

OVATION SPEECH BY
JUGAL KISHORE GILDA,
ADVOCATE GENERAL
TO
HON'BLE SHRI JUSTICE NAVIN SINHA,
JUDGE
HIGH COURT OF CHHATTISGARH,
BILASPUR

DATE: 09/07/2014

TIME: 09:45 AM

My Lord Hon'ble the Chief Justice Shri Yatindra Singh,

And other Puisne Judges of the High Court of Chhattisgarh

Hon'ble Mr. Justice Dhirubhai Patel, Judge of the Jharkhand High Court

Shri Vivek Ranjan Tiwari, President, Chhattisgarh High Court Bar Association,

Smt. Fouzia Mirza, Assistant Solicitor General of India,

Senior Advocates,

Young Members of the Bar,

Registrar General & the Registry Officers, Chhattisgarh High Court,

Director, JOTI & the Judicial Officers of the State,

Distinguished Guests,

Members of the Print and Electronic Media,

Ladies & Gentlemen.

It is with great pleasure and pride that I stand before you this morning to say few words on this happy occasion when one of the Distinguished Judge from Patna High Court on his transfer is being sworn as a Judge of the Hon'ble High Court of Chhattisgarh. My Lord Justice Navin Sinha is joining today the High Judicial fraternity, like a dew-drop on petal of a rose. This is the first shining dew-drop at the threshold of closing of the longest summer. In this weather-beaten way worn month of July, we have bidden a farewell to prolonged summer and this elevation of Your Lordship has touched us deep with a pertinently blowing solo of soothing cool breeze. I welcome this wind of ineffable joy blowing through the portals of this High Court elevated from the blooming sanguine visions and virtues. I congratulate Your Lordship on your conjoining the ranks in high congregation of Justice as the representative of the State of Chhattisgarh and as an Advocate General and Ex-officio Chairman of the Bar Council of Chhattisgarh.

Kautilya in his "Arthshastra" says-

"The fragrance of flowers spreads only in the direction of the wind. But the goodness of a person spreads in all directions."

With Your Lordship's adorning this high wreathy pedestal of Justice this year 2014 has become the celebration year of this High Court. This high pedestal of Justice rests on our faith in the administration of Justice. Samuel Butler says in his book "Rebellionsness" that-

"You can do very little with faith, but you can do nothing without faith"

I shall not analyze the composition, nor shall I enumerate the qualities of Justice Navin Sinha for I have not known him from occiput to Achilles' tendon. I shall not attempt to proclaim the attributes of this Justice for I know not much about them. I should think, this is not the occasion to give a biographical account of Your Lordship. And most biographies are of little worth. They are neither panegyrics, nor lives and the object is, not to let down the hero and biography being the personal and home aspect, I should withdraw from any such attempt.

I am offering hearty felicitations and good wishes to Hon'ble Justice Naveen Sinha on his appointment as Judge of the Chhattisgarh High Court. I must inform the august gathering that a Judge is known by the judgments which are delivered by him. Your judgements are known for their beauty of expression and you are regarded as a stylish in writing judgment. For that purpose I will quote the judgement delivered by Your Lordship as a Judge of Patna High Court in Sudarshan Chaudhary & others Vs. State of Bihar & others reported in AIR 2008 Patna 66 on the Court Fees Act about the payment of court fees to be paid in writ petitions in which Your Lordships held that Where by one stroke of pen in pursuance of one document several persons are affected they may approach the High Court in one single writ petition and when they claim a common relief. This would also save multiplicity of cases before High Court when the dockets are bursting at their seams. In such a case they would all be deemed to have approached Court individually and would therefore necessarily be required to pay separate Court fees each as if to come to this Court in individual writ applications.

My Lords encourage and believed the phrase "argument well phrased is more persuasive than the same argument prosaically phrased. Substance can titillate the mind, while style thrills it." Your Lordships is known for your erudition and compassion and Your Lordships while delivering the judgement in case of New Era High School Vs. State of Bihar & others Air (Prevention and Control of Pollution) Act, when the order was dictated and after making Court research, it was found that it was necessary to issue certain directions, after making thorough research Your Lordships issued direction against the Bihar State Pollution Control Board even though none of the counsels had pointed out the relevant judgements on the point and after making research Your Lordships observed that the Supreme Court judgement and orders revealed a need for directions being issued against the board. (AIR 2013 Patna 70 "New Era High School Vs. State of Bihar & others).

In a landmark judgement under the Bihar Panchayat Raj Act, 2007 after analyzing the provisions of the Constitution and the various provisions of the Panchayat Raj Act Your Lordships held that the Act contemplated a person as Mukhiya who had roots in the soil, was omni present in the Gram Panchayat, able to share the miseries and happiness and supervise the works. Your Lordships further held that though Panchayat may be a generic term, a Gram Panchayat, Panchayat Samiti and Zila Parishad have been acknowledged as different tiers of the same. To hold that a person with no local roots in the Gram Panchayat, can maintain political aspirations, as distinct from commitment to grass root democracy and can contest elections from a place where he is not a voter, is not conversant with local problems, accessible to local people, would be travesty of the entire concept of grass root democracy. In another judgement delivered by Your Lordships under the provisions of the Dentist Act, Your Lordships after referring to a case of Krishna Balaji Borate Vs. State of Maharashtra & others a case from Nagpur and decision rendered by Hon'ble Apex Court held that a person nominated under section 3(e) of the Act can be removed at any time and the nominee can therefore hold office only till the satisfaction of the person nominating him applying the doctrine of pleasure and the satisfaction changes, by a decision for removal, the nomination comes to and end and in such a case the rules of natural

Justice are not applicable and therefore the nomination by invoking the doctrine of pleasure has been ruled in Dr. Binod Kumar Choudhary's case. (AIR 2008 Patna 146).

In a landmark decision interpreting the provisions of Human Rights Act, Your Lordships after analyzing the provisions of the Act and various articles of the Constitution Your Lordships authored the judgement and held that the Human Rights Commission does not have any plenary power and cannot fix the wages of the workers.

Your Lordships is a person who firmly believes in discipline in all walks of life and a judicial discipline as well and therefore Your Lordships while authoring the Judgement in Mukesh Kumar Das (AIR 2014 Patna 5) recently observed as under and I quote;

"The first principle in the hierarchy of Courts is consistency and predictability in its orders based on judicial discipline. The salutary importance of this has to be appreciated as otherwise the litigant, the lawyers and the State authorities shall all be left unsure of the correct legal position with different Benches taking different views. Judicial discipline required the single Judge to adhere to the same."

My Lord Justice Sinha's compassion for the downtrodden and the lower status of the society is vivid from the order passed by him recently in a Public Interest Litigation filed by the Jan Jagran Shakti where My Lords restore the wages of worker working on MNREGA's Scheme to Rs. 144/-. Your Lordships have also come down heavily on the public authorities and in case of Patna Municipal Corporation Your Lordships passed an order that the height of building will be kept according to the width of Roads alongwith they are situated and also directed the State Government to submit before the Court an action plan for remove the encroachments from the Government land and premises of different government departments in the Districts.

Despite above good qualities, Your Lordships is of man of intellectual humility. Modern lawyers recall Justice Bernard Botin, who said, "A Judge stands in an interesting position with regard to lawyers. He is their fellow worker, sharing with a great share of common interest, experiences and views. But he is separated like a priest."

My Lord Justice Sinha, we hope you are coming as a Priest in the Temple of Justice holding the "Sword of Justice", knowing fully well "The Sword of Justice is in the hands of Goddess of Justice and not in the hands of Mortal Judges" as stated by former Chief Justice of India Mr. Yashvant Vishnu Chandrachud in Dr. Farooq Abdulla's case.

I hope Your Lordship varied experience in different disciplines of law would bring you eminence as a Judge of this Court. Robert Callier has said:-

"Success is the sum of small efforts repeated day in and day out."

Those who work in the administration of justice enjoy a peculiar and pivotal status and the justices in particular are seen as paradigmatic moral agents defining and enforcing right standard of behavior. There can be little doubt that exposure to public gaze and scrutiny is one of the surest means of achieving a clean and healthy administration of justice. As Cardozo said, somewhere between the worship of the past and exaltation of the present, the path of safety must be found. Law cannot be understood without regard to the social relatives of the times and justice is what justice does.

For the present, we hope that at every moment of your Lordships' short tenure in this Court, we would be able to say: You are a worthy judge; you know the law; you realize that you are no wiser than law; and your exposition of the law has been most sound. We are sure, Your Lordships would realize, in the discharge of your duties, that "to offend and judge are distinct offices." We are doubly sure that Your Lordships would remember what Socrates said: "Four things belong to a judge; to hear courteously, to answer wisely, to consider soberly, and to decide impartially". Great they, who possess these, but still greater, who possess more. Forget not, my Lords, that one is never more on trial than in a state of excessive good fortune and extensive power. Forget not, my Lords, that judges are like water in the river of justice, and it is not the river that runs, but the water.

The name of God is Truth. May God give you the strength to dispense justice truthfully, discarding party, friendship and kindred. Justice is the great interest of man on earth. Your Lordships have to strive to strengthen the pillars of the Temple of Justice, adorn its entablatures, contribute to raise its august dome still higher in the skies, and

make your name, and fame and character as durable as the frame of human society,
as Daniel Webster said.

We are sure that true to the Constitutional oath which your Lordships just now
took, in striving to interpret and uphold the Constitution, Your Lordships would give
voice to silences, clarification to ambiguities and content to omissions.

Virtue alone is the unerring sign of a noble soul. Blessings ever wait on virtuous
deeds, and though a late, a sure reward succeeds.

As a representative of the State of Chhattisgarh and being Ex-officio Chairman
of Bar Council of Chhattisgarh I have immense pride in extending Your Lordships a
warm welcome. I and the members of the Advocate General's Office offer Your
Lordships a warm welcome.

Thank you, Jai Hind, Jai Chhattisgarh.

(JUGAL KISHORE GILDA)

ADVOCATE GENERAL