JUDICIAL PROFESSIONALISM, ETIQUETTE AND EXPECTATIONS FROM JUDICIAL OFFICERS.

(Lecture of Hon'ble Mr. Justice Ujjal Bhuyan on the occasion of Website launch of All Assam Judges Association.)

October 19, 2025
Guwahati.

Mr. Justice Ashutosh Kumar, Chief Justice of Gauhati High Court;

My esteemed sister and brother Judges of Gauhati High Court;

Justice M.R. Pathak and Justice Suman Shyam, Senior Judges of Orissa and Bombay High Courts;

Former Judges of Gauhati High Court;

Mr. Chinmoy Choudhury, Chairman of Bar Council of Assam, Nagaland, Mizoram, Arunachal Pradesh and Sikkim;

Mr. Raktim Duarah, Registrar General of Gauhati High Court and members of the Registry;

Mr. Gautam Baruah, President of All Assam Judges Association and office bearers of the Association;

Judicial officers who are present here;

Retired judicial officers;

Mrs. Sanghamitra Das Bhuyan;

Distinguished guests;

Ladies and gentlemen;

A very good morning to all of you.

It is indeed a moment of great joy and happiness that I am here today on the occasion of launch of the official website of All Assam Judges Association.

It is indeed a very welcome initiative. I am sure this website will become a medium of communication, sharing of knowledge and highlighting the work of the association and its members and in the process enhance the fraternal feelings amongst members of the Association.

I congratulate Mr. Gautam Baruah, all the office bearers and members of the All Assam Judges Association for this excellent initiative that they have taken for fostering greater connect and interaction amongst members of the judicial fraternity.

Thank you very much for the invite.

Friends, let me start with a quote. Chief Justice Murray Gleeson of the High Court of Australia had said:

> *Confidence in the judiciary does not require a belief that all judicial decisions are wise or all judicial behaviour impeccable. However, what it requires is a satisfaction that the justice system is based upon values of independence, impartiality, integrity and professionalism and that within the limits of ordinary human frailty, the system pursues those values faithfully. Courts and judges have a primary responsibility to conduct themselves in a manner that fosters that satisfaction. That is why judges place much emphasis upon maintaining both the reality and appearance of independence and impartiality.*

I believe this quote very well sums up the essence and substance of the subject which we are discussing today.

The topic of today's lecture is not only a matter of academic curiosity, but is the living grammar of adjudication. We must all remember that the robe we don at the commencement of each cause is not a mere piece of cloth; it is an emblem of public trust. Bestowment of judicial power imposes corresponding duties and today we shall reaffirm and reiterate the duties that we discharge

and to recommit to the standards that makes a free and lawful society possible.

A judiciary worthy of its name is bound to two complementary demands. Firstly, to do justice i.e. to apply law to facts and to protect rights. Secondly, which is equally important, is to ensure that justice appears to be done.

The aphorism uttered a century ago by Lord Hewart: *not only must justice be done; it must also be seen to be done*[1] has become a guiding light for judges everywhere for the simple reason: *appearance* and *reality* are partners in legitimacy. Where the appearance falters, howsoever just the result, public confidence withers. This maxim is not rhetorical; it is doctrinal. *R. Vs. Sussex*[2] remains the source and foundation of our modern impartiality principle.

Judicial independence, which is the capacity of a judge to decide according to law free from improper influence, is an institutional necessity. This constitutional mandate demands that the judge be able to render decisions

[1] R v Sussex Justices, ex parte McCarthy
[2] [1924] 1 KB 256

according to her conscience and reason, not convenience or favour.

Before proceeding further, I may mention a couple of instances as a personal anecdote. When I was a Judge in the Gauhati High Court, I was a member of the High Court Recruitment Committee for recruitment of judicial officers. There was a particular recruitment process for the post of Civil Judge Junior Division (earlier called Munsiff) and Judicial Magistrate First Class. During that time, there was no requirement of experience at the Bar for such recruitment. Therefore, fresh law graduates could compete for recruitment. In one of the interviews, the candidate was a fresh law graduate. I put a question to him as to what he would do as a Civil Judge Junior Division or as a Judicial Magistrate First Class if an elderly lawyer filed an application for adjournment on the ground of his wife's illness. The candidate replied that he would reject the application. To a further query as to what he would do if the lawyer persisted with his prayer, he said that he would initiate contempt of court proceedings against the lawyer.

No doubt, adjournment is a serious malady afflicting the judicial system. Adjournment is one of the major causes for delay and arrears. However, it was the response of the candidate which I found disturbing. The candidate was impressed upon that he was required to handle the situation in a much more polite and dignified manner. An elderly lawyer seeking adjournment on the ground of wife's illness is required to be dealt with empathy. It is not necessary that all adjournment prayers are frivolous or that there is always a motive or that a lawyer is trying to delay a matter in each and every case of adjournment. As the master of the court, you are required to act in a pragmatic manner. Ofcourse if a prayer for adjournment is frivolous, you will certainly reject the same. There can be no two views about it. All that I am saying is that you cannot have a rigid approach and must exhibit flexibility. In a genuine case, the lawyer or the litigant who is in difficulty needs to be accommodated.

We all evolve as human beings and this is true as judges too. Therefore, experience at the Bar is vital. These are live experiences beyond the textbooks. It is in the above

context that Supreme Court in a recent decision in *All India Judges Association Vs. Union of India*[3], has held that for recruitment to the post of Civil Judge (Junior Division), experience (3 years) at the Bar is essential.

In a lighter view, I may mention as to what the American Bar Association had said about the difference between a good judge and a bad judge. According to the American Bar Association, practising before a good judge is a real pleasure whereas practising before a bad judge is absolute misery.

I am sure all of you are good judges but those of you who are interested in knowing a little bit more as to how to be a good judge, you may kindly visit the website of Maharashtra Judicial Academy where I had gone in August, 2021 to address the judicial officers of Maharashtra Judicial Service on how to be a good judge.

Friends, you are judges. Judicial service is not a service in the sense of employment. Judges are not government servants. In an earlier decision in *All India*

[3] 2025 INSC 735

Judges Association Vs. Union of India[4], Supreme Court drove home the point that judges exercise sovereign judicial powers of the State. They represent the State unlike the administrative executive or members of other services. Members of other services cannot be placed at par with members of the judiciary, either constitutionally or functionally. Therefore, please do not compare yourself with members of other services. You should not be seen having close proximity or fraternising with members of other services; not to speak of politicians and businessmen. Please remember, you are not judges from 10 to 5. You are judges 24 X 7. You are being watched and followed. Aberrations are highlighted and often blown out of proportion. Therefore, you have to mould your conduct and public appearance accordingly. The keyword is 'restraint'.

A point of institutional ethics that calls for emphatic re-statement is this: trial courts are not 'lower' courts in any moral or civic sense. The phrase 'lower court' is, at best, shorthand for jurisdictional placement within a

[4] (1993) 4 SCC 288

hierarchical structure; at worst, it is a label that demeans the indispensable work of first instance tribunals.

As a judge you have the right and the freedom to decide a case in a manner which you consider to be in accordance with law. Though the expression 'subordinate judiciary' is used in the Constitution of India to describe the judiciary other than the Supreme Court or the High Courts, judges serving in the subordinate judiciary are subordinate only in the hierarchy. As you know, we have a pyramid-like judicial structure. At the base is the trial judiciary or the district judiciary which has been referred to as the subordinate judiciary; those are also referred to as lower courts. At the middle is the High Courts and at the top is the Supreme Court. Though we have a hierarchy, it is not that High Courts are functionally or jurisprudentially inferior or subordinate to the Supreme Court. Likewise, the trial judiciary or district judiciary referred to in the Constitution as ‘subordinate judiciary’ is not subordinate in the sense the expression is understood.

There can be no interference by any body in the manner in which you decide a particular case except by

way of appeal or revision. The difference between members of the trial judiciary and members of the higher judiciary is only in jurisdiction.

Professor Upendra Baxi in one of his articles published in *The Indian Express* had said that trial courts should not be referred to as subordinate courts. Use of the expression 'subordinate courts' affects the dignity of judges serving and lawyers practising in the trial courts.

Today the colonial idea of 'subordination' stands replaced by the constitutional idea of independence of the judiciary. He writes that the Constitution no doubt contemplates a hierarchy of jurisdictions but no judge acting within her jurisdiction is inferior or subordinate. On appeal or revision, a court with ample jurisdiction may overturn such decision but this does not make the concerned courts lower or inferior. It is true that the High Court under Article 235 of the Constitution of India has the power of superintendence on the administrative side over the district judiciary. But according to Professor Upendra Baxi, the time has come to have a relook at Article 235

which uses the expression 'control over subordinate courts'.

The trial judge is the forum in which facts are found, witnesses are assessed, evidence is weighed, and the raw materials of adjudication are assembled. Appellate courts refine and clarify the law, but they do so upon the factual substrate laid down by trial courts. To denigrate that work is to damage morale; to invite the mistaken view that judicial excellence is validated only in appellate commentary. We must resist such corrosive ideas. Senior members of the judiciary, by words and deed, should affirm the essential dignity and indispensability of trial judges.

The High Court is the mentor of the trial courts and if necessary, has to do the hand holding. The supervisory jurisdiction under Article 227 of the Constitution is designed as a shield, not a sword. It exists only to correct grave jurisdictional errors, not to recast factual appreciation or to substitute the discretion of the trial judge with that of the writ court.

In *Shalini Shyam Shetty Vs. Rajendra Shankar Patil*[5], Supreme Court reaffirmed that the supervisory jurisdiction must be exercised with self-restraint, emphasizing that *High Courts should not convert themselves into courts of appeal under the guise of exercising supervisory powers*. The principle is rooted in respect for institutional competence: trial courts see and hear witnesses, evaluate demeanour, and build the factual record upon which the law is later applied. To dilute that autonomy through excessive interference is to weaken the very foundation of justice.

Our system must therefore reaffirm two parallel truths: the High Courts are guardians of discipline and legality, but the district judiciary must be allowed the dignity of independent adjudication. The appellate remedy exists for correction; revisions and supervisions must be exercised with caution.

Justice R.F. Nariman once reminded a conference of judges, *a strong judiciary at the base of the pyramid ensures stability at the apex.* The pyramid's base is the district

[5] (2010) 8 SCC 329

court, and its strength lies in confidence: confidence that its judgments will be reviewed only through the prism of law and jurisdiction; and not by supervisory zeal. Our constitutional vision is of a *coordinated* judiciary, not a *commanded* one.

Friends, history bears witness that several of our finest judges began their judicial careers in the district judiciary. Justice Hans Raj Khanna whose immortal dissent in *ADM, Jabalpur Vs. Shivkant Shukla*[6] remains the moral spine of our democracy. He used to practice as a lawyer before the district courts at Amritsar from where he was selected and became a District and Sessions Judge in Punjab before being elevated to the High Court and then to the Supreme Court. A bold and courageous judge, Justice Khanna continues to remain a beakon of hope even five decades after he submitted his resignation.

Then we have the case of Justice M. Fathima Beevi, the first woman to be appointed as a Judge of the Supreme Court of India. She began her judicial journey as a Munsiff in Kerala. Her elevation to the Supreme Court after rising

[6] AIR 1976 SC 1207

through the ranks was not merely a personal triumph, but a statement of faith in the openness of our judicial system. Her life reminds us that gender can never be a barrier to success.

We have Justice A.M. Ahmadi, who began as a Judge of the City Civil Court at Ahmedabad and went on to become the Chief Justice of India. A man of empathy but firmly committed to the rule of law, Justice Ahmadi reminds us that no aspiration is too distant.

Then we have two great personalities in Justice B.L. Hansaria and Justice S.N. Phukan. Both were members of Assam Judicial Service. From district judiciary, they could rise to the top court of the country.

There are numerous examples. You may however say, these are all distant examples. Friends, let me re-assure you. The trend continues. Let me give you an example. We have Justice P.C. Pant who was a member of the Uttar Pradesh Judicial Service and went on to become a judge of the High Court of Uttarakhand. He became Chief Justice of Meghalaya High Court and thereafter he went on to become a Supreme Court Judge.

Bulk of India's litigation is fought in the trial courts. For many a litigant, it is their first interface with the judiciary. For them, it is the first as well as the last court. Barring a handful, most litigants are a harassed lot. They come to the court facing grave distress. Therefore, the quality of justice dispensation at the trial court level becomes very important. Recording of evidence, hearing of bail matters, so on and so forth, must be attended with utmost sincerity and without fail. A litigant should not be considered as a burden. It is for the litigant that the judicial system exists. A litigant has the right to know within how much time her case will be decided. The answer need not be with any mathematical precision. However, the system must be in a position to respond; tell the litigant that her case will be heard within a reasonable period.

A related issue of critical importance is the quality of assistance. It is important that adequate steps should be taken for continuing legal education and training to equip the members of the district Bar to competently and effectively handle litigation. Quality assistance will go a long way in upholding the cause of justice at the district

level and beyond. In this regard, the district judiciary particularly through the district legal services authorities can take the initiative for training of lawyers at the district level.

Friends, judiciary is the face of democracy. If democracy has to survive, judiciary must remain robust. Independence of judiciary is non-negotiable. Independence of judiciary does not mean independence of High Court judges and Supreme Court judges. The judiciary as an institution must remain immune from political, administrative and executive influence; not only that, the independence must be also from within.

Friends, in recent times, we have witnessed many unfortunate situations. I am asking myself, is the judiciary under attack? We must seriously introspect and address this issue. People who have no understanding of how the judiciary functions or how a judge works are making scurrilous comments against the judiciary. I believe many of them have a vested interest. People occupying high office cannot speak against the judiciary. Many of my colleagues feel that we should ignore all such things. But I strongly

disagree. I have my own views. To the detractors, I would like to say: whether you like it or not, judiciary is an arm of the State; it is here to stay. The Constitution has assigned the task of judicial review upon the judiciary.

The recent instance of a lawyer throwing shoes at the Chief Justice of India has shaken me. In my entire career, I have never seen or heard of such an incident. Throwing shoes at the Chief Justice of India that too by a lawyer is an unpardonable crime. I had said in the open court the other day that it is an assault on the institution. This cannot go unchecked.

In *Prashant Bhushan and Anr., In Re,*[7] a three-Judge Bench of the Supreme Court held Prashant Bhushan, a practising lawyer of the Supreme Court, guilty of criminal contempt for posting a tweet on social media regarding the then Chief Justice of India riding a motorcycle without wearing a mask or a helmet at the time of lockdown during Covid. In that context, Supreme Court declared:

> **76.** * * * *
> the Indian judiciary is not only one of the pillars on which the Indian democracy stands but is the central

[7] (2021) 1 SCC 745

> pillar. The Indian constitutional democracy stands on the bedrock of rule of law. The trust, faith and confidence of the citizens of the country in the judicial system is *sine qua non* for existence of rule of law. Any attempt to shake the very foundation of constitutional democracy has to be dealt with an iron hand.

If that be the case, I fail to understand as to how the latest instance of assault can go unresponded.

While the Supreme Court must protect the judiciary from all kinds of attack including protecting bold and courageous judges, the High Court must take on the role of a mentor of the district judiciary.

Friends, last year around the same time, Mr. Kailash Satyarthi, nobel laureate and child rights activist, came to my residence in Delhi. He said he was organising a round table conference in the Constitution Club at Delhi regarding having a compassion quotient in judicial decision making. Since I knew Satyarthi for a long time, I readily agreed to participate in the conference which was held on November 18, 2024 on the topic *role of compassion in achieving justice for all*. About 8 sitting Supreme Court Judges were present in that conference. About 5 former

Judges were also present. When my turn came to speak, I said that the judiciary must introspect as to whether it could have done better in some cases or in some situations. Only if there is introspection, there can be course correction.

There is one more aspect here which I would like to highlight and which has gathered momentum in recent years all over the country. Assam is no exception. From the statistics that I have before me, in Grade I of Assam Judicial Service, against the total sanctioned strength of 131, 113 have been filled up; out of which 37 are women officers. This makes up of roughly about 30 percent. In Grade II, out of the total sanctioned posts of 148, 141 have been filled up; women officers account for 66 i.e. more than 40 percent. Finally in Grade III, out of 206 sanctioned posts, 195 have been filled up. There are 124 women officers which is about 60 percent. Entry of large number of women officers into the judicial service is a welcome development. I believe it will certainly impact the nature and quality of justice dispensation in the coming years and

decades. This will lead to gender parity and democratisation of the judicial space.

Public perception of a judge is very important. As Justice Frankfurter of the United States had famously said:

> *Judiciary has neither the purse nor the sword. It has only moral authority which is based on public confidence.*

Chief Justice Marshal of the United States Supreme Court had said:

> *We must never forget that the only real source of power we as judges can tap is the respect of the people. It is undeniable that the courts are acting for the people who have reposed confidence in them.*

Therefore, it is important to always remember that justice must not only be done but must be seen to have been done. It is the capacity to decide impartially which is the most important criterion for judging the performance of a judge. A judge has to be not only impartial but must be seen to be impartial. As Lord Denning had said:

> *Justice is rooted in confidence and confidence is destroyed when the right minded go away thinking that he was not heard or that the judge was biased.*

Therefore, in each and every case it is the judge who is on trial. He has to ensure that he does his job honestly and properly. As observed by Lord Atkin:

> *Justice is not a cloistered virtue and she must be allowed to suffer the criticism and respectful though outspoken comments of ordinary men.*

Thank you very much for inviting me amidst all of you today. My best wishes to all of you. Let us all celebrate the festival of light in such a manner that we continue to sustain and strengthen our bonds of friendship and fraternity.

Once again, thank you very much and God bless.

(JUSTICE UJJAL BHUYAN)