Representation against the Adverse Remarks and "Poor" entry in Annual Confidential Report 2022-23.

Hon'ble Lordship,

The Respected District Judge Has been pleased to grant me a "poor" entry along with some adverse remarks. This is to represent against the same.

Before I begin, Mylord, I humbly submit that The Respected District Judge has relied on some papers while recording the Adverse Entries. I wrote to The Respected District Judge to provide me a copy of those papers so that I can represent against the same. However, The Respected District Judge refused to provide me those papers. On my application, The Respected District Judge was pleased to pass an order that "***the copies sought relate to orders which are administrative in nature, thus cannot be granted***." (Copy attached) It is humbly submitted that I have been **denied the basic opportunity of perusing the papers** relied upon The Respected District Judge. Mylord, my opportunity under natural justice was denied. Rule 645 (i) of The General Rules (Civil) provides that the Adverse Remarks should be communicated as a "Whole". This has not been done.

Due to the said denial I am representing against the entries to the best of my memory which I have about those Papers, however, my ability to prepare an effective representation has been reduced.

Doubtful Integrity 1(a).

The Respected District Judge has graded my integrity to be "Doubtful". It humbly but regretfully submitted that this would be the most painful entry of my ACR. Mylord, Never in my career of 5 year, I have ever been accused of any wrongdoing related to my integrity. I have never had complaints whatsoever in my entire career, not even once Mylord. In my pervious 4 ACR's, I have always been marked to have a "certified integrity". Never have I been marked as having doubtful integrity.

In the Proforma of the Hon'ble High Court, there is a note stating that "***Note- If the officer's integrity is doubtful or positively lacking, it may be so stated with all relevant fact, reason(s) & supporting material***." However nothing of this sort has been provided. Even though my integrity has been marked as

doubtful, **no material whatsoever** has been provided in support of the same. **No reasons or facts have been stated therein.** The Respected District Judge has not communicated anything during the assessment year related so as to indicate the reasons for marking my integrity doubtful. **It is humbly stated the entry is unsupported by facts or reasons and is malafide.**

Entry under 1(d)

It is humbly stated that under column 1(d) The Respected District Judge has remarked that "***There are some oral complaints that the Officer has local interest to the local persons***". The Respected District Judge has not communicated to me any complaint whether "oral" or "written" in respect of this entry. The Respected District Judge has not revealed in the ACR as to what those "oral complaints" are, who made them and what it relates to.

It is humbly stated that the assessment year ended on 31.03.23. I have not received any communication whatsoever from The Respected District Judge in the assessment year or even thereafter till today.

It is not revealed who the "local persons" referred to are or what are my "local interests". I humbly submit that I have no relatives, business, property or anything remotely connected to me in District Barabanki.

It is humbly stated the entry is unsupported by facts or reasons and is malafide.

Entry under 1(b) - He is not fair and impartial.

It is humbly stated that under column 1(b) The Respected District Judge has remarked that "*He is not fair and impartial*" The Respected District Judge has not communicated to me any complaint whether "oral" or "written" in respect of this entry. The Respected District Judge has not revealed in the ACR as to in which case or matter I have been partial or unfair. It is humbly stated that the assessment year ended on 31.03.23. I have not received any communication whatsoever from The Respected District Judge in the assessment year or even thereafter till today.

I have always acted with utmost impartiality and fairness. It is humbly stated the entry is unsupported by facts or reasons and is malafide.

Entry under 01 (e)(i)(a)- Cases were not properly fixed in the Court. Copy of Surprise Inspection made on dated 03.09.2022 is attached.

All cases were properly fixed. I had explained to The District Judge That this is very low pendency - newly Constituted Court (about 250 civil files only). I have requested for transfer of more files time and again. It is humbly submitted that when this court had total low pendency, the cause lists reflects the same. In this Court the Allotment of the Assistant Prosecution Officer (APO) is only on Tuesday. Thus Criminal files are fixed only on Tuesday due to this constrain. It is further submitted that I have written to authorities for appointment of a regular daily APO which is pending. I also explained that since this is new court most counsels are those who are practicing at the Head Quarters who come only on Wednesday and Friday. As they request for these two dates, the fixation in cause list of these two dates are a little higher than other dates. Thereafter as the number of cases have increase in this court; the cause list has evened out.

It is pertinent to note that the "Annual District Judge Inspection" for the assessment year was made on 24.02.22. In the annual District Judge inspection it has been mentioned that all work has been duly carried out. No mention of "improper fixation" has been mentioned in the annual inspection. Thus The Respected District Judge has himself found that the "fixation" in the assessment year to be proper. **Thus the entry is contradictory to the notes mentioned in "Annual District Judge inspection".** No other communication was made in this regard.

Further the district Judge has not made any communication post that notice indicating that he was satisfied with the reply and that no such remark has been mentioned in "Annual District Judge Inspection" indicating his satisfaction.

It is humbly submitted that proper fixation has been done considering the Nature, Distance, and Remoteness of GRAM NYAYALAY. There has been no complaint from the bar or litigants that cases are not being properly fixed.

Entry under 01 (e) (iii)-

The Respected District Judge has deliberately made misleading calculations in showing the computation of work. There were no pro Rata disposal targets under action plan as per the directions of the Hon'ble High Court. He has deliberately made misleading entries. E.g: The Respected District Judge has shown the Pro Rata target for execution case in Gram Nyayalay to be 07 and has

impressed that only 2 cases have been decided. The truth is there were only 2 execution cases pending at the start of the year and both were duly decided. No other execution case under Action was left. Similar The Respected District Judge has shown the Pro Rata target for Civil suits in Gram Nyayalay to be 22. The truth is out of the 30 cases identified 11 were already disposed by the previous Presiding officer and thus only 19 cases were left, all of which were duly decided.

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Entry under 01 (h)- Entry under 01 h Control over the Office and Administrative capacity and tact.

It is humbly stated that under column 1(h) The Respected District Judge has remarked that "*Officer has no effective control over his office. During the Surprise Inspection dated 03.09.2022, the records of pending cases were found undated in the chamber of Presiding Officer. In Several Cases date was not properly fixed. Although Presiding Officer was not present at the time of Surprise Inspection on dated 03.09.2022, when he came to know about Surprise Inspection, he moved application for Casual Leave at 01:00 P.M. on the ground of illness.*"

Control of office.

It has been mentioned that "*Officer has no effective control over his office*" in the ACR. It has not been mentioned that on what aspects the office work has been found deficient and why in his opinion my control has been found ineffective. It is pertinent to note that the "Annual District Judge Inspection" carried out on 24.02.22, it has been mentioned that all work has been duly carried out and that the office is running smoothly (**Copy attached**). **Thus the entry is contradictory to the notes mentioned in "Annual District Judge inspection".** No other communication was made in this regard.

Several cases Undated

The Respected District Judge had remarked in his surprise inspection note dated 03.09.22 and the notice dated 07.09.22. That he found some cases to be undated in my chambers. I had explained I humbly submit that there were no cases undated and this remark was malafide. Some allegedly undated cases that were in the notice had fixed dates and some were disposed already. I had submitted that all order sheets were properly maintained they were properly forwarded in the

register. The fixed dates were properly noted on the order sheets by the parties. Thus it was humbly submitted that no files were undated.

E.g. It was alleged that Criminal case 73/2021 State vs Ram Milan was found undated since 26.07.22.

I had explained that on 26.07.22 file was heard and next date that was fixed was 02.08.22. On that date all parties appeared and compromise was filed. **The case record has affidavits and signatures dates 02.08.22.** If the file was undated since 26.07.22 as has been alleged, there could not have been any proceedings on 02.08.22. This it is clear that the remark is malafide.

Similar is the story with other files.

Other proof of malafide

The Respected District Judge had conducted his surprise inspection on03.09.22 and the **first notice was served on date 07.09.22**. In that notice the Respected District Judge Mentioned that he found **3 files to be undated** namely: Regular Civil Suit Mahesh VS Sripal 864/2011, Regular Civil Suit Rashida Bano VS ishtiyaq 1134/2017 and Regular Civil Suit Ram Lutawan VS Ram Murti 282/2015.

However another notice was served on 09.09.22 in which it was mentioned that he found **9 files to be undated.** Additional 6 six files were alleged to be found undated. The difference is not explained and appears to be after thought laced with malice.

Both inspection note and notice are attached by The Respected District Judge. Both have the receiving endorsement of the Reader of this court at the bottom**. The inspection note dated 07.09.22 was received by the reader on 07.09.22 at 6 pm. This has the mention of 3 files being undated.**

The subsequent notice supposedly signed on 03.09.22 was received by the reader on 09.09.22 at 6:10 pm. The notice that was allegedly signed earlier was served later. It is humbly submitted the notice was an afterthought and was signed back dated. I had mentioned that in my replies at that time that additional facts have been enumerated in the later notice and The Respected District Judge had not denied the same.

Actually no files were undated. I had submitted the same in my replies. The District judge could have summoned, enquired or seized those files to verify my explanation or enquire into it, but nothing of this sort was done. The discrepancy in inspection note and the notice is apparent on the face of it. Further in miniscule number of files order sheets were found unsigned, although orders duly written on it. This was accepted by the reader and departmental enquiry is pending against him. His explanation is attached along with my replies. It is humbly submitted that this was never repeated and no deficiency in this regard was found thereafter. No communication was received thereafter. It is pertinent to note that the "Annual District Judge Inspection" carried out on 24.02.22, it has been mentioned that all work has been duly carried out and no such deficiency was ever found thereafter. (**Copy attached**).

It is humbly stated the entry is malafide.

Copies of order Sheets

The Respected District Judge has attached copies of some order sheets in the ACR. It is pertinent to note that these attached copies of order sheets were not served to the undersigned along with the inspection note or the notice. The Respected District Judge had not mentioned in the Notice or the Inspection note that he has taken any copies. "How", "when" or under which provision these copies were obtained is unclear. I also cannot verify them to be true as these files have been disposed and consigned to record room. The inspection note or the notice served to me has no mention that any order sheets copies were taken by The Respected District Judge. Under what rule or provision these copies were obtained is unclear. The copies are either not genuine or have been obtained by illegal means. As I had mentioned earlier that none of the files were undated. **These copies were never communicated to me ever earlier.**

Absence at the time of inspection.

The Respected District Judge has remarked the following in the ACR "*Although Presiding Officer was not present at the time of Surprise Inspection on date 03.09.2022, when he came to know about Surprise Inspection, he moved application for Casual Leave at 01:00 P.M. on the ground of illness.*"

Both the inspection note and the notice attached by The Respected District Judge mentions clearly that the surprise inspection was conducted at 2 PM.

Since it was a surprise inspection, no prior notice or information was there. The District Judge reached for surprise inspection at 2 PM as per his note. I had applied for CL quite some time before his inspection. He mentions that I applied my CL at 1 PM. How can I know about the "surprise inspection" which began at 2 PM and apply for CL at 1 PM. How can I know about the "surprise inspection" one hour in advance? It is humbly stated the entry is malafide which is apparent on the face of it.

The Respected District Judge has himself approved my CL for the said day (Copy Attached).

It is also mentioned by The Respected District Judge that when he reached the Gram Nyayalay he was informed by the Suit Clerk that I was on CL. He verified the same with his office that I had applied for CL. There is a written statement of my Suit Clerk that he was duly informed that I will be on CL that day in morning itself. All work to be transferred to Link officer was duly made and no work suffered. It is humbly stated that the entry is malafide.

Rule 644 of the **General Rules Civil** states that *"Whenever a Civil Judge without leave previously obtained absents himself from his Court, such absence and the cause thereof shall be reported to the High Court by the next day.* ***Such absence shall not be for more than two working days in any one month and shall count as casual leave.****"*

It is humbly submitted that the Absence was not without leave or information. **I had duly applied for CL which was duly approved**. I had informed the office about the CL and had duly applied for the same.

Entry under 01 (j)- Behavior in relation to brother Officers (mention incidents, if any):

It has been mentioned by The Respected District Judge that my relations with the brother officers is "not good". The Respected District Judge has not communicated to me any complaint whether "oral" or "written" in respect of this entry. The Respected District Judge has not revealed in the ACR as to what those facts are on the basis of which he has formed this opinion. No incident of any sort has been mentioned. I have extremely cordial relation with all officers at me station. It is humbly stated the entry is most malafide.

Entry under 01 (j)- His punctuality and regularity in sitting on the dais in court during court hours:

It has been mentioned by The Respected District Judge that "*He is not punctual and regular in sitting on dais in the court*". The Respected District Judge has not communicated to me any complaint whether "oral" or "written" in respect of this entry. The Respected District Judge has not revealed in the ACR as to on which date in the assessment year, has he found me to unpunctual or coming late.

The District Judge has countersigned my "Daily Sitting Register" regularly. He not put a single "Red Remark" on my register to indicate when I was late.

It is also humbly submitted that I wrote to The Respected District Judge to provide me a copy of the regular surprise inspection notes of the year 2022. In about 20 surprise inspection notes, I have been found present on the Dias at 10: 30 AM by the District judge. **However, The Respected District Judge refused to provide me those notes.** Those papers corroborate the fact that I have been always punctual is court sittings. Never in my career of 5 years have I ever had to explain any absence whatsoever from Dias. It is humbly stated the entry is malafide.

Entry under 01 (m)- Whether amenable to the advice of the District Judge and other superior officers?

It has been mentioned by The Respected District Judge that "*Officer is not amenable to the advice of District Judge and working arbitrarily and insubordination".*

The Respected District Judge has not communicated to me any complaint whether "oral" or "written" in respect of this entry. The Respected District Judge has not revealed in the ACR as to what advice of The Respected District Judge has not been abided to by me. The Respected District Judge has not revealed in the ACR as to in which case or matter I have acted arbitrarily. The Respected District Judge has not revealed in the ACR as to which of my actions has constituted insubordination in his opinion. The Respected District Judge has not revealed any facts or incidents related to this entry. It is humbly stated the entry is malafide.

Entry under 2- Over all assessment of the merit of the officer.(Outstanding, Very Good, Good, Average, Poor)

The Respected District Judge has assesses me to be "poor" overall. I humbly submit that that I have never been assessed "Poor" ever before. I have received "Very Good" to "Good" overall in my previous approved ACR's.

Assessment of Work

The overall assessment has been made without any objective consideration of my work.

I humbly submit that I had **completed "Two" action plans simultaneously**. I had disposed of 63 Action Plan files which is the highest in the district. I managed to complete both action plans well within time. The assessment year 2022-23 was priority focus year for Action plans. The Hon'ble High Court Had mandated that the completion of Action Plans be considered in the ACR. However The Respected District Judge has failed to do so.

The Respected District Judge has mentioned under column 1(g) that during the tenure for Court of Civil Judge (Jr. Div.), Court No. 13, Barabanki for the period 01.04.2022 to 04.07.2022, I have decided only 3 executions, 3 Regular Suits and NO SCC Suits. The Respected District Judge has failed to consider that I presided in Civil Court No 13 only for 3 months out of which **Civil Work is suspended for entire month of June**. Thus I got only 2 months of Civil Work i.e. from 01.04.22 to 30.05.22 before transfer to another court. Furthermore during these two months, I was on Earned Leave from 14.05.22 to 25.05.22 due to the death of my Mother-In-Law. Thus I did not get considerable time in that short period of total 36 working days. Even in those 36 working days I delivered 3 contested Civil Judgments and 3 Contested Executions Apart from **disposing 248** other files during that period.

The District Judge has wrongly mentioned under Column 1 (g) that I have decided only 1 execution in Gram Nyayalay. I had decided both the executions which were pending at the start of the assessment year. The one execution that could not be decided was on account of stay by a Appealate court.

The Respected District Judge has mentioned under column 1(g) that "*Only 04 Criminal Cases decided after full trial against the 1041 pending Cases*." This court of Gram Nyayalay is a court of limited criminal jurisdiction with only

Summon Cases. The Hon'ble Supreme Court and Hon'ble High Court has impressed upon the officers of the state that mediation and compromise is the way to go in these cases which brings end to litigation once for all. The Hon'ble Supreme Court and Hon'ble High Court have encouraged the counseling of parties for compromise in numerous training sessions conducted by the JTRI. I have acted as per that direction and encouraged the parties for compromise. Thereby out of the total **pendency of 1041 cases, I disposed 503** cases thereby reducing the pendency to about HALF (50%). These summon cases seldom reach a contested stage and the ones which were contested despite counseling were decide after full trial expeditiously.

My total contested disposal of all types during the assessment year stands at 45.

Furthermore The Respected District Judge did not communicate to me during the assessment year the facts that he is dissatisfied with my work quantity.

"At the Start of my tenure the pendency on the civil side was 362. I strived hard and the original pendency of civil cases reduced from 362 to 235 which is a reduction to 65%. During this time the new institution was of 86 cases. Thus the original pendency not including new institution reduced to 149. There was considerable disposal of criminal cases as well.

The oldest file when I took charge of Gram Nyayalay was of the year 1987. There were several files of the years prior to 2000 pending in this Court. In the assessment year I disposed of all the files prior to the year 2000 and no files prior to year 2000 remain pending at the end of the assessment year.

Against the required target of 578 units in the assessment year I had achieved 1026 units i.e. 176% of work. The Hon'ble High court had mandated that 50% units be achieved by actual disposal of files post September 2022. In that regard my target was 152 while i achieved 288.5 units i.e. 187% work from actual disposal of files.

My total contested disposal during the assessment year stands at 45. With your guidance I managed to deliver contested judgments in the oldest cases of 1987, 1991, 1992 etc. and disposed oldest executions of the year 1981, 1986, 1989 and 2 oldest suits of the year 1986 and several other cases prior to the year 2000.

Another DO has been attached which is related to a report of a Departmental Enquiry. The District Judge has refused to provide me a copy of the same. It has typographical error from what I remember thus the DO and entry is malafide.

I was NOT provided with a Stenographer in Gram Nyayalay

My Lok Adalat disposal was 452 cases."

<u>Entry under column 4- Other Remarks, if any)</u>

It has been mentioned by The Respected District Judge that "*The Conduct of Judicial Officer namely Sri Khan Zishan Masood is not up to the mark. He is working arbitrally and insubordination. The Officer Concerned along with other Judicial Officer namely Ms. Arpita Sahu formed Group and try to vitiate the conducive atmosphere of the Court. Officer has no effective control over his office. There are some oral complaints that officer has local interest and deeply associated with some local persons".*

Most of the remarks made under column have been explained above.

It has been mentioned by The Respected District Judge that "*The Conduct of Judicial Officer namely Sri Khan Zishan Masood is not up to the mark.* It has not been revealed as to what parameters or targets I have not been able to achieve. The Respected District Judge has not communicated to me any advice or censure or dissatisfaction in the assessment year.

Rule 645 of The General Rules Civil has a proviso which mentions that

> "*Provided that when an officer, particularly a junior one, is deficient in his work it is not always enough to make an entry to that effect in his character roll and to communicate it to him.* ***Efforts should rather be made to give such officer an opportunity of learning and for effective improvement in his work.*** *A District Judge should therefore, take more personal interest in the work of Judicial officers subordinate to him and in case* ***the work of any such officer is not up to mark he should point out to him his failings and defects at a personal interview and help him"***

The Respected District Judge has neither communicated to me my shortcomings nor gave me an audience.

Mentioning of Arpita Sahu, Civil Judge, Junior Division, Baberu, District Banda in my ACR

The Respected District Judge has mentioned in entry in column 4 that "*The Officer Concerned along with other Judicial Officer namely* ***Ms. Arpita Sahu*** *formed Group and try to vitiate the conducive atmosphere of the Court."* The Respected District Judge has failed to mention the facts, incidences or the basis on which he has formed this opinion. The Respected District Judge has failed mention as to which court have I affected in connivance with ***Ms. Arpita Sahu.***

It is regretfully and humbly submitted that the mentioning of the name of **Ms. Arpita Sahu** in my ACR is with deep malice.

My Sister Officer Ms. Arpita Sahu has alleged that The Respected District Judge has been sexually harassing her all throughout the assessment year. She has preferred a complaint against the same to the concerned "INTERNAL COMPLAINTS COMMITTEE" which is under consideration. Sister Officer Ms. Arpita Sahu has earlier raised a complaint to the Hon'ble High court on 08.09.22. The Respected District Judge has formed an opinion that I have been acting in connivance and conspiracy with the Sister Officer. While I submit that I have helped My Sister Officer Ms Arpita Sahu in drafting her complaints, it is not a result of any conspiracy. What would have I done when a junior sister officer approached me crying alleging sexual harassment. I advised her to raise the matter to the Hon'ble High Court and helped her draft the complaint. I humbly submit that there is no illegality in that. **(Note: This Para has been mentioned with the consent of Ms. Arpita Sahu)**

It is most pertinent to that Ms. Arpita Sahu and I have merely raised complaints against The Respected District Judge to the Hon'ble High Court, which is the legal and advisable route. What other actions of mine have been wrong, illegal or has vitiated the atmosphere has never been communicated to me.

I humbly submit that the mere mentioning of the name of Ms. Arpita Sahu in my ACR shows that The Respected District Judge has Harboured ill will and malafide towards me and Arpita Sahu and has not been objective in considering my ACR.

My Complaint Dated 09.09.23.

The Respected District Judge has marked my integrity doubtful among other entries without assigning any reasons whatsoever. This shows clear malafide. Apart from the above reason related to My Sister Officer Ms. Arpita Sahu, the other reason for malafide is a complaint that I made to the Hon'ble High Court on 09.09.23. The complaint was related to "coercion" by The Respected District Judge in passing orders/judgements in files which were beyond my jurisdiction. **The complaint is annexed.** The Respected District Judge has Harboured ill will and malafide with the undersigned ever since then.

It is humbly submitted Mylord that I have strived to work with diligence and dedication all throughout the assessment year. I humbly submit that I met all targets set for the assessment year. I have completed action plans and achieved 50% quota units from actual disposal of files apart from meeting the unit's target.

I beg Your Kindness to expunge all adverse remarks and award me an overall entry commensurate to my work and disposal.

I shall be obliged for life.

Thanks

Khan Zishan Masood
Nyayadhikari, Sirauli Gauspur
Barabanki
18.07.23