## From:

Anil Kumar Shukla, H.J.S. Additional District & Sessions Judge, Barabanki

## To,

The Learned Registrar General, High Court of Judicature at Allahabad, Allahabad

Through,

The Ld. District Judge, Barabanki

## Re: <u>Representation against adverse remarks recorded by the then Ld.</u> <u>District Judge, Hamirpur in the Annual Confidential Remarks for the</u> <u>reporting year 2021-2022</u>.

Sir,

- 1. Most reverentially, the following is submitted for your kind consideration and favourable action apropos subject.
- 2. That, the undersigned had joined U.P. Judicial Service on 03.01.2004 and subsequently joined Uttar Pradesh Higher Judicial Service on 02.07.2015, on promotion.
- 3. That, I was posted to Hamirpur Judgeship on 16.04.2019 and remained there till 04.07.2022.
- 4. That, the Self Assessment Application for my ACR for the reporting year 2021-2022 was raised on 07.04.2022.
- 5. That, consequent upon recording of remarks of the then District Judge, Hamirpur in respect of the undersigned, the subject ACR for the reporting year 2021-2022 was uploaded on 05.07.2022 and made visible on the e-Services module on the official website of the Hon'ble High Court.
- 6. That, consequent upon a read-through of the subject ACR for the reporting year 2021-2022, it was observed that following adverse remarks were recorded by the then District Judge, Hamirpur against the undersigned:-

Para No.	Particular	Adverse Remarks recorded by the then Ld. District Judge, Hamirpur
01(a)	Integrity of the Officer-whether beyond doubt, doubtful or positively lacking	Integrity doubtful. Received information of having received illegal gratification, in certain cases.
	Note- If the officer's integrity is doubtful or positively lacking, it may be so stated with all relevant fact, reason(s) & supporting material	
01(b)	If he is fair and impartial in dealing with the public and	He is not fair and impartial in dealing with the public and Bar.

	Bar?	
01(i)	Relations with members of the Bar (mention incidents, if any):	Not Balanced. He has sly and unduly close association with members of the Bar.
01(j)	Behavior in relation to brother Officers (mention incidents, if any):	-
01(m)	Whether amenable to the advice of the District Judge and other superior officers?	Νο
2	Over all assessment of the merit of the officer (Outstanding, Very Good, Good, Average, Poor)	
4	Other remarks, if any:	He tried to spy the District Judge. He unwarrantedly tried to elicit information from the staff of the District Judge. He broke the confidentiality of the Judgeship out. He tried to make all effort to sabotage the peaceful running of the Judgeship.

7. That, the then Ld. District Judge has been kind enough to record the following positive remarks:-

Para No.	Particular	Positive Remarks recorded by the then Ld. District Judge, Hamirpur
01(c)	If he is cool minded and does not lose temper in court.	The officer is cool minded and does not lose temper in Court.
01(d)	His private character is such as to lower him in the estimation of the public and adversely affects the discharge of his official duties?	His private character is good and does not lower him in the estimation of the public and adversely affects the discharge of his official duties.
01(e)	CONTROL OVER THE FILES I	N THE MATTER OF:
01(e)(i)(a)	Proper fixation of cause list:	The officer has fixed cases in cause list properly.
01(e)(i)(b)		Sufficient number of cases are fixed by him to keep him engaged during full court hours.
01(e)(ii)	Avoidance of unnecessary adjournments:	Unnecessary adjournments were avoided.
01(e)(iii)	Disposal of old cases (Give number and year of old cases decided).	$\begin{array}{c ccccccccccccccccccccccccccccccccccc$

		2012 = 3 2013 = 4 2014 = 5 2015 = 1 2016 = 1
01(e)(iv)	Progress and disposal of execution cases:	2 cases
01(e)(vi)	Are casess remanded on substantial grounds?	Yes
01(f)	Whether Judgment on facts and on law are on the whole sound, well reasoned and expressed in good language?	
	Note:- The following factors s column:	hould also be indicated in filling up this
01(f)(i)	Marshalling of facts;	Good
01(f)(ii)	Appreciation of evidences;	Good
01(f)(iii)	Application of law.	Sound
01(g)	Whether disposal of work is adequate. (Give percentage and reasons for short disposal, if any)	-
	Note:- The following factors s column:	hould also be indicated in filling up this
01(g)(i)	Number of cases decided after actual full contest;	256 Criminal Cases and 05 Civil Case Total 261 cases decided after actual full contest during the year as per his declaration.
01(g)(ii)	Number of cases decided wherein all witnesses of fact turned hostileand the case ended in acquittal	Nil
01(g)(iii)	Number of civil cases decided on compromises/alternate dispute resolution	Nil
01(g)(iv)	Number of cases wherein after conclusion of arguments and reserving them for judgment rehearing was ordered.	Nil
01(h)	Control over the Office and Administrative capacity and tact:	Proper and effective.
01(k)		Officer has made regular inspections of the Court and office in his charge during the year in effective manner.
01(l)	His puntuality and regularity in sitting on dais in court during court hours?	He is puntual and regular in sitting on dais during Court hours.
01(n)	Behaviour towards women (respect and sensitivity exhibited towards them)	Respectful
3	State of Health, with remarks, if any?	His health condition is sound.

- 8. That, please leave me to submit that, the adverse remarks recorded by the then Ld. District Judge does not complement/project my factual performance/personality. Thus, I am contesting the same by virtue of this representation.
- 9. That, whereas, I do honour the authority and prerogative of the then District Judge, Hamirpur, to express his perception about his subordinate freely; but, I do also feel utterly disappointed towards recording of the abovesaid adverse remarks, which in my view are not at all true and substantiable. Most regretfully, I feel that, the adverse remarks recorded by the then Ld. District Judge, Hamirpur are a bundle of self contradictions, which are unworthy of any credence, as also there is nothing material available to vouch for the same.
- 10. That, as regards the adverse remark recorded at Para 01(a) that "Integrity doubtful. Received information of having received illegal gratification, in certain cases", I wish to submit that the Reporting Officer has not put forth any relevant fact, reason(s) and supporting material for such an adverse opinion/impression against the undersigned, whereas, in terms of the note given at Para 01(a) *ibid*, the Ld. District Judge, Hamirpur was duty bound to comply with the note by putting forth the details of relevant facts, reasons and supporting materials. Surprisingly, this adverse remark also stands in contradiction with the positive remarks recorded by the then Ld. District Judge, Hamirpur in general and that given at Para 01(d) in particular i.e. "His private character is good and does not lower him in the estimation of the public and adversely affects the discharge of his official duties." It is also pertinent to point out here that such note has been expressly provided at Para 01(a) *ibid* in order to make sure that if any adverse opinion/ impression about the integrity of an officer is drawn, the same should be conclusive and duly founded/vouched by material evidence. Regretfully, the said adverse opinion about the undersigned seems to be drawn on mere heresay or otherwise or for the reasons best known only to the then Ld. District Judge, Hamirpur. The then Ld. District Judge, Hamirpur has recorded that, besides the integrity being doubtful in respect of the undersigned, he has received information about the undersigned having received illegal gratification in certain cases. Be that as it may, the same was invariably a fit case for proceeding further with a fact finding inquiry/departmental inquiry/vigilance inquiry against the undersigned. Surprisingly, no such action was ever taken by the then Ld. District Judge, Hamirpur against the undersigned. If, the then Ld. District Judge, Hamirpur had received any such information, as claimed, it

would have definitely come to his knowledge in black & white that too with specific details along with substantiable documents. If, such information was received by him verbally, he was duty bound to proceed further to confirm the veracity of the same by calling for the explicit details with regard to receipt of illegal gratification as also to call for an explanation from the undersigned in the said regard. Regretfully, paper trails of no such action is available on the face of records to vouch for such an adverse remarks/allegation against the undersigned. Regretfully and very surprisingly, the then Ld. District Judge, Hamirpur instead of proceeding against the undersigned on the D.O. letters or warnings, awaited for the point of time where he could record adverse remarks against the undersigned in this regard. Thus, it is very interesting, tempting and encouraging to see that, the allegations of taking illegal gratification by a judicial officer does not form or constitute any offence or it does not have any criminal/administrative/vigilance consequences in our Judicial System, rather, it affects only the ACR. Thus, the aforesaid submission expressly proves that the remark recorded by the then Ld. District Judge, Hamirpur at Para 01(a) ibid is utterly unfounded; and liable to be expunged.

11. That, as regards the adverse remark recorded at Para 01(b) that "He is not fair and impartial in dealing with the public and Bar.", I wish to submit that, what actually comprise of not being fair and impartial in dealing with the public and the Bar(?) needs to be addressed first. Judicial Misconduct comes in many forms and ethical standards address problematic actions, omissions and relationships that deplete public confidence. Common complaints of ethical misconduct include improper demenour; engaging in exparte communication and failure to execute judicial duties in timely fashion. There is no doubt that, the robe magnifies the conduct. Had the conduct and dealing of the undersigned been unfair and partial in dealing with the public and Bar, a general impression in respect of the undersigned in the said regard would have certainly knocked the pious doors of the Judicial Authorities at various channels (including the Hon'ble High Court) in the form of complaints against the undersigned, which would have been taken to its logical conclusion by the Authorities concerned. In my view the adverse remarks at Para 01(b) ibid stands on the foundation of the adverse remarks at Para 01(a) which itself stands utterly unfounded. Surprisingly, this adverse remark also stands in contradiction with the positive remarks recorded by the then Ld. District Judge, Hamirpur in general and that given at Para 01(d) in particular i.e. "His private character is good and does not lower him in the estimation of

*the public and adversely affects the discharge of his official duties.*" Thus, the remark recorded by the then Ld. District Judge, Hamirpur at Para 01(b) ibid is utterly unfounded; and liable to be expunged.

- 12. That, as regards the adverse remark recorded at Para 01(i) that "Not Balanced. He has sly and unduly close association with members of the **Bar**", I wish to submit that the then Ld. District Judge, Hamirpur has not put forth any relevant fact, reasons or mentioned specific incidents to vouch for such an adverse opinion/impression against the undersigned, whereas, in terms of the instructions at Para 01(i), the Reporting Officer was duty bound to comply with the instructions by putting forth the details of incidents that prove that the relations of the undersigned was not balanced with the members of the Bar and that the undersigned has sly & unduly close association with the members of the Bar. Moreover, this adverse remark stands in utter contradiction within itself. As per Oxford dictionary the word 'Sly' means: 1.(disapproving) acting or done in a secret or dishonest way, often intending to trick people, 2. suggesting that you know something secret that other people do not know. If, the undersigned is sly with the members of the Bar, how can the undersigned be closely associated with them? In my view, the then Ld. District Judge, Hamirpur was required to properly and exhaustively amplify the close association of the undersigned with the members of the Bar along with the specific names of the members of the Bar. Surprisingly, the then Ld. District Judge, Hamirpur did not put forth any such details. Moreover, this adverse remark also stands in contradiction with the positive remarks recorded by the then Ld. District Judge, Hamirpur in general and that given at Para 01(d) in particular i.e. "His private character is good and does not lower him in the estimation of the public and adversely affects the discharge of his official duties." It is again beyond logical comprehension as to why the then District Judge, Hamirpur did not withdraw administrative work from the undersigned, if he had such an adverse impression/opinion in respect of the undersigned. It is quite surprising that, instead of withdrawing the administrative/secondary job from the undersigned, the then District Judge, Hamirpur continued to take administrative work from the undersigned. Thus, the remark recorded by the then Ld. District Judge, Hamirpur at Para 01(i) ibid is utterly unfounded; and liable to be expunged.
- 13. That, as regards the adverse remark recorded at Para 01(j) that "Not Good. He is undesirably in habit of peeping into the matter of other officers, which other officers do not like", I wish to submit that I have always

maintained good relationship with all my brother officers. I was nominated Nodal Officer of the Cluster Training Program by the Ld. District Judge, Hamirpur, in which the Hon'ble Administrative Judge, Hamirpur, Chitrakoot, Banda and Mahoba had participated in the webinar. In the said webinar all the Judicial Officers of said Districts were also present and the said webinar was conducted sucessfully. It is also pertinent to mention here that I was also made Nodal Officer of the National Lok Adalat, which was sucessfully organised blessing with presence of the then Hon'ble Administrative Judge and with the cooperation of brother Judges, Hamirpur Judgeship was ranked 24 in the Uttar Pradesh, whereas, prior to such event, Hamirpur Judgeship never stood/ranked below 60. The undersigned was also the Chairman & Member of several Committees. It is also pertinent to mention here that, it is not at all possible to accomplish any such work without whole hearted cooperation of brother officers and such cooperation comes by virtue of harmonious relations only. As regards relations with brother officers and peeping into their matters, it is submitted that no word of advice or counselling was ever given to the undersigned by the then Ld. District Judge, Hamirpur either verbally or in black and white in the said regard. Had my brother officers had any grievance(s) against me with regard to peeping into their matters, they would have definitely put forth complaints against me before the then Ld. District Judge, Hamirpur with specific details of each instance/case. If such impression/remark is true, then why the same has not been put forth in the ACR in question with requisite details and why the Adminstrative Work was not withdrawn from the undersigned. This adverse remark also stands in contradiction with the positive Remarks:- Even a provision was made in the exclusive Jurisdiction s.c/s.t. Act to dispose of the cases from S.C/S.T only to the S.C/S.T Court, yet the administrative order of the District Judge dated 06.01.2022 Civil Revision Civil Appeal, Misc. Civil Appeal and Sessions Cases from the Court of district judge and additional district judge court. Action plan by The Hon'ble High Court In the list of cases prescribed in the year 2022 2023, 25 sessions cases transferred in the Court of SC/ST out of 25 three oldest has been decided and 40 cases of scheduled castes and tribes have been fixed Out of these 13 cases were decided till 20th June, similarly, 8 execution cases of arbitration were transferred by the Ld. District Judge sir, they were disposed of. Moreover, such action on part of the undersigned makes it a fit case of misconduct & the same was invariably required to be investigated on the administrative/vigilance side. Surprisingly, no such action was ever taken thereby giving an impression that the said remark is founded on hearsay only or otherwise. It is relevant to point out

here that in terms of the instructions at Para 01(j), the then Ld. District Judge, Hamirpur was duty bound to mention specific incidents vouching in support of his adverse remarks. Regretfully and surprisingly, no specific incident has been brought out by the then Ld. District Judge, Hamirpur in this regard. Thus, the remark recorded by the then Ld. District Judge, Hamirpur at Para 01(j) ibid is utterly unfounded; and liable to be expunged.

- 14. That, as regards the adverse remark recorded at Para 01(m) that, the undersigned is not amenable to the advice of the District Judge and other superior officers, I wish to submit that, it is beyond any logical comprehension that, the undersigned in his career of previous 17 years remained amenable to the advice of the District Judge and other superior officers, but suddenly and especially during the period from 24.11.2021 to 31.03.2022, my traits transformed/changed miraculously, resulting into not being amenable. I don't find any convincing reason for being changed miraculously just during 24.11.2021 to 31.03.2022 to the extent that, my integrity became doubtful, I started taking illegal gratifications, I became unamenable, I became unfair & partial with the public & Bar, my relations became unbalanced but close with the Bar, I started peeping into the matters of the brother officers, I started spying the then Ld. District Judge, Hamirpur, but on the other hand retained the good personal and professional traits as recorded by the then District Judge, Hamirpur as mentioned at Para 7 above. Whereas, there is no specific instructions given at Para 01(m) to put forth the specific incidents of not being amenable, however, in my opinion the same should have been given in all generosity to prove my ill traits in this regard, which stand unvouched/unfounded yet. However, had it been true, the then Ld. District Judge, Hamirpur should have given a word of advice, counselling or caution to the undersigned either verbally or in black and white, but no such action was ever taken. It is beyond any logical comprehension as to why the administrative work assigned to the undersigned was not withdrawn/revoked if the undersigned was not amenable to the advice of the District Judge and other superior officers. Why the then Ld. District Judge, Hamirpur expressed his trust/faith on the undersigned to continue as Nodal Officer/Member of various Committees and perform/discharge other administrative work. Thus, the remark recorded by the then Ld. District Judge, Hamirpur at Para 01(m) ibid is utterly unfounded; and liable to be expunged.
- 15. That, as regards the **adverse over all assessment of merit** recorded at Para 2 **('Poor')**, I wish to submit that, it is beyond any logical comprehension as to:-

- (a) If, the undersigned is cool minded and does not loose temper in the Court;
- (b) If, the private character of the undersigned is good and does not lower me in the estimation of the public and adversely affects the discharge of my official duties;
- (c) If, I have fixed cases in the cause list properly;
- (d) If, sufficient number of cases are fixed by me to keep myself engaged during full court hours;
- (e) If, unnecessary adjournments were avoided by me;
- (f) If, 39 old criminal and 09 old civil cases were decided by me during the reporting year;
- (g) If, I have disposed 02 execution cases;
- (h) If, I have remanded cases on substantial grounds;
- (i) If, my Judgments are based on facts & law and the appreciation of evidence is reasoned and expressed in good language;
- (j) If, marshalling of facts in my judgments is good;
- (k) If, appreciation of evidences in my judgments is good;
- (I) If, application of law in my judgments is sound;
- (m) If, my disposal of work/out turn in the reporting year was adequate and 203.06% of the required minimum, whereby undersigned has acheived 1385.41 units as against the required units of 682.24 units;
- (n) If, total 261 cases (256 Criminal Cases and 05 Civil Case) were decided by me after actual full contest during the reporting year;
- (o) If, no case stands in my account which was decided by me resulting to acquittal wherein all witnesses of fact turned hostile;
- (p) If, no case stands in my account which was decided by me on compromises/alternate dispute resolution;
- (q) If, no case stands in my account wherein after conclusion of arguments and reserving them for judgment rehearing was ordered;
- (r) If, my control over the Office and Administrative capacity and tact was proper and effective;
- (s) If, I had made regular inspections of the Court and office in my charge during the year in effective manner;
- (t) If, undersigned is puntual and regular in sitting on dais during Court hours;
- (u) If, my behaviour towards women (respect and sensitivity exhibited towards them) is respectful; and
- (v) If, my health condition is sound;

then, how and on what grounds my overall assessment of merit has fallen pathetically so down that it was termed/assessed as 'Poor'(?), that too despite the verifiable fact that, I have been awarded Selection Grade Pay Scale by the Hon'ble High Court which would not have been granted at all had there been any adverse remark(s)/impression against the undersigned. During my whole colourful and meritorious judicial career of 17 years, I have mostly been assessed 'Outstanding' & 'Very Good' and sometimes 'Good'; and no adverse entry whatsoever, was ever awarded to me. Also including, during my tenure as Judicial Officer in Hamirpur district, Hon'ble Justice Shri Mohammad Aslam Sir has also been a District Judge. I was given an Outstanding Entry by Hon'ble Justice Sir, which has been approved by the then Hon'ble Mrs. Justice Sunita Agarwal(Annexure -1) Administrative Judge Hamirpur. Hon'ble Administrative Justice Shri Vivek Kumar Birla lordships has also certified my integrity and overall assessment is very good(Annexure-2), Thus, I don't find any logical and convincing reason for my overall assessment of merit being recorded as 'Poor' for the assessment year 2021-22 and that too on the unfounded grounds of the adverse remarks recorded/ mentioned in the ACR in question. Thus, the remark recorded by the then Ld. District Judge, Hamirpur at Para 2 ibid is utterly unreasoned/unjustified/unfounded; and liable to be expunged & upgraded in terms of my actual performance.

16. That, as regards the adverse most remark recorded at Para 4 that "He tried to spy the District Judge. He unwarrantedly tried to elicit information from the staff of the District Judge. He broke the confidentiality of the Judgeship out. He tried to make all effort to sabotage the peaceful running of the Judgeship", I wish to submit that this serious/adverse most remark is factually not an adverse remark, rather, it comprises of four serious allegations which was invariably required to be investigated on the Administrative or vigilance side. Had it been true, as claimed by the then Ld. District Judge, Hamirpur, he ought to have called for an explanation from the undersigned, accordingly. Surprisingly, no such action was ever taken, thereby giving an explicit impression that the said remark has no founding grounds at all. It is worth deliberating as to what was the matter/issue that prompted me to spy? What was the information that I tried to elicit from the staff of the District Judge? What was the confidentiality that I tried to broke out? What exactly were my efforts to sabotage the peaceful running of the Judgeship? These answers were/are invariably required to be given by the then Ld. District Judge, Hamirpur to substantiate the serious allegations ibid. Whereas, there is no specific instruction given at Para 4 to the put forth specific incidents, however, in my considered opinion the same should have been given in all generosity/sincerity to prove the allegations ibid, which stands unvouched/unfounded yet. However, had it been true, the then Ld. District Judge, Hamirpur should have invariably given a word of advice, counselling or atleast a caution to the undersigned either verbally or in black and white, but no such action was ever taken and the same is also not available on the face of records. Surprisingly, despite that, no administrative work was withdrawn by the then Ld. District Judge, Hamirpur from the undersigned. Thus, the remark recorded by the then Ld. District Judge, Hamirpur at Para 4 ibid is utterly unfounded; and liable to be expunded.

- 17. Sir, I have discharged my duties and responsibilities with full zeal, sincerity, and devotion; and my loyalty & integrity yet stands beyond reproach. Keeping in view the efforts put in by me, wherein, I have always put the service before self, I feel that, the adverse remarks recorded by the then Ld. District Judge, Hamirpur in my ACR for the reporting year 2021-2022 at Para Nos. 01(a), 01(b), 01(i), 01(j), 01(m), 2 & 4 holds all the potential to adversely affect my career prospects, for which I am putting in a lot of hard work, even out of the working hours and the same stands duly vouched in the positive remarks recorded by the then Ld. District Judge, Hamirpur at respective paragraphs/points of the ACR in question. I do feel that substantial error lies in the adverse remarks and overall assessment of merit recorded by the then Ld. District Judge, Hamirpur in the subject ACR and the same are liable to be expunged and the overall assessment of merit needs to be upgraded in terms of my actual and factual performance and the loyalty and integrity of the undersigned needs to be certified.
- 18. In view of the foregoing, it is most respectfully requested that my submissions & ACR recorded by the then Ld. District Judge, Hamirpur for the reporting year 2021-2022 may kindly be placed before the Hon'ble Court for fair consideration on the merits in terms of my submission supra and the adverse remarks recorded by the then Ld. District Judge, Hamirpur/Reporting Officer in the said ACR at Para Nos. 01(a), 01(b), 01(i), 01(j), 01(m), 2 & 4 be expunded and the overall assessment of merit be upgraded in terms of my factual performance, while certifying the loyalty and integrity of the undersigned in all fairness. I shall ever remain grateful for this act of kindness.

With profound regards,

Yours sincerely,

(Anil Kumar Shukla) Addl. District & Sessions Judge, Barabanki Employee No.-6063 (the then Special Judge (SC/ST, Prev. of Atrocities Act), Hamirpur)