [Inserted vide Punjab Government Notification No. G.S.R.-65/Const./Arts. 309 and 318/Amd(5)/76 dated 19-05-1976]

65 [Substituted vide Punjab Government Notification No. G.S.R.-92/Const./Arts. 309 and 318/Amd(4)/70 dated 21-09-1970]

66 [Inserted vide Punjab Government Notification No. G.S.R.-65/Const./Arts. 309 and 318/Amd(5)/76 dated 19-05-1976]

67 [Inserted vide Punjab Government Notification No. G.S.R.-08/Const./Arts.187, 309 and 318/Amd(5)/99 dated 2<sup>nd</sup> February, 1999]

68 [Inserted vide Punjab Government Notification No. G.S.R.-75/Const./Arts.187, 309 and 318/Amd(7)/2001 dated 3<sup>rd</sup> May, 2001]

69 [Substituted vide Punjab Government Notification No. G.S.R.-65/Const./Arts. 309 and 318/Amd(5)/76 dated 19-05-1976]

**Haryana Civil Services  
(Government Employees'  
Conduct) Rules, 2016**

**HARYANA GOVERNMENT**  
**GENERAL ADMINISTRATION DEPARTMENT**

**Notification**

The 19th July, 2016

**No. 2/12/2016-2GS-I.**— In exercise of the powers conferred by the proviso to article 309 of the Constitution of India, the Governor of Haryana hereby makes the following rules regulating the terms and conditions of service of Government employees of the State of Haryana, namely:-

Short title and  
Commencement

1. (1) These rules may be called the Haryana Civil Services (Government Employees' Conduct) Rules, 2016.

(2) These rules shall be deemed to have come into force from 19th July, 2016.

2. These rules shall apply to all Government employees appointed to any civil service or post in connection with the affairs of the State of Haryana including

Extent of  
application

- (i) employees working on contract basis;
- (ii) employees working on ad-hoc basis;
- (iii) work-charged employees;
- (iv) daily wages employees;
- (v) any other category of Government employee to whom the competent authority may by general or special order, direct that these rules shall apply to them.

Provided that nothing in these rules shall apply to—

- (i) members of the All India Services who are subject to the All India Services (Conduct) Rules, 1954;
- (ii) employees serving in a Department under Haryana Government on deputation from Centre or any other State Government or any other source, for a limited duration.
- (iii) holders of any post in respect of which the Government may, by general or special order, declare that these rules do not apply.

**Note 1** — The Speaker of the Haryana Legislative Assembly has agreed under Article 187(3) of the Constitution that until a law is made by the Legislature of the State under Article 187(2) of the Constitution or rules are framed by the Governor in consultation with the Speaker of the Legislative Assembly under clause (3) of Article 187 of the Constitution of India, these rules and amendments thereof if any (after prior consent of the Speaker), shall apply to the secretarial staff of the Haryana Legislative Assembly.

**Note 2** — The Chairman, Haryana Public Service Commission, has agreed to the application of these rules as amended from time to time, in the case of officers and employees of the Haryana Public Service Commission.

**Note 3** — If any doubt arises as to whether these rules apply to any person or not, the decision shall lie with the General Administration Department of Government of Haryana.

3. In these rules, unless the context otherwise requires,--

Definitions

- (a) **"Government"** means the Government of the State of Haryana;
- (b) **"Government employee"** means any person appointed to any civil service or post in connection with the affairs of the State of Haryana.

**Explanation** — A Government employee whose services are placed at the disposal of a company, corporation, organization or a local authority by the Government, shall for the purposes of these rules be deemed to be a Government employee serving under the Government notwithstanding that his salary is drawn from sources other than from the Consolidated Fund of the State;

- (c) **"members of family"** in relation to a Government employee includes—
  - (i) the wife or the husband, as the case may be, of the Government employee, whether residing with the Government employee or not but does not include a wife or husband, as the case may be, separated from the Government employee, by a decree or order of a competent court;
  - (ii) son or daughter or step son or step-daughter of the Government employee and wholly dependent on him, but does not include a child or step-child who is no longer in any way dependent on Government employee or of whose custody the Government employee has been deprived by or under any law;
  - (iii) any other person related, whether by blood or marriage, to the Government employee or to the Government employee's wife or husband and wholly dependent on the Government employee;
- (d) **"prescribed authority"** means—
  - (1) (a) Government in the case of a Government employee holding a post of Group A except where any lower authority is specified by the Government for any

purpose;

- (b) Head of Department in the case of a Government employee holding a post of Group B;
  - (c) Head of Office in the case of a Government employee holding a post of Group C or D;
- (2) The Speaker of the Haryana Legislative Assembly; in the case of Secretary and the Secretary in the case of all other employees of the Secretariat of Legislative Assembly.
- (3) In respect of a Government employee on foreign service or on deputation to any other Department or any other Government, the parent department on the cadre of which such Government employee is borne; or the department to which he is administratively subordinate as member of that cadre.

**Note** — The terms not defined in these rules but defined in Haryana Civil Services (General) Rules, 2016 shall have the same meaning for the purpose of these rules.

4. (1) Every Government employee shall at all times— General
- (i) maintain absolute integrity;
  - (ii) maintain devotion to duty;
  - (iii) do nothing which is unbecoming of a Government employee; and
  - (iv) act in accordance with the Government's policies.

**Explanation** — A Government employee who habitually fails to perform a task assigned to him within the time set for the purpose and with the quality of performance expected of him shall be deemed to be lacking in devotion to duty within the meaning of clause (ii) above.

- (2) (i) Every Government employee holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Government employees under his control and authority.

**Note** — This sub rule shall be invoked only in cases where there has been a failure on the part of supervisory officer concerned to take all possible steps to ensure the integrity and devotion to duty of all Government employees under his control and authority.

- (ii) Every Government employee shall in the discharge of his official duties act in a courteous manner and shall not adopt dilatory tactics in his dealings with the public or otherwise.

- (3) (i) No Government employee shall, in the performance of his official duties, or in the exercise of powers conferred on him act otherwise than in his best judgment, except when he is acting under the direction of his official superior.
- (ii) The direction of the official superior shall, ordinarily, be in writing. Oral direction to subordinate shall be avoided, as far as possible. When the issue of oral direction becomes unavoidable, the official shall confirm it in writing immediately thereafter.
- (iii) A Government employee, who has received oral direction from his official superior, shall seek confirmation of the same in writing as early as possible, whereupon it shall be the duty of the official superior to confirm the direction in writing.

**Explanation** — Nothing in sub-clause (i) above shall be construed as empowering a Government employee to evade his responsibilities by seeking instructions from, or approval of, a superior officer or authority when such instructions are not necessary under the scheme of distribution of powers and responsibilities.

5. The following acts and omissions amount to misconduct :-

Act and conduct which amount to misconduct.

- (i) wilful insubordination or disobedience, whether alone or jointly with others, to any lawful and reasonable order of a superior;
- (ii) infidelity, unfaithfulness, dishonesty, untrustworthiness, theft and fraud, or dishonesty in connection with the activities of the Government or handling of its property;
- (iii) strike, picketing, gherao, striking work or inciting others to strike work in contravention of the provisions of any law or rule having the force of law;
- (iv) gross moral misconduct, acts subversive of discipline, riotous or disorderly behaviour during or after the office hours at any place;
- (v) riotous and disorderly behaviour during and after the working hours or in work place;
- (vi) negligence or neglect of work or duty amounting to misconduct;
- (vii) habitual negligence or neglect of work or duty;
- (viii) habitual absence without permission and over-staying leave;
- (ix) conviction by a Criminal Court.

The act or conduct of an employee may amount to misconduct—

- (i) if the act or conduct is prejudicial or likely to be prejudicial to the interests of the employer/Department or to the reputation of the

employer/Department;

- (ii) if the act or conduct is inconsistent or incompatible with the due or peaceful discharge of his duty to his employer/Department;
- (iii) if the act or conduct of a employee makes it unsafe for the employer to retain him in service;
- (iv) if the act or conduct of the employee is so grossly immoral that all reasonable men say that the employee cannot be trusted;
- (v) if the act or conduct of the employee is such that the employer/ Department cannot rely on the faithfulness of his employee;
- (vi) if the act or conduct of the employee is such as to open before him temptations for not discharging his duties properly;
- (vii) if the employee is abusive or if he disturbs the peace at the place of his employment;
- (viii) if he is insulting and insubordinate to such a degree as to be incompatible with the continuance of the relation of employer/ Department and employee;
- (ix) if the employee is habitually negligent in respect of the duties for which he is engaged;
- (x) if the neglect of the employee though isolated, tends to cause serious consequences.

6. (1) No Government employee shall indulge in any act of sexual harassment of any woman at her work place. Prohibition of sexual harassment of women
- (2) Every Government employee who is incharge of a work place shall take appropriate steps to prevent sexual harassment to any woman at such work place.

**Explanation** — For the purposes of this rule, ‘sexual harassment’ includes such unwelcome sexually determined behaviour, whether directly or otherwise, as—

- (a) physical contact and advances;
- (b) demand or request for sexual favours;
- (c) making any sexually coloured remarks;
- (d) showing any pornographic material; and
- (e) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

7. (1) No Government employee shall use his position or influence directly or indirectly to secure employment for any member of his family in any company or firm. Employment of near relatives of Government employees.
- (2) No Government employee shall, except with the prior sanction of the Government, permit his family member to accept employment in any company or firm with which he has official dealings.

Provided that where the acceptance of the employment may not await prior sanction, the position shall be explained to the prescribed authority with the request of ex-post-facto approval.

8. No Government employee shall, in the discharge of his official duties, deal with any matter or give or sanction any contract to any undertaking or any other person, if any member of his family is employed in that undertaking or under that person, or if he or any member of his family is interested in such matter or contract in any other manner. The Government employee shall refer every such matter or contract to his official superior and the matter or contract shall thereafter be disposed off according to the instructions of the authority to whom the reference is made. Sanction of contract by Government employee to near relatives.
- 9.(1) No Government employees shall be a member of, or be otherwise associated with, any political party or any Organization, which takes part in politics, nor shall take part in, or subscribe in aid of, or assist in any other manner, any political movement or activity. Taking part in politics and elections.
- (2) It shall be the duty of every Government employee to endeavour to prevent any member of his family from taking part in or subscribing in aid of or assisting in any other manner, any movement of, activity which is, or tends directly or indirectly to be subversive of the Government as by law established, and where a Government employee is unable to prevent member of his family from taking part in or subscribing in aid of, or assisting in any other manner, any such movement of activity, he shall make a report to that effect to the Government.
- (3) If any question arises whether a party is a political party or whether any organization takes part in politics or whether any movement or activity fall within the scope of sub-rule (2), the decision of the Government thereon shall be final.
- (4) No Government employee shall canvass or otherwise interfere with, or use his influence in connection with or take part in, an election to any legislature or local authority:

Provided that a Government employee—

- (a) qualified to vote at such election may exercise his right to vote, but where he does so, he shall give no indication of the manner in which he proposes to vote or has voted;
- (b) shall not be deemed to have contravened the provisions of this sub-rule by reason only that he has assisted in the conduct of an election in the due performance of a duty imposed on him by or under any law for the time being in force.

**Explanation.**—The display by a Government employee on his person, vehicle or residence of any electoral symbol shall amount to using his influence in connection with an election, within the meaning of this sub-rule.

- 10.** (1) No Government employee shall join or continue to be a member of an association, the objects or activities of which are prejudicial to the interest of the sovereignty and integrity of India or public order or morality. Joining of Associations
- (2) No Government employee shall be a member/ office bearer of more than one such association at State level and at National level, the aims or objectives of which relate to promotion of sports. However, the employee of the sports department may become member/ office bearer of only one association at State level and one at National level that too in the area of his own specialty/discipline.
- 11.** No Government employee shall— Demonstration and strikes.
- (i) engage himself or participate in any demonstration which is prejudicial to the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign State, public order, decency or morality or which involves contempt of court, defamation or incitement to an offence; or
- (ii) resort to or in any way abet any form of strike in connections with any matter pertaining to his service or any other Government employee.
- 12.** (1) No Government employee shall, except with the previous sanction of the Government, on wholly or in part, or conduct or participate in the editing or management of, any newspaper or other periodical publication or electronic media. Connection with print or electronic media
- (2) No Government employee shall except with the previous sanction of the Government or the prescribed authority or except in the bona-fide discharge of his duties—
- (a) publish a book himself or through a publisher, or contribute an article to a book or a compilation of articles; or
- (b) participate in a public media or contribute an article or write a letter to a newspaper or periodical; either in his own name or anonymously or pseudonymously or in the name of any other person:
- Provided that no such sanction shall be required —
- (1) if such publication is through a publisher and is of a purely literary, artistic or scientific character; or
- (2) if such contribution, broadcast or writing is of a purely literary, artistic or scientific character:
- Provided further that the Government may withdraw at any time, the sanction so granted to a Government employee, after affording reasonable opportunity of being heard, if, there are reasons to believe that the sanction is being misutilised.

- 13.** No Government employee shall, in any radio broadcast or communication over any electronic media or in any document published in his own name or anonymously or pseudonymously or in the name of any other person or in any communication to the press or in any public utterance make any statement of fact or opinion—

Criticism of Government.

- (i) which has the effect of any adverse criticism of any current or recent policy or action of the Government of India, Government of Haryana or any other State Government;
- (ii) which is capable of embarrassing the relations between the Government of Haryana and the Government of India or the Government of any other State in India; or
- (iii) which is capable of embarrassing the relations between the Government of India or the Government of Haryana and the Government of any foreign State:

Provided that nothing in this rule shall apply to any statements made or views expressed by a Government employee in his official capacity or in the due performance of the duties assigned to him.

- 14.** (1) Save as provided in sub-rule (3), no Government employee shall except with the previous sanction of the Government, give evidence in connection with any enquiry conducted by any person, committee or authority.
- (2) Where any sanction has been accorded under sub-rule (1), no Government employee giving such evidence shall criticize the policy or any action of the Government of India, Government of Haryana or any other State Government.
- (3) Nothing in this rule shall apply to evidence given—
- (a) at enquiry before an authority appointed by the Government, Parliament or a State Legislature; or
  - (b) in any judicial enquiry; or
  - (c) at any departmental enquiry ordered by authorities subordinate to the Government.
- (4) No Government employee giving any evidence referred to in sub rule (3) shall give publicity to such evidence.

Evidence before Committee or any other authority.

- 15.** Every Government employee shall, in performance of his duties in good faith, communicate to a member of public or any organisation full and accurate information, which is to be disclosed under the Right to Information Act, 2005 (22 of 2005):

Communication of official information.

Provided that no Government employee shall except in accordance with any general or special order of the Government or in the performance in good faith of the duties assigned to him, communicate, directly or

indirectly, any official document or any part thereof; or information to any Government employee or any other person to whom he is not authorized to communicate such document or information.

16. No Government employee shall, except with the previous sanction of the Government or of the prescribed authority, ask for or accept contributions to, or otherwise associate himself with the raising of, any funds or other collections in cash or in kind in pursuance of any object whatsoever. Subscriptions

- 17.(1) Save as otherwise provided in these rules, no Government employee shall accept or permit any member of his family or any other person acting on his behalf to accept any gift. Gifts.

**Explanation** — The expression “gift” shall include free transport, boarding, lodging or other service or any other pecuniary advantage provided by a person other than a near relatives and friends having no official dealings with the Government employee.

**Note 1** — A casual meal or other social hospitality shall not be deemed to be a gift.

**Note 2** — A Government employee shall avoid accepting lavish hospitality or frequent hospitality from any individual having official dealings with him or from industrial or commercial firms, Organizations, etc.

- (2) On occasions such as weddings, anniversaries, funerals or religious functions, when the making of gift is in conformity with the prevailing religious and social practice, a Government employee may accept gifts from his near relatives or from his personal friends having no official dealings with him, but shall make a report to the Government, if the value of such gift exceeds—

1. Rs. 7,000/- in the case of a Government employee holding any Group 'A' post;
2. Rs. 4,000/- in the case of a Government employee holding any Group 'B' post;
3. Rs. 2,000/- in the case of a Government employee holding any Group 'C' post; and
4. Rs. 1,000/- in the case of a Government employee holding any Group 'D' post.

- (3) In any other case, a Government employee shall not accept any gift without the sanction of the Government, if the value exceeds—

1. Rs. 1,500/- in the case of a Government employee holding any Group 'A' & 'B' post;
2. Rs. 500/- in the case of a Government employee holding any Group 'C' & 'D' post;

(4) Notwithstanding anything contained in sub-rules (2) and (3), a Government employee, being a member of the Indian delegation or otherwise, may receive and retain gifts from foreign dignitaries, if the market value of gifts received on one occasion does not exceed rupees one thousand. In all other cases, the acceptance and retention of such gifts shall be regulated by the instructions issued by the Government in this regard from time to time.

**18. (1) No Government employee shall—**

Prohibition of dowry.

- (i) give or take or abet the giving or taking of dowry; or
- (ii) demand, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry.

**Explanation.**—For the purposes of this rule, “dowry” has the same meaning as in the Dowry Prohibition Act, 1961 (28 of 1961), as amended in its application to the State of Haryana.

(2) Every Government employee after his marriage shall furnish a declaration to his Head of Department that he has not taken any dowry. The declaration shall be signed by his wife, father and father-in-law.

**19.(1) No Government employee shall, except with the previous sanction of the Government, receive any complimentary or valedictory address or accept any testimonial or attend any meeting or entertainment held in his honour; or in the honour of any other Government employee:**

Public demonstration in honour of Government employees.

Provided that nothing in this rule shall apply to—

- (a) a farewell entertainment of a substantially private and informal character held in honour of a Government employee or any other Government employee on the occasion of his retirement or transfer or of any person who has recently quitted the service of any Government; or
  - (b) the acceptance of simple and inexpensive entertainment arranged by public bodies or institutions.
- (2) No Government employee shall exercise pressure or influence of any sort on any Government employee to induce him to subscribe towards any farewell entertainment even if it is of a substantially private or informal character.

**20.(1) Subject to the provisions of sub-rule (2), no Government employee shall, except with the previous sanction of the Government—**

Private trade or employment.

- (a) engage directly or indirectly in any trade or business, or
- (b) negotiate for, undertake, any other employment, or
- (c) hold an elective office, canvass for a candidate for an elective office, in any body, whether incorporated or not; or
- (d) canvass in support of any business of insurance agency, commission agency, etc., owned or managed by any member of his family, or

(e) take part, except in the discharge of his official duties, in the registration, promotion or a management of any bank or other company registered under the Companies Act, 2013 (18 of 2013) or any other law for the time being in force, or of any Co-operative Society for Commercial purposes or

(f) participate in, or associate himself in any manner, in making of—

(i) a sponsored media (including radio, televisions) programme, or

(ii) a media programme commissioned by Government media but produced by an outside agency or;

(iii) a privately produced radio or televisions or other media programme including a video magazine:

Provided that no previous permission shall be necessary in case a Government employee participates in a programme produced by the Doordarshan or a subject dealt with by him in his official capacity.

(g) involve or engage himself in the registration, promotion, management of other kinds of activities of any non-Government Organisation (NGO) if the same is aided by the Central Government, State Government or an international Organization or agency.

(2) A Government employee may, without the previous sanction of the Government—

(a) undertake honorary work of a social or charitable nature; or

(b) undertake occasional work of literary, artistic or scientific character; or

(c) participate in sports activities as amateur; or

(d) take part in the registration, promotion or management (not involving the holding of an elective office) of a literary, scientific or charitable society, or of a club, or similar organisation, the aims or objectives of which relate to promotion of sports, cultural, or recreation activities, registered under the Societies Registration Act, 1860 (21 of 1860), or any other law for the time being in force; or

(e) take part in the registration, promotional or management (not involving the holding of elective office) of a Co-operative Society substantially for the benefit of Government employee, registered under the Co-operative Societies Act, 1912 (2 of 1912) or any other law for the time being in force in any State:

Provided that—

(i) he shall discontinue taking part in such activities if so directed by the Government; and

(ii) in a case falling under clause (d), or clause (e) of this sub-rule, his official duties shall not suffer thereby and he shall, within a period of one month of his taking part in such activity, report to the Government giving

details of the nature of his participation.

**Explanation I** — A “Co-operative Society” means a society registered, or deemed to be registered under the Co-operative Societies Act, 1912 (2 of 1912) or any other law relating to Co-operative Societies for the being in force in any State.

**Explanation II** — Canvassing for a candidate for an elective office referred to in the second proviso shall be deemed to be breach of this sub-rule.

(3) Every Government employee shall, if any member of his family is engaged in a trade or business, or owns or manages an insurance agency or commission agency, report that fact to the Government.

(4) No Government employee shall accept any fee for any work done for any public body or for any private person without the sanction of the prescribed authority.

**Explanation.—** The term ‘Fee’ has been defined in Haryana Civil Services (General) Rules, 2016

21.(1) The Government accommodation allotted to a Government employee shall not be sublet or leased out or used otherwise. Government accommodation.

(2) A Government employee shall, after the cancellation of his allotment of Government accommodation vacate the same within the time limit prescribed by the competent authority.

22.(A) Transactions in sale and purchase of shares and debentures etc.— Investment, lending and borrowing.

(1) On investment in stock, share, debenture, etc. an intimation shall be sent to the prescribed authority in the form as given below:-

(i) Group ‘A’ and ‘B’ employees – If the total transaction in shares, securities, debentures or mutual funds scheme etc. exceeds Rs. 50,000/- during the financial year; and

(ii) Group ‘C’ and ‘D’ employees – If the total transactions in shares, securities, debentures or mutual funds scheme etc. exceeds Rs. 25,000/- during the financial year.

If an individual transaction exceeds the amount prescribed in sub rule (3) of rule 24 the intimation to the prescribed authority shall still be necessary. The intimation prescribed in sub rule (1) shall be in addition to this, where cumulative transaction(s) i.e. sale, purchase or both in shares, securities, debentures or mutual funds etc. in a year exceed the limits indicated in sub rule (1).

**Form for giving intimation for transactions in shares, securities, debentures and investment in mutual fund schemes, etc.**

1.	Name and designation	
2.	Scale of pay and present pay	
3.	Details of each transaction made in shares, securities, debentures, mutual funds scheme, etc., during the financial year.	
4.	Particulars of the party, firm with whom transaction is made—	
	(a) Is party related to the applicant?	
	(b) Did the applicant have any dealings with the party in his official capacity at any time or is the applicant likely to have any dealings with him in the near future?	
5.	Source or sources from which financed—	
	(a) Personal savings	
	(b) Other sources giving details	
6.	Any other relevant fact which applicant may like to mention.	

**DECLARATION**

I hereby declare that the particulars given above are true.

Station:\_\_\_\_\_ Signature:\_\_\_\_\_

Date:\_\_\_\_\_ Designation:\_\_\_\_\_

- (2) No Government employee shall make, or permit any member of his family or any person acting on his behalf to make any investment which is likely to embarrass or influence him in the discharge of his official duties. For this purpose any purchases of shares from out of the quotas reserved for Directors or their friends and associate shall be deemed to be an investment which is likely to embarrass the Government employee.
- (3) If any question arises whether any transaction is of the nature referred to in sub-rule (1) or sub-rule (2), the decision of the Government thereon shall be final.

**(B) Lending and Borrowing —**

- 1 No Government employee shall save in the ordinary course of business with a bank or a firm of standing duly authorized to conduct banking business, either himself or through any member of his family or any other person acting on his behalf :-
- a lend or borrow money as principal or agent, to or from any person within the local limits of his authority or with whom he is likely to have official

dealings, or otherwise place himself under any pecuniary obligation to such person, or

- b lend money to any person at interest or in a manner whereby return in money or in kind is charged or paid:

Provided that a Government employee may, give to, or accept from, a relative or a personal friend purely temporary one of a small amount free of interest or operate a credit account with a bonafide trade man or make an advance of pay to his private employee but such amount shall not exceed twelve months basic pay for the construction of house or purchase of built up house and six months basic pay for the purchase of conveyance and other purposes.

Provided further that a Government employee may, with the previous sanction of the Government, enter into any transaction referred to in sub-clause or sub-clause (b).

- 2. When a Government employee is appointed or transferred to a post of such nature as shall involve him in the breach of any of the provisions of sub-rule (A)(2) or sub-rule (B)(1), he shall forthwith report the circumstances to the prescribed authority and shall there after act in accordance with such order as may be made by such authority.

- 23.(1) A Government employee shall so manage his private affairs as to avoid habitual indebtedness, or insolvency. Insolvency and habitual indebtedness.
- (2) A Government employee against whom any legal proceedings are instituted for recovery of any debt due from him or for adjudging him as an insolvent shall immediately report the full facts of the legal proceeding to the Government.
- (3) The burden of proving that the insolvency or indebtedness was the result of circumstances which, with the exercise of or ordinary diligence, the Government employee may not have foreseen, or over which he had no control, and had not proceeded from extravagant or dissipated habits, shall be upon him.

- 24.(1) Every Government employee shall submit— Movable, immovable and valuable property.
  - (i) declaration of property on his first appointment to any service or post;
  - (ii) annual property return as on 31st March of every financial year; and
  - (iii) property return as and when he is directed by the prescribed authority,showing particulars in detail, in the prescribed Forms appended to these rules at Annexure A and B, regarding—
  - (a) immovable property inherited, owned, acquired or held on lease or mortgage, by him or his spouse or any member of his family, either in their own name or in the name of any other person; and

(b) movable property.

**Explanation.—** For the purpose of this rule the expression ‘movable property’ includes—

- (i) cash, bank balance, deposits, Loans and Advances;
- (ii) investments in Shares, Securities, Debentures, Bonds etc.;
- (iii) jewellery and Insurance policies;
- (iv) vehicles, any other means of conveyance;
- (v) any electric, electronic goods or household items such as refrigerators, air conditioner, LCD, LED, computers, washing machines, furniture etc.;
- (vi) debts and other liabilities incurred directly or indirectly by him or his spouse or any other member of his family; and  
any other movable property owned, acquired or inherited by him or his spouse or any other member of his family.

**Note 1.—** The moveable/immoveable properties either acquired by the members of the family of the employee from their own funds or inherited by them shall not attract the provisions of this rule.

(c)

**Note 2.—** In all returns the value of items of movable property costing less than Rs. 50,000 may be added and shown as a lump sum. The value of articles of daily use such as clothes, utensils, crockery, books, etc., shall not be included in such return.

- (2) No Government employee or any dependent member of his family shall except with the previous knowledge of the prescribed authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of any dependent member of his family:

Provided that the previous sanction of the prescribed authority shall be obtained by the Government employee if any such transaction is—

- (i) with a person having official dealings with the Government employee; or
- (ii) otherwise than through a registered dealer.

- (3) Where a Government employee enters into a transaction in respect of movable property either in his own name or in the name of the member of his family, he shall, within one month from the date of such transaction, report the same to the prescribed authority, if the value of such property exceeds two months' basic pay of the Government employee:

Provided that the previous sanction of the prescribed authority shall be obtained if any such transaction is—

- (i) with a person having official dealings with the Government employee; or
  - (ii) otherwise than through a registered dealer.
- (4) The Government or the prescribed authority may at any time, by general or special order, require a Government employee to furnish, within a period specified in the order, a full and complete statement of such movable or immovable property held or acquired by him on his behalf or by any member of his family as may be specified in the order. Such statement shall, if so, required by the Government or by the prescribed authority, include the details of the means by which, or the source from which, such property was acquired.
- 25.(1)** No Government employee shall, except with the previous sanction of the Government, have recourse to any court or to the press for vindication of any official act which has been the subject matter of adverse criticism or on attack of a defamatory character:

Vindication of acts and character of Government employees.

Provided that if no such sanction is received by the Government employee within a period of three months from the date of receipt of his request by the Government, he shall be free to assume that the permission as sought for has been granted to him.
- (2) Nothing in this rule shall be deemed to prohibit a Government employee from vindicating his private character or any act done by him in his private capacity and where any action for vindicating his private character or any act done by him in private capacity is taken, the Government employee shall submit a report to the prescribed authority regarding such action.
- 26.** No Government employee shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of a matter pertaining to his service under the Government.

Canvassing.
- 27.(1)** No Government employee shall enter into, or contract, a marriage with a person having a spouse living.

Restriction regarding bigamous marriage
- (2) No Government employee, having a spouse living shall enter into, or contract, a marriage with any person:
- Provided that the Government may permit a Government employee to enter into, or contract, any such marriage as is referred to in sub-rule (1) or sub-rule (2), if it is satisfied that—

  - (a) such marriage is permissible under the personal law applicable to such Government employee and the other party to the marriage; and
  - (b) there are other grounds for so doing.
- (3) A Government employee who has married or marries a person other than of Indian nationality shall forthwith intimate the Government.

- (4) Every Government employee shall in his personal capacity observe strictly, the existing policies regarding age of marriage.
28. A Government employee shall—
- Consumption of intoxicating drinks and drugs.
- (a) strictly abide by any law, relating to intoxicating drink or drugs, in force in any area in which he may happen to be for the time being;
  - (b) not be under the influence of any intoxicating drink or drug during the course of his duty and shall also take due care that the performance of his duties at any time is not affected in any way by the influence of such drink or drug;
  - (c) not consume any intoxicating drinks, drugs or smoking in public place ;
  - (d) not appear in a public place in a state of intoxication;
  - (e) not be present on duty in a state of intoxication; and
  - (f) not use any intoxicating drinks or drugs to excess.
- Explanation** — For the purposes of this rule, “public place” means any place or premises (including conveyance) to which the public have or are permitted to have, access whether on payment or otherwise.
29. No Government employee shall employ any child below the age of 14 years as domestic help.
- Prohibition of child labour.
30. The power to give interpret, amend and relax these rules shall vest in the General Administration Department, whose decision thereon shall be final.
- Power to interpret, amend and relax.
- Note** — Communications regarding the interpretation and alteration of these rules shall be addressed to the General Administration Department through the Administrative Department concerned.
31. The Government may, by general or special order, direct that any power exercisable by it or any Head of Department under these rules (except the powers under rule 30) shall, subject to such conditions, if any, as may be specified in the order, be exercisable also by such officer or authority, as may be specified in the order.
- Delegation of power.
- 32.(1) The Government Employees (Conduct) Rules, 1966 (Appendix 23 of Punjab Civil Services Rules Volume-I, Part-II) are hereby repealed.
- Repeal and saving.
- (2) Anything done or any action taken under the rules so repealed shall be deemed to have been done or taken under the corresponding provisions of these rules.



# Articles

**First M.C. Setalvad Memorial Lecture**  
delivered by  
**Hon'ble Shri R.C. Lahoti**, Chief Justice of India  
at The Gulmohar Hall, India Habitat Centre,  
Lodhi Road New Delhi  
On Tuesday, **22nd February, 2005.**

## **INTRODUCTION**

I deem it a matter of pride, privilege and pleasure for having been called upon to deliver the First M.C. Setalvad Memorial Lecture. I do not have the good fortune of having ever met or even seen the legendary figure Motilal Setalvad, but, I can claim to know him well for I have learnt about him not from anyone else, but from he himself.

My close encounter with Setalvad (as I would put it) was in the year 1971. I had put in a few years of legal practice. I had passed through that phase wherein a junior lawyer often acquires the reputation of being a champion of lost cases. I was desperately keen on learning what goes into the making of a good lawyer. My late father, who was also my *guru* in the profession and also my role model, advised me to read autobiographies and biographies of great lawyers. In a law book shop at Indore (where I had taken my instructions in law), I came across- 'My Life, Law and Other Things'. What tempted me at that time to purchase the book was not so much the fact that the book was authored by Setalvad; rather, I felt more fascinated by the fact that the book was published in October, 1970 and within three months a reprint edition had to be brought out in January, 1971. This fact bore testimony to the demand for the book. I thought there must be something worthwhile in it. For the book running into 636 pages well bound in cloth, I paid Rs. 30/? (the printed price) which was out of the hard earned money of a young district court lawyer. Thirty three years hence, a few pages have started leaving the binding. Recently I saw the second edition of the book. On comparison, I found that the only difference between the two editions is a heart touching but inspiring introduction to the book by Shri Fali S. Nariman, Senior Advocate. I got the introduction photocopied and added to my old possession as I did not want my tested source of inspiration for 33 years to be replaced by anything new.

The book is a must for every lawyer, every judge and every student of law, for the message which it carries for everyone associated with law or legal profession. The book speaks less of Setalvad and more about the contemporaneous events which centered around Setalvad. It is less of a biography and more of a historical document. Setalvad himself said- "I have always disliked talking about myself" and yet he said- "I am naturally proud of what I have been able to achieve in the profession and all the services I have tried to render to the public and the country in different fields. I have attempted in this book to set down an account of my life first of all for my own satisfaction and because it might be an encouragement to others." Setalvad is right, I can swear and say that.

## **MOTILAL SETALVAD**

Motilal was a worthy son of a worthy father Chimanlal. He not only inherited all the virtues of his great father but also multiplied and refined them to higher planes. Towards the declining years of his life, Chimanlal had the satisfaction of seeing his eldest son tread in his professional footsteps, and distinguishing himself by his mental powers and forensic ability, which in the end enabled him to rise to the highest rung of the legal ladder, culminating in his

appointment first as the Advocate General of Bombay and later as Attorney General for India. The son gave early promise of a brilliant future at the Bar<sup>1</sup>.

A few characteristic qualities of Setalvad as an Advocate need a mention. He was blessed with a stentorian voice which was quite disarming for his opponents. He was invariably full of confidence at the Bar and had the habit of looking around in court during the course of his arguments. He never interrupted his opponents. His arguments were crisp and to the point and were not loaded with personal reminiscences and anecdotes. When Seervai mentioned something personal to himself during the course of the hearing of the RMDC appeals and writ petitions, Motilal made an audible remark that " these autobiographical references must stop" . He practiced the profession in a grand manner like an architect and not like a mason or a tradesman operating on the law of demand and supply. His fees were reasonable and did not vary depending upon the stakes involved in a case<sup>2</sup>. The most conspicuous trait of Motilal Setalvad's advocacy in Court was his clarity of exposition and brevity. He never repeated an argument or over emphasized it. In the President' s Reference No. 1 of 1964 [(1965) 1 SCR 413], Chief Justice Gajendragadkar paid a tribute to him- "Mr. Setalvad who appeared for the Judges of the Allahabad High Court addressed to us a very able argument with his characteristic brevity and lucidity" (page 435).

He had the most impeccable demeanor in court. He did not raise his voice or show any emotion or indulge in levity. No other Attorney General had the gravity which he had and which spontaneously commanded respect from the Bench. As a Law Officer he seemed to have instinctively grasped the true function of a Law Officer which is stressed in English Courts viz., "Counsel for the Crown neither wins or loses. He is there to state the law and facts to the Court" . Setalvad did precisely that<sup>3</sup>.

## TODAY'S TOPIC

When Mr. Fali S. Nariman gave me the topic- "Canons of Judicial Ethics" I was a little amused. Who talks of ethics these days? And who listens to ethics?

A patient visited a doctor's clinic and asked the receptionist- "I want to see a specialist of eyes and ears.

The receptionist said- "There are doctors of ear, nose and throat and there are doctors of eyes. There is no specialist who treats both the eyes and the ears. But then why are you in need of such a doctor?"

The patient replied- "These days I do not see what I hear and I do not hear what I see."

There are three reasons why I have readily and happily agreed to be here this day speaking on the subject. First, the year 2005 is an 'Year of Excellence in Judiciary' . It is futile to think of excellence in judiciary unless the judges– howsoever highly or howsoever lowly placed – were to follow the canons of judicial ethics. Thus, the subject becomes inevitably relevant. Secondly, there is an untold and hitherto unknown affinity between Setalvad and me. Setalvad too was a teetotaller, vegetarian and nonsmoker. These qualities of his have made me fall in love with him. Thirdly, I feel nothing could have been more appropriate and befitting the memory of Setalvad –the professional virtues incarnate, than discussing ethics and this I say on the authority of what Mr. Justice V.R. Krishna Iyer had said in a message – " The late Shri M.C. Setalvad was not merely a great jurist and persuasive advocate of international renown but, most importantly, was one of the tallest figures who set high standards for the

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1 P.B VACHHA, Famous Judges, Lawyers and Cases of Bombay, p. 153

2 Source – SOLI J. SORABJEE, Senior Advocate and Former Attorney General of India

3 Source – T.R. ANDHYARUJINA, Senior Advocate, Supreme Court and Former Solicitor General of India.

Bench and the Bar and, by the very power of his presence, made high professional values operational. Today, when the decline and fall have become deleteriously visible in the two sister professions, the memory of Setalvad will be a necessary admonition." <sup>4</sup>Fourthly, no Chief Justice of India would refuse to avail an opportunity for speaking on judicial ethics more so when it is before such an august audience and that too in the memory of Motilal Setalvad. It would have been unethical on my part if I would not. Discussion on judicial ethics is a tribute to Setalvad.

The first lecture on Setalvad could not possibly have been on any topic other than "Ethics". Setalvad is a man who lived by values and not only did he live by values but he also believed in creating values. He remained ever a lawyer and never became a judge; rather, never agreed to become a judge. His life story is full of anecdotes delivering messages worth being emulated by the lawyers and the judges. An anecdote or two<sup>5</sup>, I am tempted to quote.

In 1956, Setalvad was in Hague to appear before the International Court. The Indian Ambassador there came with a message that Sir Mohammed Zaffarullah Khan, one of the Judges at the Court was anxious to meet Setalvad for old times' sake. Setalvad responded firmly by saying that it would be wrong for him to meet a sitting Judge even socially. Zafarullah Khan tried to speak to Setalvad on phone. Setalvad was very clear and firm while speaking into the mouthpiece for the sake of courtesy that it would be wrong for him to meet the judge while the case was on. "We shall meet after the case is over," he said<sup>5</sup>.

While staying at 11, Safdarjung Road in the capacity of Attorney General for India he had two telephones, one official and one personal. Mrs. Setalvad was having tea with him and Setalvad just left the hall to make a call. The guest present wondered why he did not make a call from the telephone which was there itself. Mrs. Setalvad explained that Setalvad always made his personal calls from his private telephone and the telephone near hand was the official one<sup>5</sup>.

During his official visits he would meticulously check all the bills to separate such payments which were his personal and immediately drew a cheque for such amounts.

It is well known that Setalvad publicly disapproved of the former Chief Justice of Bombay accepting a diplomatic post from the Government of India. He heartily disapproved of the executive branch of the Government holding different carrots to the judiciary.<sup>5</sup>

He would never accept any gifts; not even from his clients. In the Privy Purse matter his client ? a Maharaja- sent him some valuable gifts attractively packed, which he promptly declined to accept, even without touching them and told the carrier- "Tell his Highness if he wants to send the fee, it should be by cheque."<sup>5</sup>

Motilal had great respect for the judiciary and the judges. Jai Mukhi was associated with Motilal as his junior. Mukhi's brother Parsa was appointed judge of the Bombay High Court. Soon, on being so appointed, Parsa accompanied Mukhi to Setalvad's house. Setalvad was in kurta pyjama and ensconced in his favourite chair. He lumbered up from his chair and stood erect to exclaim- "A Judge! One must show respect to a Judge!"<sup>5</sup>

Setalvad had asserted Judicial Independence when he was still the Attorney General. At the Inaugural Session of the Bar Association of India in 1961, he had indicted the Government, with President Rajendra Prasad, Prime Minister Jawaharlal Nehru and Chief Justice B.P. Sinha present on the rostrum in the Vigyan Bhawan. Setalvad condemned the Governor's reprieve granted to Nanavati to make the Bombay High Court warrant issued for

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4 The Indian Advocate, Vol. XIII, 1991, p.72

5 Source – J.M. MUKHI, Bar-at-law

his arrest unenforceable, when the Supreme Court was seized of Nanavati's appeal against his conviction for the murder of Ahuja. After Setalvad's Presidential Speech, at this Bar function, Jawaharlal Nehru was called upon by Setalvad to inaugurate the Bar Association of India, a voluntary organization of the Bar. Jawaharlal Nehru was visibly shaken by the powerful public indictment by Motilal Setalvad. Jawaharlal Nehru fumbled for words as he never used to. Jawaharlal began: "What can I say? I am in the position of an accused!" That was Jawaharlal so full of candour and so transparently sincere. He did not defend the action of the Government. He made it quite obvious that his judgment as Prime Minister had gone wrong in taking a responsible decision, in the zeal to protect Nanavati, *albeit* temporarily<sup>6</sup>. Commitment to professional ethics and professionally honouring the commitment made were the virtue of Setalvad. R.A. Gagrath, Advocate, past President of the Bombay Incorporated Law Society narrates one of his reminiscences. He had briefed Setalvad in some important cases including the RMDC case which his clients lost in the Bombay High Court. At that time, there was a rumor that Setalvad would be appointed the first Attorney General for India. Gagrath went to congratulate him and also told him that on behalf of RMDC, an appeal was being filed in Supreme Court. The information was a reminder to Setalvad and also an underlying request to Setalvad to inform in his turn the Government to that effect. Gagrath also requested Setalvad to appear for his clients in the Supreme Court and not to take up the matter on behalf of the Government. Setalvad expressed thanks to Gagrath for the information and told him that he would speak to the Government about it. Setalvad kept his promise and appeared for RMDC in the Supreme Court<sup>7</sup>.

While working on the material for the memorial lecture of today I have realized what the meaning of the title "My Life, Law and Other Things" ? Title which Setalvad gave to his autobiography – is. His 'life' is, of course, the core of the book. The 'law' is in plenty in it to read. What was not clear to me earlier was 'other things'. Now, I understand these 'other things' available in the book, are just the 'Canons of Judicial Ethics'.

## CANONS VS. PRINCIPLES

I wonder why not 'Principles of Judicial Ethics' and why the 'Canons of Judicial Ethics'. 'Principles' are fundamental truth, the axioms, the code of right conduct. Much of these remain confined to theory or hidden in books. Canons are the type or the rules perfected by the principles put to practice. Principles may be a faculty of the mind, a source of action which are a pleasure to preach or read. 'Canons' are principles put into practice so as to be recognized as rules of conduct commanding acceptability akin to religion or firm faith, the departure wherefrom would be not a pardonable mistake but an unpardonable sin. Let us bear this distinction in our mind while embarking upon a voyage into the dreamland called the 'Canons of Judicial Ethics'.

Canons are the first verse of the first chapter of a book whose pages are infinite. The life of a Judge i.e. the judicial living is not an easy thing. Things in judicial life do not always run smoothly. Performing the functions of a judicial office, an occupant at times rises towards the heights and at times all will seem to reverse itself. Living by canons of judicial ethics enables the occupant of judicial office to draw a line of life with an upward trend traveling through the middle of peaks and valleys. In legal circles, people are often inclined to remember the past as glorious and describing the present as full of setbacks and reverses. There are dark periods of trial and fusion. History bears testimony to the fact that there has never been an age that did not applaud the past and lament the present. The thought process shall ever continue. Henry George said- "Generations, succeeding to the gain of their predecessors, gradually elevate the

6 G. L. SANGHI Remembering M.C. Setalvad, The Indian Advocate, Volume XXIII, 1991 Part II

7 The Bombay Incorporated Law Society, Centenary, Volume 1894-1994, pp. 270-271

status of mankind as coral polyps, building one generation upon the work of the other, gradually elevate themselves from the bottom of the sea." Progress is the law of nature. Setbacks and reverses are countered by courage, endurance and resolve. World always corrects itself and the mankind moves ahead again. "Life must be measured by thought and action, not by time"- said Sir John Lubbock.

Observance of Canons of Judicial Ethics enables the judiciary to struggle with confidence; to chasten oneself and be wise and to learn by themselves the true values of judicial life. The discharge of judicial function is an act of divinity. Perfection in performance of judicial functions is not achieved solely by logic or reason. There is a mystic power which drives the Earth and the Sun, every breeze on a flower and every smile on a child and every breath which we take. It is this endurance and consciousness which enables the participation of the infinite forces which command us in our thought and action, which, expressed in simple terms and concisely put, is called the 'Canons of Judicial Ethics'.

### **JUDICIAL ETHICS- *A definition***

Judicial ethics is an expression which defies definition. In the literature, wherever there is a reference to judicial ethics, mostly it is not defined but attempted to be conceptualized. According to Mr. Justice Thomas of the Supreme Court of Queensland, there are two key issues that must be addressed : (i) the identification of standard to which members of the judiciary must be held; and (ii) a mechanism, formal or informal, to ensure that these standards are adhered to. A reference to various dictionaries would enable framing of a definition, if it must be framed. Simply put, it can be said that judicial ethics are the basic principles of right action of the judges. It consists of or relates to moral action, conduct, motive or character of judges; what is right or befitting for them. It can also be said that judicial ethics consist of such values as belong to the realm of judiciary without regard to the time or place and are referable to justice dispensation.

### ***Need for***

In all democratic constitutions, or even those societies which are not necessarily democratic or not governed by any constitution, the need for competent, independent and impartial judiciary as an institution has been recognized and accepted. It will not be an exaggeration to say that in modern times the availability of such judiciary is synonymous with the existence of civilization in society. There are constitutional rights, statutory rights, human rights and natural rights which need to be protected and implemented. Such protection and implementation depends on the proper administration of justice which in its turn depends on the existence and availability of an independent judiciary. Courts of Law are essential to act and assume their role as guardians of the Rule of Law and a means of assuring good governance. Though it can be said that source of judicial power is the law but, in reality, the effective exercise of judicial power originates from two sources. Externally, the source is the public acceptance of the authority of the judiciary. Internally and more importantly, the source is the integrity of the judiciary. The very existence of justice delivery system depends on the judges who, for the time being, constitute the system. The judges have to honour the judicial office which they hold as a public trust. Their every action and their every word- spoken or written- must show and reflect correctly that they hold the office as a public trust and they are determined to strive continuously to enhance and maintain the people' s confidence in the judicial system.

Alexander Hamilton once said ---"The judiciary . . . has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society, and can take no active resolution whatever. It may truly be said to have neither Force nor Will but

merely judgment...."<sup>8</sup> The greatest strength of the judiciary is the faith of the people in it. Faith, confidence and acceptability cannot be commanded; they have to be earned. And that can be done only by developing the inner strength of morality and ethics.

### ATTEMPTED CODIFICATION OF CANONS OF JUDICIAL ETHICS

People are responsible for their opinions, but providence is responsible for their morals (W.B. Yeats in Christopher Hassall). The Constitution of India provides for an independent judiciary. It is insulated against any influence of any other wing of governance or any other agency or authority. Speaking in the Constituent Assembly of India, its President Dr. Rajendra Prasad emphasized the need for the Indian Judiciary to be independent of the Executive and competent in itself. There was a long discussion as to how the twin objects could be achieved. It has been unanimously accepted in all the civilized countries of the world that an independent judiciary is the backbone of civilized governance. It needs to be constantly guarded against external influences.

Over the time, the framers of different constitutions have realized that independence of the judiciary and the protection of its constitutional position is the result of a continuous struggle ? an ongoing and dynamic process. The constitutional safeguards provide external protection for independence and strength of the judiciary. At the same time, the judiciary itself and sociolegal forces should believe in the independence of the judiciary. It is of paramount importance, that the judiciary to remain protected must be strong and independent from within, which can be achieved only by inculcating and imbibing canons of judicial ethics inseparably into the personality of the judges. Ethics and morality cannot be founded on authority thrust upon from outside. They are the matters of conscience which sprout from within. *Sukra Neeti* (IV51415) enumerates five vices which every judge should guard against to be impartial. They are: (i) *raga* (leaning in favour of a party), (ii) *lobha* (greed), (iii) *bhaye* (fear), (iv) *dvesha* (illwill against anyone) and (v) *vadinoscha rahashruthi* (the judge meeting and hearing a party to a case secretly, i.e. in the absence of the other party).<sup>9</sup> Socrates counselled judges to hear courteously, answer wisely, consider soberly and decide impartially. Someone has commented that these four virtues are all aspects of judicial diligence. It is suggested that Socrates' list needs to be supplemented by adding the virtue of acting expeditiously. But diligence is not primarily concerned with expedition. Diligence, in the broad sense, is concerned with carrying out judicial duties with skill, care and attention, as well as with reasonable promptness.

I read a poem (the name of the poet unfortunately I will not be able to quote, as it was not there, where I read it) which describes the qualities of a judge. It reads,

"God give us men, a time like this demands;  
Strong minds, great hearts, true faith and ready hands;  
Men whom the lust of office does not kill;  
Men whom the spoils of office cannot buy;  
Men who possess opinions and a will;  
Men who have honour; men who will not lie;  
Men who can stand before a demagogue  
and damn lies treacherous flatteries without talking;  
Tall men, sun crowned, who live without the fog;  
In public duty and in private thinking.  
However, they may be trained to strengthen  
those who are weak and wronged."

<sup>8</sup> E.C. GERHART, Quote It, p.300

<sup>9</sup> M. Rama Jois, Trivarga Siddhanta, p.85

Late Justice Shiv Dayal during his tenure as Chief Justice of the High Court of Madhya Pradesh brought out Judges' Diary as an official publication of the High Court. It included Judge's Prayer running into three stanzas. Invoking the mercy of the Supreme Lord, he described the Judges as "Thy servants whom Thou sufferest to sit in earthly seats of judgement to administer Thy justice to Thy people". He begs from the infinite mercy of the Supreme Lord, so as "to direct and dispose my heart that I may this day fulfil all my duty in Thy fear and fall into no error of judgment." In the third stanza, he say-

"Give me grace to hear patiently, to consider diligently, to understand rightly, and to decide justly! Grant me due sense or humility, that I may not be misled by my willfulness, vanity or egotism". Rightly, the Judges are something special in the democratic form of government governed by a Constitution and, therefore, the most exacting standards can be none too high.<sup>10</sup>

Speaking of Felix Frankfurter as a judge, New York Times called him great "not because of the results he reached but because of his attitude towards the process of decision. His guiding lights were detachment, rigorous integrity in dealing with the facts of a case, refusal to resort to unworthy means, no matter how noble the end, and dedication to the Court as an institution".<sup>11</sup> Long back, in 1852, Bacon wrote in one of his essays, "Judges ought to be more learned than witty, more reverend than plausible, and more advised than confident. Above all things, integrity is their portion and proper virtue."

The book 'Lives of the Chief Justices of England' (published, in 1858), reproduced the qualities of a Judge written in his own handwriting by Lord Hale which he had laid down for his own conduct as a Judge. He wrote,<sup>12</sup>

***"Things necessary to be continually had in remembrance.***

- "1. That in the administration of justice I am entrusted for God, the King, and country; and therefore,
- "2. That it be done, 1. uprightly; 2. deliberately; 3. resolutely.
- "3. That I rest not upon my own understanding or strength, but implore and rest upon the direction and strength of God.
- "4. That in the execution of justice I carefully lay aside my own passions, and not give way to them, however provoked.
- "5. That I be wholly intent upon the business I am about, remitting all other cares and thoughts as unseasonable and interruptions. "And, while on the Bench, not writing letters or reading newspapers."
- "6. That I suffer not myself to be prepossessed with any judgment at all, till the whole business and both parties be heard.
- "7. That I never engage myself in the beginning of any cause, but reserve myself unprejudiced till the whole be heard.
- "8. That in business capital, though my nature prompt me to pity, yet to consider there is a pity also due to the country.

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<sup>10</sup> Nyay Diary, 1976

<sup>11</sup> E.C. GERHART, Quote It, p.289

<sup>12</sup> E.C. GERHART, Quote It, pp.297-298

- "9. That I be not too rigid in matters purely conscientious, where all the harm is diversity of judgment.
- "10. (Not reproduced)
- "11. That popular or court applause or distaste have no influence in anything I do, in point of distribution of justice.
- "12. Not to be solicitous what men will say or think, so long as I keep myself exactly according to the rule of justice.
- "13. (Not reproduced)
- "14. (Not reproduced)
- " 15. (Not reproduced)
- "16. To abhor all private solicitations, of what kind soever, and by whomsoever, in matters depending.
- "17. (Not reproduced)
- "18. To be short and sparing at meals, that I may be the fitter for business."

## THE CONCEPT OF JUDGESHIP IN GITA

According to Shrimad Bhagvad Gita, a Judge is a person bestowed with 'excellence'. This concept, I am inclined to mention in the context of the year 2005 being an 'Year of Excellence in Judiciary'. A judge ought to be bestowed with the sense of complete detachment and humility. He ought to remember that he is not himself an author of his deeds. He is only an actor who has to play his role conforming to the script which represents the Will of the Author playwright and thus surrendering himself to the will of God. According to Islam, such surrender is the supreme act of religion. While the essence of Christian daily prayer is- "Thy will be done, O Lord!". A judge, according to religious concepts whether of Hinduism, Islam or Christianity, would never be heard claiming with egotism that a particular judgment was written by him or a particular sentence or decree was pronounced by him. He would always feel and proclaim that all that he had done or he does is to carry out the will of God. His every action he would surrender to the God and thereby be a totally detached and humble person. The seriousness of the function performed by him would never disturb or overtake him in his deeper mental state, just as an actor on the stage may fight, kill or love but he is the least affected one, as he never forgets it is a play after all. This detachment is an equilibrium born of knowledge. The Lord says ? "He who is the same to foe and friend and also in honour and dishonour, who is the same in cold and heat, in pleasure and pain, who is free from attachment, to whom censure and praise are equal, who is silent--uncomplaining-- content with anything, homeless, steady minded, full of devotion-- that man is dear to me."<sup>13</sup>

"The essence of the teaching of the *Gita* is to transform karma into karma yoga: to be active in body but detached in mind."<sup>14</sup>

Hindu philosophy beautifully compares a judge with a flower which would never wither and remains ever fresh. An anecdote very appropriately explains this concept- "A religious discussion was to take place between Adi Shankaracharya and Mandan Mishra. Sharda or Saraswati was judge. Both were offered similar *asanas* to sit on. Having plucked fresh flowers,

<sup>13</sup> Gita, XII, 18-19.

<sup>14</sup> K.S. Ram, 'The World's a Stage: We're Mere Players', The Speaking Tree, The Times of India

Sharda strung two identical garlands. She put them round the necks of the two scholars and said, "During the discussion, the garlands will decide the winner and the loser. The wearer of the garland whose flowers fade first will be considered to have lost?." Sharda maintained that he who possessed intellectual clarity, power of thinking and self- confidence will be calm and peaceful. His voice will be like the cool spring. Therefore, the flowers will remain fresh for a longer time. On the other hand, one who does not have a clear intellect or a strong sense of logic or whose self-confidence staggers, will be frustrated. His voice will become harsh, the circulation of blood in his veins will become rapid and his breath will become hot. Hence the flowers around his neck will wither sooner."<sup>15</sup> The fragrance and freshness of flowers become a part of the personality of a judge if what he thinks and what he does are all based on such values as are the canons of judicial ethics.

### THREE DOCUMENTS

Canons of judicial ethics have been attempted, time and again, to be drafted as a Code. Several documents of authority and authenticity are available as drafted or crafted by several fora at the national and international level. The fact remains that such a code is difficult to be framed and certainly cannot be consigned to a straitjacket. Mostly these canons have originated in and have been handed down by generation after generation of judges by tradition and conventions. If any reference is required to be made to documents, I would choose to confine myself by referring to three of them:-

- (i) Restatement of Values of Judicial Life adopted by the Chief Justices' Conference of India, 1999;
- (ii) The Bangalore Principles of Judicial Conduct, 2002
- (iii) The Oath of a Judge as contained in the Third Schedule of the Constitution of India.

#### (i) Restatement of Values of Judicial Life (1999)

On May 7, 1997, the Supreme Court of India in its Full Court adopted a Charter called the "**Restatement of Values of Judicial Life**" to serve as a guide to be observed by Judges, essential for independent, strong and respected judiciary, indispensable in the impartial administration of justice. This Resolution was preceded by a draft statement circulated to all the High Courts of the country and suitably redrafted in the light of the suggestions received. It has been described as the 'restatement of the preexisting and universally accepted norms, guidelines and conventions' observed by Judges. It is a complete code of the canons of judicial ethics. It reads as under:

- (1) Justice must not merely be done but it must also be seen to be done. The behaviour and conduct of members of the higher judiciary must reaffirm the people's faith in the impartiality of the judiciary. Accordingly, any act of a Judge of the Supreme Court or a High Court, whether in official or personal capacity, which erodes the credibility of this perception has to be avoided.
- (2) A Judge should not contest the election to any office of a Club, society or other association; further he shall not hold such elective office except in a society or association connected with the law.
- (3) Close association with individual members of the Bar, particularly those who practice in the same court, shall be eschewed.

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<sup>15</sup> Amrita Pritam, Fifty Fragments of Innerself, quoted in Sacred Space, The Times of India

- (4) A Judge should not permit any member of his immediate family, such as spouse, son, daughter, son-in-law or daughter<sup>15</sup> in-law or any other close relative, if a member of the Bar, to appear before him or even be associated in any manner with a cause to be dealt with by him.
- (5) No member of his family, who is a member of the Bar, shall be permitted to use the residence in which the Judge actually resides or other facilities for professional work.
- (6) A Judge should practice a degree of aloofness consistent with the dignity of his office.
- (7) A Judge shall not hear and decide a matter in which a member of his family, a close relation or a friend is concerned.
- (8) A Judge shall not enter into public debate or express his views in public on political matters or on matters that are pending or are likely to arise for judicial determination.
- (9) A Judge is expected to let his judgments speak for themselves. He shall not give interviews to the media.
- (10) A Judge shall not accept gifts or hospitality except from his family, close relations and friends.
- (11) A Judge shall not hear and decide a matter in which a company in which he holds shares is concerned unless he has disclosed his interest and no objection to his hearing and deciding the matter is raised.
- (12) A Judge shall not speculate in shares, stocks or the like.
- (13) A Judge should not engage directly or indirectly in trade or business, either by himself or in association with any other person. (Publication of a legal treatise or any activity in the nature of a hobby shall not be construed as trade or business).
- (14) A Judge should not ask for, accept contributions or otherwise actively associate himself with the raising of any fund for any purpose.
- (15) A Judge should not seek any financial benefit in the form of a perquisite or privilege attached to his office unless it is clearly available. Any doubt in this behalf must be got resolved and clarified through the Chief Justice.
- (16) Every Judge must at all times be conscious that he is under the public gaze and there should be no act or omission by him which is unbecoming of the high office he occupies and the public esteem in which that office is held.

These are only the "Restatement of the Values of Judicial Life" and are not meant to be exhaustive but illustrative of what is expected of a Judge.

The above "restatement" was ratified and adopted by Indian Judiciary in the Chief Justices' Conference 1999. All the High Courts in the country have also adopted the same in their respective Full Court Meetings.

## **(ii) The Bangalore Draft Principles**

The values of judicial ethics which the Bangalore Principles crystallises are : (i) independence (ii) impartiality , (iii) integrity, (iv) propriety (v) equality and (vi) competence & diligence.

The above values have been further developed in the Bangalore Principles as under:

- (i) Judicial independence is a prerequisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.
- (ii) Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.
- (iii) Integrity is essential to the proper discharge of the judicial office.
- (iv) Propriety, and the appearance of propriety, are essential to the performance of all of the activities of a judge.
- (v) Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.
- (vi) Competence and diligence are prerequisites to the due performance of judicial office.
- (vii) Implementation- By reason of the nature of judicial office, effective measures shall be adopted by national judiciaries to provide mechanisms to implement these principles if such mechanisms are not already in existence in their jurisdictions.

The Preamble to the Bangalore Principles of Judicial Conduct states *inter alia* that the principles are intended to establish standards for ethical conduct of judges. They are designed to provide guidance to judges and to afford the judiciary a framework for regulating judicial conduct. They are also intended to assist members of the executive and the legislature, and lawyers and the public in general, to better understand and support the judiciary. These principles presuppose that judges are accountable for their conduct to appropriate institutions established to maintain judicial standards, which are themselves independent and impartial, and are intended to supplement and not to derogate from existing rules of law and conduct which bind the judge. There are a few interesting facts relating to the Bangalore Principles. The first meeting to prepare the Draft Principles was held in Vienna in April 2000 on the invitation of the United Nations Centre for International Crime Prevention, and in conjunction with several other institutions concerned with justice administration. In preparing the draft Code of Judicial Conduct, the core considerations which recur in such codes were kept in view. Several existing codes and international instruments more than three in number including the Restatement of Values of Judicial

Life adopted by the Indian judiciary in 1999 were taken into consideration. At the second meeting held in Bangalore in February 2001, the draft was given a shape developed by judges drawn principally from Common Law countries. It was thought essential that it will be scrutinized by judges of all other legal traditions to enable it to assume the status of a duly authenticated international code of judicial conduct. The Bangalore Draft was widely disseminated amongst judges of both common law and civil law systems and discussed at several judicial conferences. The draft underwent a few revisions and was finally approved by a RoundTable Meeting of Chief Justices (or their representatives) from several law system, held in Peace Palace in The Hague, Netherlands, in November 2002. 'Accountability' as one of the principles which was included in the original draft was dropped in the final draft. It is apparently for two reasons. Firstly, it was thought that the principles enshrined in the Bangalore Principles presuppose the 'accountability' on the part of the judges and are inherent in those principles. Secondly, the mechanism and methodology of 'accountability' may differ from country to country and therefore left to be taken care of individually by the participating jurisdictions.

### **(iii) The Oath or Affirmation by Judge**

The Constitution of India obligates the Indian Judiciary to reach the goal of securing to all its citizens Justice, Liberty, Equality and Fraternity. How this goal is to be achieved is beautifully summed up in the form of oath or affirmation to be made by the Judges of the Supreme Court and High Courts while entering upon the office.

Swearing in the name of God or making a solemn affirmation a Judge ordains himself:?

- (i) that I will bear true faith and allegiance to the Constitution of India as by law established;
- (ii) that I will uphold the sovereignty and integrity of India;
- (iii) that I will truly and faithfully and to the best of my ability, knowledge and judgment perform the duties of office without fear or favour, affection or ill will; and
- (iv) that I will uphold the Constitution and the laws.

In my humble opinion, the oath of a Judge is a complete Code of Conduct and incorporates therein all the canons of judicial ethics.

The judiciary has been trusted and hence entrusted with the task of upholding the Constitution and zealously and watchfully guarding the constitutional values. The oath administered to a judge ordains him to uphold the Office as a citadel of public justice and public security to fulfil the constitutional role assigned to the Judiciary."

"The concept of independence of the judiciary is a noble concept which inspires the constitutional scheme and constitutes the foundation on which rests the edifice of our democratic polity. If there is one principle which runs through the entire fabric of the Constitution, it is the principle of the Rule of Law and under the Constitution, it is the judiciary which is entrusted with the task of keeping every organ of the State within the limits of the law and thereby making the Rule of Law meaningful and effective. It is to aid the judiciary in this task that the power of judicial review has been conferred upon the judiciary and it is by exercising this power which constitutes one of the most potent weapons in armoury of the law, that the judiciary seeks to protect the citizen against violation of his constitutional or legal rights or misuse or abuse of power by the State or its officers." <sup>16</sup> This is the principle of independence of judiciary which judges must keep in mind while upholding the Constitution and administering the laws.

### **Oath of a Judge -- analysed**

Every word and expression employed in the oath of a judge is potent with a message. The message has to be demystified by reading between the lines and looking beyond what meets the eyes.

An option to swear in the name of God or to make a solemn affirmation is suggestive of secular character of the oath.

A judge must bear not only faith but 'true faith' and 'allegiance' to the Constitution of India. The oath demands of a judge not only belief in constitutional principles but a loyalty and a devotion akin to complete surrender to the constitutional beliefs. Why?

"Under our constitutional scheme, the judiciary has been assigned the onerous task of safeguarding the fundamental rights of our citizens and of upholding the rule of law. Since the

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<sup>16</sup> S. P. Gupta v. Union of India, 1981 Supp. SCC 87, para 27

Courts are entrusted the duty to uphold the Constitution and the laws, it very often comes in conflict with the State when it tries to enforce its orders by exacting obedience from recalcitrant or indifferent State agencies. Therefore, the need for an independent and impartial judiciary manned by persons of sterling quality and character, undaunting courage and determination and resolute impartiality and independence who would dispense justice without fear or favour, ill will or affection. Justice without fear or favour, ill will or affection, is the cardinal creed of our Constitution and a solemn assurance of every Judge to the people of this great country ? ? . an independent and impartial judiciary is the most essential characteristic of a free society."<sup>17</sup> The arch of the Constitution of India pregnant from its Preamble, Chapter III (Fundamental Rights) and Chapter IV (Directive Principles) is to establish an egalitarian social order guaranteeing fundamental freedoms and to secure justice--social, economic and political--to every citizen through rule of law. Existing social inequalities need to be removed and equality in fact is accorded to all people irrespective of caste, creed, sex, religion or region subject to protective discrimination only through rule of law. The Judge cannot retain his earlier passive judicial role when he administers the law under the Constitution to give effect to the constitutional ideals. The extraordinary complexity of modern litigation requires him not merely to declare the rights to citizens but also to mould the relief warranted under given facts and circumstances and often command the executive and other agencies to enforce and give effect to the order, writ or direction or prohibit them to do unconstitutional acts. In this ongoing complex of adjudicatory process, the role of the Judge is not merely to interpret the law but also to lay new norms of law and to mould the law to suit the changing social and economic scenario to make the ideals enshrined in the Constitution meaningful and a reality.<sup>18</sup>

The sovereignty and integrity of India has to be upheld. Constitution itself would cease to exist, if, God forbid, the sovereignty and integrity of India were lost.

The duties associated with the Office of a judge are too sacrosanct and hence demand the judicial functioning with 'the best of ability, knowledge and judgment' of the judges. It is not enough to be a law graduate or to have put in a number of years of practice or to have gained experience by serving as a judicial officer for a specified number of years. Their ability and knowledge associated with the clarity of purpose and methods which the judges display enables the judicial system to perform to its optimum efficiency. The role of the judge obligates him to continue to invest in updating his knowledge of law and skills of justice dispensation. The holder of the Office if not able and knowledgeable would not have the confidence to function, much less with independence. It is said :

Strange, how much you've got to know;

Before you know, how little you know.<sup>19</sup>

## **INDEPENDENCE AND IMPARTIALITY**

'Independence' and 'impartiality' are most crucial concepts. The two concepts are separate and distinct. 'Impartiality' refers to a state of mind and attitude of the court or tribunal in relation to the issues and the parties in a particular case, while 'independence' refers not only to the state of mind or attitude, but also to a status or relationship to others - particularly to the executive branch of Government--that rests on objective conditions or guarantees.<sup>20</sup>

According to Chief Justice Lamer : " The overall objective of guaranteeing judicial independence is to ensure a reasonable perception of impartiality; judicial independence is but

17 S.C. Advocates-on-Record Association & Ors. V. Union of India, (1993) 4 SCC 441, para 273, per Ahmandi, J..

18 C.Ravichandran Iyer v. Justice A.M. Bhattacharjee & Ors., (1995) 5 SCC 457, para 41, per K. Ramaswamy, J.

19 Anonymous

20 University of New Brunswick Law Journal, Vol. 45, 1999, p.81.

a "means" to an end. If judges could be perceived as "impartial" without judicial "independence", the requirement of independence would be unnecessary. However, judicial independence is critical to the public's perception of impartiality. Independence is the cornerstone, a necessary prerequisite for judicial impartiality."

The concept of judicial independence has been described in golden letters in one of the judgments of the Supreme Court of India." To keep the stream of justice clean and pure, the Judge must be endowed with sterling character, impeccable integrity and upright behaviour. Erosion thereof would undermine the efficacy of the rule of law and the working of the Constitution itself. The Judges of higher echelons, therefore, should not be mere men of clay with all the frailties and foibles, human failings and weak character which may be found in those in other walks of life. They should be men of fighting faith with tough fibre not susceptible to any pressure, economic, political or of any sort. The actual as well as the apparent independence of judiciary would be transparent only when the officeholders endow those qualities which would operate as impregnable fortress against surreptitious attempts to undermine the independence of the judiciary. In short, the behaviour of the Judge is the bastion for the people to reap the fruits of the democracy, liberty and justice and the antithesis rocks the bottom of the rule of law."<sup>21</sup> Unless the judges function without fear and favour, the question of their being impartial or independent does not arise. "Judges owe their appointment to the Constitution and hold a position of privilege under it. They are required to 'uphold the Constitution and the laws', 'without fear' that is without fear of the executive; and 'without favour' that is without expecting a favour from the executive. There is thus a fundamental distinction between the master and servant relationship between the government and the Judges of High Courts and the Supreme Court."<sup>22</sup>

Independence and impartiality and objectivity would be tall claims hollow from within, unless the judges be honest--- honest to their Office, honest to the society and honest to themselves. "... the society's demand for honesty in a judge is exacting and absolute. The standards of judicial behaviour, both on and off the Bench, are normally extremely high. For a judge, to deviate from such standards of honesty and impartiality is to betray the trust reposed in him. No excuse or no legal relativity can condone such betrayal. From the standpoint of justice, the size of the bribe or scope of corruption cannot be the scale for measuring a Judge's dishonour. A single dishonest Judge not only dishonors himself and disgraces his office but jeopardizes the integrity of the entire judicial system. A judicial scandal has always been regarded as far more deplorable than a scandal involving either the executive or a member of the legislature. The slightest hint of irregularity or impropriety in the court is a cause for great anxiety and alarm. 'A legislator or an administrator may be found guilty of corruption without apparently endangering the foundation of the State. But a Judge must keep himself absolutely above suspicion; to preserve the impartiality and independence of the judiciary and to have the public confidence thereof.'<sup>23</sup>

To perform the duties of judicial office without fear or favour, affection or illwill is the same thing as performing the duties with independence, impartiality and objectivity. In order to achieve this a certain degree of aloofness is required to be maintained by the judges. According to Justice P.B. Gajendragadkar- "Judges ordinarily must observe certain rules of decorum in their social behaviour. A little isolation and aloofness are the price which one has to pay for being a judge, because a judge can never know which case will come before him and who may be concerned in it. No hard and fast rule can be laid down in this matter, but

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21 C.Ravichandran Iyer v. Justice A.M. Bhattacharjee & Ors., (1995) 5 SCC 457, para 23, per K. Ramaswamy, J.

22 C.Ravichandran Iyer v. Justice A.M. Bhattacharjee & Ors., (1995) 5 SCC 457, para 23, per K. Ramaswamy, J.

23 K. Veeraswami v. Union of India & Ors., (1991) 3 SCC 655, para 79, 80, per Sharma, J.

some discretion must be exercised."<sup>24</sup> The concept is best demonstrated in a real life anecdote which I would like to reproduce in the words of Justice Gajendragadkar himself. He records-

"Another feature which I did not very much appreciate was that judges used to accept invitations for dinners from lawyers far too frequently. I consistently refused to join such dinners. When S.R. Das was due to retire, there were a number of dinners and S.K. Das found that I was not accepting any one of these invitations. He came to me and said: "Brother, accept at least one so that the Chief may not misunderstand you." So I did accept one and, when we met to dine in a hotel, I was amazed to see that we were not dining in an exclusive room but in the general hotel itself, which was otherwise crowded by other diners and it was a lawyer who was entertaining us as a host to the large number of visitors present in the hotel. With my Bombay background, I did not relish this prospect at all; and not feeling happy about such dinners I conveyed my views to S.R. Das. With his characteristic tact, he said, "Yes, I see your point." <sup>25</sup>

However, it is interesting to note that R.A. Jahagirdar (who has contributed a beautiful preface to the autobiography and, in fact, he is the one who was successful in persuading Justice Gajendragadkar to write his memoirs) has put an asterisk on the words 'Bombay background' and inserted a footnote which reads- " The Bombay background has considerably changed. Cases of judges being entertained in luxury hotels are not infrequent and have been discussed in the Press".

#### **Justice Gajendragadkar goes on to record-**

"The undesirable and perhaps intended motivation for such invitation for dinners became patent in another case. That was a dinner arranged ostensibly by a lawyer who was a *benamidar* of the proprietor of a hotel chain. So far as I know, I and K.C. Das Gupta did not attend. Most of others did. The dinner was held on a Saturday at a hotel. On Monday next, before the Bench over which B.P. Sinha presided and I and K.C. Das Gupta were his colleagues, we found that there was a matter pending admission between the management of the hotel chain and its workmen. I turned to Sinha and said: "Sin ha, how can we take this case? The whole lot of supervisors and workmen in the hotel is sitting in front and they know that we have been fed in the hotel ostensibly by the lawyer but in truth at the cost of the hotel, because the very lawyer who invited the judges to the dinner is arguing in the hotel's appeal." Sinha, the great gentleman that he was, immediately saw the point and said: "This case would go before another Bench." <sup>26</sup>

A sad incident is quoted by Justice V.R. Krishna Iyer while describing how he refused to budge an inch though tremendous pressure was sought to be built upon him, by none else than the then Law Minister Late Shri Gokhale who himself has had a brief stint as a judge in Bombay, to pass an absolute order of stay on the judgment of Allahabad High Court in the case of **Indira Gandhi vs. Raj Narain**. The narrated incident has a lesson to learn. I may quote-

"By way of a distressing deviation, I may mention an anecdote of a few years ago. A vacation judge was telephoned by an advocate from a five star hotel in Delhi. He mentioned that he was the son of the then Chief Justice and wished to call on the vacation judge. Naturally, since the caller was an advocate, and on top of it, the son of the Chief Justice, the vacation judge allowed him to call on him. The 'gentleman' turned up with another person and unblushingly told the vacation judge that his companion had a case that day on the list of the vacation judge. He wanted a 'small' favour of an 'Interim stay'. The judge was stunned and

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<sup>24</sup> P. B. Gajendragadkar, To The Best of My Memory, p.138

<sup>25</sup> ibid p.137

<sup>26</sup> ibid p.137

politely told the two men to leave the house. Later, when the Chief justice came back to Delhi after the vacation, the victim judge reported to him about the visit of his son with a client and his 'prayer' for a stay in a pending case made at the home of the Judge. The Chief Justice was not disturbed but dismissed the matter as of little consequence. 'After all, he only wanted an interim stay', said the Chief justice, 'and not a final decision'. This incident reveals the grave dangers of personal visits to judges' residences under innocent pretexts. This is the way functional felony creeps into the judiciary. A swallow does not make a summer may be, but deviances once condoned become inundations resulting in credibility collapse of the institution"<sup>27</sup>

He says- "Judgeship has diamond hard parameters" .

A complete seclusion from society might result in judges becoming too removed from society and the realities of social life. Common knowledge of events and robust commonsense need knowledge of human behaviour but for which the judge may be incapacitated from doing complete justice or exercising discretion in the given facts of a case before him. An isolated judge runs the risk of viewing facts in a vacuum which in its turn may lead to an unjust decision.

To strike an equitable balance between the need for maintaining certain degree of aloofness and the necessity for moving in society to understand it so as to be a practical judge, he shall have to conscientiously keep a vigil of his own movements and decide thoughtfully where to go and where not to go. Experience and caution would be the best guide of a judge in this regard. He ought to remember that what he thinks of himself is not so material as how people would perceive and interpret his movements and presence at a given place.

## **RANDOM THOUGHTS :**

### ***Four Qualities in a Judge***

A judge has to be possessed of excellence not only from within but he should also visibly display the functional excellence which is necessary to fulfil the constitutional promise of justice by the judiciary as a whole. Four qualities are needed in a judge which are symptomatic of functional excellence. They are: (i) Punctuality (ii) Probity (iii) Promptness; and (iv) Patience.

Justice Hidayatullah has placed observance by judges of the punctuality of time on a very high pedestal. According to him a judge who does not observe punctuality of time does not believe in rule of law.

Probity is uprightness; moral integrity; honesty.

According to Justice V.R. Krishna Iyer the judges who do not pronounce judgment in time commit turpitude. He notes with a sense of sorrow--

"It has become these days, for the highest to the lowest courts' judges, after the arguments are closed, take months and years to pronounce judgments even in interlocutory matters- a sin which cannot be forgiven, a practice which must be forbidden, a wrong which calls for censure or worse." <sup>28</sup>

Lord Denning puts it mildly by way of tendering good advice for a new judge. He says that when judgment was clear and obvious it was for the benefit of the parties and the judge himself that judgment should be delivered forthwith and without more *ado*. Though, the art is

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<sup>27</sup> V. R. Krishna Iyer, A Living Legend, p.130

<sup>28</sup> *ibid* p.138

difficult and requires great skills but practice can enable perfection.<sup>29</sup> However, not all judgments can be delivered *ex tempore*; there are cases in which doubts are to be cleared, law has to be settled and conflicts are to be resolved either by performing the difficult task of reconciling or the unpleasant task of overruling. Such judgments need calm and cool thinking and deep deliberations. Such judgments must be reserved but not for an unreasonable length of time.

## **CONDUCT OF JUDGE IN PRIVATE**

When a judge sits on trial, he himself is on trial. The trust and confidence of 'we the people' in judiciary stands on the bedrock of its ability to dispense fearless and impartial justice. Any action which may shake that foundation is just not permitted. Once having assumed the judicial office, the judge is a judge for 24 hours. It is a mistaken assumption for any holder of judicial office to say that I am a judge from 10 to 5 and from 5 to 10 it is my private life. A judge is constantly under public gaze. "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. Unwritten code of conduct is writ large for judicial officers to emulate and imbibe high moral or ethical standards expected of a higher judicial functionary, as wholesome standard of conduct which would generate public confidence, accord dignity to the judicial office and enhance public image, not only of the Judge but the court itself. 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 of 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."<sup>30</sup>

## **PATIENCE AND TOLERANCE:**

The greatest quality of a Judge is to have patience which is sister virtue of calmness. Calmness is as essential as fearlessness and honesty to the exercise of good judgment in times of aroused feelings and excited passion.

Patience implies the quietness or self possession of one's own spirit under sufferance and provocation. Since it has a tranquillizing effect, patience is the best remedy for every affliction. The Bible says that if patience or silence be good for the wise, how much the better for others- unwise or not so wise. Sometimes we turn our anger upon the person responsible for hurting us; we are also likely to blame someone for any kind of mishap. By learning to be patient, one can cultivate the art of reigning in bad temper and hasty decision making. Patience yields many good things. It is also a necessary ingredient of genius. Patience can solve problems, avert wars and disasters, and lead us to the path of truth.

The power of patience leads us to self inspection, to the admission of errors and the capacity for forgiveness. A learned man tells us that misfortune can be turned into fortune through wisdom. The acquisition of wisdom needs five steps. The first is patience, the second is listening, the third is understanding, the fourth is pondering and the fifth is practice- all

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29 Edmund Heward, Lord Denning, A Biography, 2<sup>nd</sup> Edn., pp.35-36

30 C.Ravichandran Iyer v. Justice A.M. Bhattacharjee & Ors., (1995) 5 SCC 457, para 21, per K. Ramaswamy, J.

qualities needed in a judge. To be patient one has to be humble. To cultivate patience, anger management plays a crucial role. "He who is slow to anger is better than the mighty and he that rules his spirit than he who takes a city." The world exists only because of self-restraint exercised by the mighty. Power coupled with impatience can be very dangerous. Leaders and Judges who are impulsive are greatly feared and are considered impractical. Anger begets violence and cannot be easily repressed. At times anger is provoked by misunderstanding and may actually have no basis in reason. Anger can be subverted with forgiveness.

One of the ways to be patient is through tolerance. Tolerance recognizes individuality and diversity; it removes divisiveness and diffuses tension created by ignorance. Tolerance is an inner strength, which enables the individual to face and overcome misunderstandings and difficulties. A tolerant person is like a tree with an abundance of fruits; even when pelted with sticks and stones, the tree gives its fruit in return. Without tolerance, patience is not possible. Tolerance is integral and essential to the realization of patience.<sup>31</sup>

## **RATIONAL UTILISATION OF TIME**

On the day I was sworn in as a Judge of the High Court, Chief Justice (Retd.) G.G. Sohani, an illustrious Judge of the High Court of Madhya Pradesh, later the Chief Justice of Patna High Court very affectionately told me a few do's and don'ts for any judge.

Amongst other things, he told me that working hours of the court are meant for discharging only judicial work. No part of judicial working hours should be diverted to administrative work. Full Court and Administrative Committee meetings should be invariably held on nonworking days or, before or after court sitting hours. The judges are not supposed to proceed on leave unless and until the absence is unavoidable. The judges are also not supposed to participate in ceremonial functions like inaugurations or delivering lectures by abstaining themselves from the court. All this does not tantamount to saying that a judge should neither relax nor rejuvenate himself. Vacations are meant for rejuvenating the health of the judges so that they feel fit and also for reading so as to update their knowledge of law. They must also spend a fixed time every day and in weekends with their family members so as to concentrate on judicial work during working hours. I would treat this as a part of judicial ethics.

I am reminded of a Chief Justice, who speaking at a farewell function, marking the occasion of his demitting the office, made a witty remark--" After my retirement, I would like to interview the wives of the Judges and collect information from them as to what prevented them for not divorcing their husbands so far". Justice Devitt wrote in 'Ten Commandments for the New Judge'-- "The greatest deterrent to a judge's taking himself too seriously in any respect is a wise and observing wife who periodically will remark, 'Darling! Don't be so Judgey.'"<sup>32</sup>

## **EPILOGUE**

An eminent jurist, Justice G.P. Singh, former Chief Justice and later Lokayukt of Madhya Pradesh, needs a mention here. He believes that canons of ethics cannot be learnt simply by listening or be taught only by being told. One must live by values to preach and emulating is the best way to learn. His life as lived is full of examples and he has never delivered any precepts. His brevity, lucidity and clarity in judgments is comparable with Privy Council decisions. He has always believed in simple living and high thinking. His principles

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31 Ezekiel Malekar, Lessons on Patience and Tolerance, The Speaking Tree, The Times of India.

32 E.C.GERHART, Quote It, p.290.

of statutory interpretation (Nine Editions, published) and Law of Torts both of international standards, speak aloud of the height of his learning.

Great persons live great lives and leave behind indelible imprints on the sand of time. The imprints are not faded though several footsteps have crossed them. A very inspiring anecdote has been narrated by Fali S. Nariman, Senior Advocate.<sup>33</sup>

A Chief Justice of the New York State Court of Appeals on his first appointment as Chief Judge proudly showed his wife the chair in the courtroom of his illustrious predecessor or in office of nearly half a century ago Chief Justice Benjamin Cardozo (a legend amongst Judges of the United States). And he said to his wife in a reverential whisper ? "See- this is Cardozo' s chair and this is where I will sit" . His wife responded not very reverentially: "Yes- and after fifty years and five more Chief Justices it will still be Cardozo's chair"!

The times would run through and yet Motilal Setalvad would be remembered as Motilal Setalvad with none who could surpass him.

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33 First Nani A. Palkhivala Memorial Lecture, 16<sup>th</sup> January, 2004.



## **THE CULTURE OF A JUDGE**

**Justice R. C. Lahoti**

**Judge: Supreme Court of India**

There are more reasons than one why I should congratulate you. Firstly, you have chosen the law as your profession. It is the most coveted of all the professions in a civilized society. There is no other profession, which puts the intellectual wits of a person to test more than the legal profession. Out of the professionals rolling in money and wealth, those who are at the top are the men of law. Secondly, having chosen the judicial service as your career ahead, it is writ large that you do not aspire for materialistic pleasures so much as for spiritual attainments and serving the society. Thirdly, you are the batch having successfully undergone the First Foundation Training Programme conducted by Delhi Judicial Academy. You will be the example for others who will follow. You are the First!

Dispensation of justice is an attribute of God. Blessed are those on whom that Godly assignment has befallen. Still blessed are those who acquit themselves of such assignment with pride, dignity and honour. You are going to be the officers adorning the exalted office of judgeship and occupying the seat of justice. Even God, who has created the human being, does not sit in judgment over his deeds until the human's death whence only he determines whether he deserves to be sent to hell or heaven. You have been given the authority to sit in judgment over the deeds of a man in his lifetime. Your pen has the power to grant the freedom of living or the sentence of death to an accused. You can take away his liberty for a number of days, months or years (subject to the limitations of law). Your mighty pen can turn riches into rags and a pauper into a millionaire. The more power you have, the more humility, rationality and balance must be among your possessions.

Every businessman begins his trade with such little capital as he has within his means. As his business prospects and as he rises the ladder of success his capital multiplies. Your capitals your knowledge and wisdom. With every next day and with every next step on the ladder of success your knowledge and wisdom would multiply. I leave it to you to learn and earn for yourself and to multiply your capital to enrich your treasure. What I propose to share with you today is enrich your treasure. What I propose to share with you today is neither knowledge nor wisdom but a few tips on what is the culture of a Judge. It is collection of a few gems, consisting of words of wisdom what I have either read, or listened to from my elders, or picked up as pebbles of experience on the shores of this unfathomable sea of law and justice.

### **VIRTUES AND POTENTIALS IN A JUDGE**

The first quality of a Judge is to be a gentleman. A Judge has no personal life. He cannot be permitted to say nor be tolerated to listen that from 10 AM to 5 PM he is a Judge and from 5 p.m. to 10 a.m. he is a master of his own. The throne crown, which decorates the personality of a Judge, is not taken off even while he sleeps. A judge, whether in his seat or on his own, whether moving around in the city or traveling across the country, is known and seen by people as a Judge. The holder of a judicial office is not permitted to deviate from virtue even in his dreams. So remember, if you are a Judge you are bound by the moral code of a Judge for 24 hours of the day. Your every action must be transparent. You are watched by the society. Your personal actions, your family life and your behaviour with every living creature with whom you deal must all be judicious, upright, above board and an example to the society. Recently, His Excellency Shri A. R. J. Abdul Kalam, the President of India visited the Supreme Court of India and spent an hour interacting with the Judges. While parting, he gave his message in somewhat these words - "You are 26 Judges of the Supreme Court. You are 26 role models of judiciary for this

nation of more than one billion people. People look up at you for vindicating their grievances and for removal of injustice. You must come up to their expectations. You must have a vision and do your best to give shape to your vision". Every judge is a role model to the society to which he belongs.

It was in the 4th Century B.C. when the wise Greek philosopher Socrates said that there are four qualities required in a Judge - "to hear courteously, to answer wisely, to consider soberly and to decide impartially". The task of living upto these norms, so simple as said, is not difficult if only you have a vision, if\_ you aim high, if you rise above trifles and if you have a determination to reach your goal. The very nature of duty discharged by a Judge is onerous and he is invariably under pressures - pressure of deciding which side the truth lies, pressure on time and pressure on energy requisite for hearing and deciding. Every next case before a Judge story of human frailty, misfortune, sin or fall from virtue. He is faced with two warring litigants each assisted by a mighty counsel canvassing vigorously the case of his client, whether deserved or undeserved, and the Judge has to choose between the two. An eminent trial Judge once observed sarcastically - "who says I decide in favour of truth against falsehood. Every day on the table before me there is a bundle of lies poured by each one of the to sides and I choose in favour of the one who has spoken lesser lies." Yet the Judge has to do his duty, which he cannot unless he is courteous. To answer wisely, a Judge must be master of the facts and a student of law. He must have an analytical mind-quick to grasp, assimilate, and reach an articulated conclusion. He must have an open mind involved till the end in pursuit of search for relevant answers. Then alone can he answer wisely. It is humane to have sympathy for the weaker of the parties but at times such sympathy can persuade a Judge to bestow his benevolence on an undeserving cause. Sympathies may be misplaced at times. A persuasive lawyer may carry the Judge with him while a rookie or disorganized lawyer may displease a Judge. He may be inclined to decide going by his mood, whim or fancy but that will be unjust, and therefore, he must consider soberly in the right frame of mind before he pronounces his judgment. And then, to decide impartially. Bacon said - " Above all things, integrity is the Judge's portion and proper virtue. It is the capacity to decide impartially which is the most important criterion for judging the performance of the Judges on the Bench." It is said, judging is lonely job and Judges, more often than not, are islands).<sup>1</sup>

Remember a Judge has to be not only impartial but seen to be impartial. Patrik Devlin says "I put impartiality before the appearance of it simply because without the reality the appearance would not endure. In truth, within the context of service to the community the appearance is the more important of the two. The Judge who gives the right judgment while appearing not to do so may be thrice blessed in heaven but on earth he is no use at all."<sup>2</sup>

The social service, which the Judge renders to the community, is the removal of a sense of injustice.<sup>3</sup> He listens. The doors of the Court are open to everyone who knocks it. The most onerous task, the Judge performs is, he decides. The Judges repeatedly do what rests of people seek to avoid: make the decisions.<sup>4</sup> While everyone avoids taking decisions, the Judge listens with patience and decides boldly. While pronouncing his judgment he is least bothered who has won and who has lost; who .is pleased and who is disappointed.

A Judge can transform the society. One of the functions discharged by the Judge is of a lawmaker. Through the process of interpretation he unconsciously percolates his own philosophy and beliefs in the judge-made-law, which, with the lapse of time, becomes the trendsetter in the society, as law-abiding citizens start shaping their actions, and working out their rights and obligations, based on the decisions rendered by the Judges. A Judge is not a revolutionary but an evolutionary. He interprets the law and abides by the rule of law.

The disinterested application of the law calls for many virtues, such as balance, patience, courtesy, and detachment, which leave little room for the ardour of the creative reformer. If a Judge leaves the law and makes his own decisions, even if in substance they are just, he loses the protection of the law and sacrifices the appearance of impartiality which is given by adherence to the law.<sup>5</sup>

## **EXCELLENCE - YOUR PURSUIT**

Life is a practical school. You enter to learn and serve. While leaving you must have a feeling of satisfaction and fulfillment without any need of looking back. You have to aim high. Your aiming high implies an obligation to achieve excellence in all your activities without which you cannot reach your goal. The distinction between a human being and other living creatures is while all living creatures can aspire and achieve perfection it is only human being who can achieve excellence. Excellence is perfection imbued with human qualities, devoid of selfishness. How beautifully the Constitution of India puts it in Article 51A. Clause (j) says - 'It shall be the duty of every citizen of India to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement'. You, as members of judiciary, are the custodian of the Constitution and constitutional values. It is your fundamental duty to enforce fundamental duties. Do it, not by preaching alone but by precept. It is human nature to crave for excellence. If destiny has made you the Judge you will naturally strive for being a good Judge. It will be your urge to earn recognition from the members of the Bar, from litigants, from your colleagues and the society that here is a Judge whom we love and admire as a good Judge. This one sentence is a reward for all the labour and sacrifices you have done. You feel happy when somebody tells you these words and you are disappointed when you feel nobody spoke these words about you. How can you earn this reward? How to achieve excellence? How to reach high? What will make you a good judge? Let me share these with you. You can call them dos and don'ts of a Judge, handed down to you by an elderly friend and well wisher of yours.

## **Lesson 1 : MAINTAIN A GOOD PHYSIQUE AND SOUND HEALTH <sup>6</sup>**

As a Judge you will have to hold long sittings in the Court followed by lonely sittings in the evenings at your residential office or study room constructing your judgments, deeply concentrating on the issues arising for decision. In the morning again there are sittings in solitude when you study either the briefs of the day or the developments in the field of law.

A healthy mind lives in a healthy body. Good physical health is a valuable gift of nature. Awareness of good health will keep you away from consuming anything, which might hurt your system. The realization, that good health is the precious gift of God, will help you in treating the body as a temple and motivate you to keep it clean and pure. A healthy mind in a healthy body generates good, sound, clean and noble thoughts. It makes you feel good and spread happiness around you. A noble way of expressing our gratitude for good health is to serve the humankind and the ailing litigious society, which is before us everyday. The more you rise up and the more you advance in age, higher responsibilities would besiege you. One day you will rise so high that you will have an opportunity of usefully and effectively implementing your ideas and thoughts, earned by your rich experience, for the benefit of the society and that day the only handicap would be your fading health. Take care of it from now. You must set apart a minimum of 30 minutes time in your everyday schedule for physical exercises, particularly of stretching, which will insulate you against spondylitis and pain of joints which are the common ailments found in the elderly Judges handed down to them by long sittings and wrong postures.

## **Lesson 2: VALUE THE TIME**

The time of a Judge is public time of which he is a trustee. You cannot afford to waste a single minute out of it. Punctuality should be a part of your personality. You must sit in the Court at the appointed time and leave the court at the appointed time. The people present in the court should be able to mend their watches by your sitting and rising time. Late Justice Hidayatullah once said-one who does not believe in punctuality of time does not have faith in the rule of law. If your sitting time in the court is 11 AM you must be in your seat at 59 minutes and 59 seconds past 10 AM. Remember, if you cross the limit of 11 dot then it does not matter whether you sit late by 5 minutes or by 10 minutes. Your day's schedule should be planned on the principle- 'A time for everything; and everything at its time.' Time and tide wait for none. The time missed or the time wasted is the time lost forever.

## **Lesson 3 : SIMPLE LIVING**

From whatever background you may have come, having chosen to be a Judge, you and your family members, especially your spouse, must be prepared to make both the ends meet within the limited salary. You must have an yearly and a monthly budget. Therein, try to make a provision for a minimum of 1% of your income being set apart for charity and a provision for purchasing one book, every month or in two months, which should be a classic-either of law or a subject of your choice, so as to develop your own personal library.

## **Lesson 4 : CHOOSE YOUR COMPANY CAUTIOUSLY**

Though a man is called a social animal and has to live in society the delicate nature of a Judge's duties requires certain degree of aloofness to be maintained by Judges. You having been seated on a seat of power, you would suddenly find many selfish persons and psychopants clustering around you. Be cautious and choosy in selecting your company. Keep a distance from those who praise you on your face and also from those who criticize you behind your back. An honest critic, with courage to tell your shortcomings on your face and in solitude, may be welcome for he is your well-wisher. People will invite you to functions to inculcate a false feeling of elation in you and utilize the platform for coming closer to you, in the eyes of other. A sensible line of distinction has to be drawn while accepting invitations for participation in functions, and in my humble opinion, it is advisable to confine yourself to such activities as are related to law, justice and education or are strictly cultural. In social functions, honour such invitation, which is either intimately personal to you or where all your colleagues are invited and collectively go. Take care to inquire in advance who are going to be seated on dais with you.

## **Lesson 5 : READ LITERATURE**

You must develop a temperament of deriving pleasure out of reading. Every case before a Judge is a fascinating tale of human behaviour: sometimes gratifying, and at times disturbing. Learn to gain experience there from without being emotionally involved. Readings in law fascinate you by the feel of the heights, which the human mind can think and achieve. Hon'ble Justice M. N. Venkatachaliah, the former Chief Justice of India told me during one of my personal conversations with him that next to the study of religion and philosophy if there is anything worth studying then it is the legal literature. By studying the law you can attain spiritual heights. The time, which you set apart for reading law, ought to be divided into three parts. There are three types of literature in law which I would strongly advise you to inculcate the habit of reading: (1) the jurisprudential literature consisting of basics, fundamentals and development of theories in the field of law, such-Legal Theory by Friedmann, Nature of Judicial Process by Benjamin Cordozo, Law in the Making by C.R Allen or Essays in Jurisprudence such as the Commemorative Volumes brought out on Golden Jubilee of Supreme Court of India, New Dimensions of Justice-by Hon'ble Justice J.S. Verma, former CJI and so on. (2) Law Reports,

especially the decisions delivered by the Supreme Court of India and your own High Court, and (3) lives of Lord Chancellors and biographies of eminent Judges, jurists and lawyers such as *Roses in December* by M.C. Gagla, *My Own Boswell* by Hidayatullah, *My life, Law and Other Things* by M.C. Setalvad and so on. You will find plenty of them in law libraries. These biographies and autobiographies will inspire and generate confidence in you that you can also be Hidayatullah, Chagla and Setalvad. At some point of time each one of them stood at the same place where you are today.

### **Lesson 6 : CONTINUING EDUCATION**

The days of your schooling are gone but regretfully I have to tell you that as a Judicial officer you shall have to remain a student throughout your life. The just preceding and the present centuries have witnessed an explosion in the fields of science, industrialization, technology and globalisation. You cannot afford to be a traditional Judge dispensing only civil, criminal and labour law justice. Just look at the sample of disputes which you will be called upon to decide:

- 1) disputes relating to environment and biotechnology,
- 2) renting a mother's womb and consequential legal puzzles as to paternity, custody and privacy,
- 3) the right of a child born or yet to be born to mother's milk,
- 4) theft and other offences referable to time, technology a intellect, and so on.

The methodology of justice administration is also undergoing changes. Computers have already partially taken over and sharing your mental work and intellectual exercises. Settlement of disputes no more means just recording of evidence and deciding a dispute; you are called upon to mediate and conciliate, may be to arbitrate. All this would need your continuing education in sociology, psychology, human behaviour, information technology and several other sciences and scientific methods posing extra demands on your time and energy. You can plan your weekends or vacations to be invested into learning these. If you lag behind, shining and success would not be yours.

### **Lesson 7 : DEVELOP A HOBBY**

Every Judge must have a hobby preferably of reading poetry and/or listening to good music and/or a sport, Poetry titillates your nerves and inspires. Listening to good music is soothing, enables concentration and avoids monotony. A good sport is a good relaxation and also a source of rejuvenation.

### **Lesson 8 : BE PROMPT**

An eminent Judge told me once that Indian judiciary, though highly respected by the masses, is loosing its credibility for three reasons. The Judges have started compromising on (i) punctuality, (ii) promptness, and (iii) probity. Punctuality and probity I have already referred to earlier. Promptness is expected in pronouncing your decisions. Never delay your judgments. Every judgment need not necessarily be a piece of literature though I would not for a moment agree to compromise on quality. The judgment should be brief and to the point (To learn and pick up the art of brevity and precision and style of articulating judgments, search the law reports and see those written by Privy Council, Nagpur High Court and in recent times by Chief Justice G.P. Singh of the High Court of M.P.) Verbosity and use of high sounding words should be avoided. Judgment should be written in simple, chaste language and must be intelligible to the reader. Your judgments is meant for the litigant whose cause you are deciding and a litigant is not necessarily a learned man. Try to develop a habit of

pronouncing the judgment generally by the next day of closing of hearing. Howsoever complicated a case may be and whatever be the length of judgment, it should never cross the coming weekend. For a Judge, a holiday is not an antithesis of work. Holidays and weekends are to be devoted for constructing such judgments as demand a longer sitting than available on the working days. Most of the landmark judgments delivered by the judges of the Supreme Court and High Courts were written in weekends or on holidays. Remember, your every judgment need not necessarily be an outstanding one. So far as the litigant is concerned, he is interested only in the operative part of the order, i.e. whether he has won or lost the case; whether the suit has been decreed or dismissed. You should master the art of brevity and precision i.e. a capacity to express the maximum thoughts in minimum chosen words. A judgment is not an occasion for delivering sermons or placing your individual philosophical thoughts on record and certainly not for offering scathing criticism. The judgment must be scrupulously confined to dealing with only the points actually arising for decision. If you are faced with a dilemma between choosing a delayed well written judgment and a prompt working judgment, I will prefer to choose the latter. I had occasions to see the careers of some very good, eminent and well deserving judicial officers being spoiled and they demitting the office with a hanging head because they were used to delaying the delivery of judgments. At this juncture let me share a very personal secret with you. Once your judgment is ready and before you pronounce it, place it on the altar of God or the place where you perform worship. Pray that you have constructed the judgment to the best of your ability, knowledge and learning bestowed upon you by God and guided by the sole consideration of doing justice. If your creation reflected in the judgments is something superb it is the reflection of divine blessings and if it has not come up to the expectations let God take care of it. This small exercise would generate a feeling of detachment in you. You will never be a proud person with a swollen head nor a sense of guilt would ever haunt you. You may sometimes suddenly discover that the judgment requires some important change. A small time-gap may then be useful. But treat this as an exception.

## **Lesson 9 : RESPECT AND REGARD YOUR COURT ROOM AS A TEMPLE OF JUSTICE**

Remember, those great Judges who have earlier adorned the seat which you have been destined to occupy today. While entering your courtroom have a feeling as if you are entering a temple to perform worship. This will fill your mind with devotion for duty. While leaving the courtroom think that you are leaving the temple having offered your prayers. This will give you're a sense of satisfaction, relaxation and detachment. I am told of a Judge who used to have his daily bath and put on clean, washed clothes just before leaving for the court. Before moving to take his seat on the dais, he would remove his shoes, for he believed that he was entering a temple. People with their sufferings, ailings and sins go to take a dip in the Ganges for getting rid of them and if one commits a sin while sitting in the Ganges he would never be forgiven. Take a vow: temptations, allurements or pressures shall never be forgiven. Take a vow: temptations, allurements or pressures shall never make you compromise with your principles.

## **Lesson 10 : A TRIPLE MANTRA**

I tell you a formula given to me by Hon'ble Justice K.K. Verma, a Judge of M.P. High Court, who served judiciary for 32 years; who commenced his career, first, as a teacher and then, as a sub-Judge and rose to the height of a senior Judge of the High Court. To him I had gone to seek blessings on being appointed a District and Sessions Judge. I asked him to reveal the secret of his success so that I may also succeed like him. He gave me three advices: (1) never say anything about anybody in his absence which if asked to repeat in his presence you

will not do; (2) never condemn anyone by words spoken and by words written- both at the same time, and (3) discharging administrative or judicial functions, let the justice be never divorced from mercy. These three principles would earn you love and respect of all concerned and you will never be brought in ridicule.

## **EPILOGUE**

Despite its frustrations and ,difficulties, judicial work is, according to Lord Hailsham, 'a privilege, a pleasure and a duty'.? You are a Judge. In the performance of your judicial functions and exercise of judicial discretion you are not answerable to anyone except to your own conscience. The Constitution gives you that protection. But at the same time you are a public servant subject to certain rules of discipline. There will be testing times in your career. Your conscience would prompt you to do something for the public good but the limitations attaching with your office may prevent you from giving full vent to your feelings and you will feel suffocated. There will be good moments in your career when you will be filled with a sense of tremendous satisfaction that the might of your pen has proved stronger and sharper than the edge of any sword. In all such moments, learn to maintain your calm and cool, the peace and tranquility of mind and emotions.

Let me tell you a small prayer which I call the prayer of a Judge. Though, you are sitting on the seat of judgment, you cannot change the world. Even God has not been able to fully redeem His own creation-the Universe, from all its evils. You have to serve the society and dispense justice by putting in the best of your ability, knowledge and wisdom. Always feel happy with what you have done and having exerted yourself to your best, have a sense; of satisfaction. You have a great potential and the society has high expectations from you. Between what you think yourself capable of doing and what you can actually do, strike a balance. Begin your every day with this prayer:

'Oh God, give me courage,  
To change the things I can change;  
Grant me serenity,  
To accept the things I cannot change;  
And the wisdom,  
To know the difference.'

With these words I wish you a very bright judicial career ahead. May God be always by your side and enable you earning several laurels in life.

Thank you.

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# CHANDIGARH JUDICIAL ACADEMY

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