**Representation against the Adverse Remarks and "Poor" entry awarded by the Hon'ble Administrative Judge in Annual Confidential Report (ACR) 2022-23.**

# Synopsis

- That The Hon'ble Administrative Judge has been pleased to expunge entries under column 1(a), 1(b), 1(d), 1(g) and 1(j) as they were found to be unsupported by facts and materials.

- That The Hon'ble Administrative Judge has been pleased to maintain the overall assessment as "poor" despite expunging 5 critical adverse remarks.

- That The Hon'ble Administrative Judge has not made any analysis of judicial work and case disposal whatsoever in disposing off the representation.

- That The Hon'ble Administrative Judge has not complied with **D.O. no C 148/CF(B)/2022** dated 26.03.22 issued by the Hon'ble High Court related to mandatory consideration of completion of action plans in ACR.

- That The Hon'ble Administrative Judge has not considered that the undersigned has completed two separate Action Plans disposing off oldest 63 files which were the highest in the District Barabanki.

- That The Hon'ble Administrative Judge has not considered that the undersigned achieved 176% work including disposal of 620 cases.

- That The Hon'ble Administrative Judge has not considered that the undersigned is the presiding officer of newly constituted Gram Nyayalay which is 42 kms away from the Head Quarter. This requires a daily travel of about 84 kms on rural roads.

- That The Hon'ble Administrative Judge has made a factual and legal error in assuming that on 03.09.22 the judicial work was transferred by The Respected District Judge after 2 pm. This has not been mention by The Respected District Judge as this was never the case. These facts were

mentioned by The Hon'ble Administrative Judge for the first time in his disposal order without seeking any explanation.

- That on leave or absence of the officer, the judicial work in District Courts stands transferred automatically (as per link order) without any separate or further order. No separate order is ever made or required.

- That The President, Bar Association, Gram Nyayalay Sirauli Gauspur has **stated on affidavit on oath** that the bar was duly informed about my CL.

- That the notice affixed by the Bar (under the signature of Secretary) informing the advocates and litigant that I shall be on leave is on record.

- That The Hon'ble Administrative Judge has not considered the fact the on 03.09.22 I was admitted to emergency ward of reputed Chandan Hospital, Lucknow where I was diagnosed with Upper Respiratory Tract Infection (URTI).

- That The Hon'ble Administrative Judge has not considered that my casual Leave for 03.09.22 was duly approved by The Respected District Judge.

- That The Hon'ble Administrative Judge and The Respected District Judge had not communicated during the assessment year that they were not satisfied by my explanation or that I am deficient on any parameter. No warning or DO (related to 03.09.22, insubordination, control of office, not heeding to advice) was ever issued to me during the assessment year by the Hon'ble Administrative Judge. No opportunity to improve was given to me.

- That the Respected District Judge has denied me the copies of surprise inspections note and other documents which would have corroborated that I have always been a Punctual Officer.

- That The Respected District Judge has attached one DO issued to me related to a Departmental Enquiry conducted by me against one employee. When I sought the copies of the papers that The Respected District Judge relied upon, he refused to provide me those papers reducing my ability to effectively represent against the same.

- That I had raised a complaint against The Respected District Judge on 09.09.22 in which I reported that The Respected District Judge is coercing me to pass judgments and orders in files beyond my jurisdiction.

- That The Hon'ble Administrative Judge has completely overlooked my serious complaint dated 09.09.22 against The Respected District Judge and has erroneously held that I have not supplied any material to justify the malafide by The Respected District Judge.

- That The Hon'ble Administrative Judge has failed to consider that The Respected District Judge made a blatantly false statement that "action plans were not completed" without any basis. The motive to make the false statement was not considered by the Hon'ble Administrative Judge. This proved malafide by The Respected District Judge.

- That expunged entries under 1(a), 1(b) and 1(d) related to integrity, impartiality, fairness and corruption. These entries go to the roots of being a JUDGE. The Respected District Judge held me to be a corrupt, Partial and unfair judge which were extremely serious allegations. These entries were recorded without any supporting material which was in itself sufficient to show the malafide of The Respected District Judge. It is apparent on the face of it that the entire ACR was malafide.

- That The Hon'ble Administrative Judge failed to consider the fact that the name of Arpita Sahu has been mentioned in my ACR without any basis.

- That The Hon'ble Administrative Judge has failed to consider that in the detailed and through "Annual inspection – District Judge" it was remarked that that "**All work has been duly carried out and that the office is running smoothly".**

- That The Hon'ble Administrative Judge and The Respected District Judge has failed to consider the Circulars of The Hon'ble High Court attached by me in the representation. (G.L. No. 3/IVf-80 dated 1st April,1953) (C.L. NO.15/2014/Cf(C) dated: Allahabad 27.05.2014)

- That The Hon'ble Administrative Judge has not considered that The Respected District Judge has mentioned in the ACR that my judgments are good and sound and appreciation of facts and evidences is proper.

- That the Hon'ble High Court has encouraged by circular (G.L. No. 3/IVf-80 dated 1st April, 1953) those junior officers may seek help and guidance from senior officers. The same was not considered by The Hon'ble Administrative Judge.

- That the benefit of **Rule 645 of The General Rules Civil was never afforded to me.**

- That the entry awarded by The Respected District Judge was extra-ordinarily delayed.

- That despite expunging entries related to Integrity and work & disposal The Hon'ble Administrative Judge has retained the overall "Poor" entry granted by The Respected District Judge thus making no change whatsoever.

- That The Respected District Judge graded me to be a "poor" officer on the basis of entries he recorded including entries related to integrity, fairness and partiality. Despite having expunged those critical and serious entries, the Hon'ble Administrative Judge remarked that there is no ground to disagree with The Respected District Judge.

## Facts and Detailed Representation.

Hon'ble Lordships,

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

**The Hon'ble Administrative Judge has been pleased to expunge the remarks given under columns 1(a), 1(b), 1(d), 1(g) and 1(j).** The Hon'ble Administrative Judge has remarked that *The Respected District Judge has not furnished any reason or supporting material to those entrie*s and thus has

expunged those entries in entirety. However overall assessment has been maintained as “poor”

**Refusal to grant Copies of papers relied upon The Respected District Judge in marking ACR**

Before I begin, Mylords, 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 represented against the entries to the best of my memory which I had about those Papers, however, my ability to prepare an effective representation was reduced. I had submitted this to the haj however he has not considered the same while disposing off my representation.**

**Doubtful Integrity 1(a).**

The Respected District Judge had graded my integrity to be “Doubtful without any basis or material. The Hon’ble Administrative Judge has been pleased to certify my integrity and expunged the “Doubtful” remark.

While this entry has been overturned, The Hon’ble Administrative Judge has failed to notice the motive of The Respected District Judge behind marking my integrity as doubtful without any reasons or material.

**It is humbly submitted that, to mark an officer’s integrity as doubtful is the highest allegation one can make.** While The Hon’ble Administrative Judge has noted that no supporting material of facts whatsoever has been cited by The Respected District Judge, he failed to consider that such an act can only be a result of malice.

**Entry under 1(d)**

It is humbly stated that under column 1(d) The Respected District Judge had remarked that "***There are some oral complaints that the Officer has local interest to the local persons***". The Hon'ble Administrative Judge has been pleased to expunge this remark as The Respected District Judge had not furnished any reason or supporting material.

While this entry has been overturned, The Hon'ble Administrative Judge has failed to notice the motive of The Respected District Judge behind leveling such a grave allegation without any reasons or material.

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

It is humbly stated that under column 1(b) The Respected District Judge had remarked that "***He is not fair and impartial***". The Hon'ble Administrative Judge has been pleased to expunge this remark as The Respected District Judge had not furnished any reason or supporting material.

While this entry has been overturned, The Hon'ble Administrative Judge has failed to notice the motive of The Respected District Judge behind leveling such a grave allegation without any reasons or material.

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

It had been mentioned by The Respected District Judge that my relations with the brother officers is "not good". The Hon'ble Administrative Judge has been pleased to expunge this remark as The Respected District Judge had not furnished any reason or supporting material.

While this entry has been overturned The Hon'ble Administrative Judge has failed to notice the motive of The Respected District Judge behind leveling such an allegation without any reasons or material.

**Entry under 01 (g)- Remarks on work and disposal.**

It had been emphasized by The Respected District Judge that my work and disposal was not satisfactory. The Respected District Judge had remarked that I had not completed my Action Plan and that my work is insufficient and that my disposal was not satisfactory. The Hon'ble Administrative Judge has been pleased

to expunge this remark as The Respected District Judge had not furnished any reason or supporting material. While this entry has been overturned, The Hon'ble Administrative Judge has failed to notice the motive of The Respected District Judge behind leveling such an allegation without any reasons or material.

It would be pertinent to note that The Respected District Judge had mentioned that "*As per list of Action Plan Cases Officer has not achieved required target*". **This remark was most malafide and a blatant lie as I had completed not one, but two action plans. My action plan disposal was highest in the entire district.** The action plan reports were sent monthly and my competition report was duly submitted to The Respected District Judge repeatedly to which he did not object. While The Respected District Judge has the prerogative of forming opinions, this remark was a factual lie. The Hon'ble Administrative Judge has failed to consider the reasons as to why The Respected District Judge has made an entry which is so blatantly false.

**Non Consideration of work/disposal by The Hon'ble Administrative Judge**

The Hon'ble Administrative Judge has expunged the entry 1(g) and has thus accepted my explanation wherein I had reported high quantum of work and disposal. I humbly submit that my disposal had exceeded all targets and if seen with the comparison of the other Gram Nyayalay and other courts would have exceeded all expectations. The Hon'ble Administrative Judge has not considered my judicial work in my overall assessment. The Hon'ble Administrative Judge has not mentioned even a single line or remark on my work and disposal while disposing off the representation.

**Targets achieved during the assessment year:**

1. Two action plans (one on the civil side and 1 on the criminal)
2. 176 % achievement of unit target.
3. 50 % work from actual disposal of files - achieved.
4. Disposal of 620 cases during the year.
5. Disposal of cases from the year 1981, 1986, 1989, and so on.
6. Disposing all files prior to the year 2000 both on the civil side as well as criminal. No files prior to 2000 remained pending.
7. Daily travel of 82 Kms to and fro from head quarter to Gram Nyayalay.

I had submitted the minute details of my work in self-assessment and the representation The Hon'ble Administrative Judge has not considered my work

in overall assessment. **I humbly submit that the consideration of judicial work and disposal is of paramount importance in overall assessments. The Respected District Judge made false statements in relation to work which were expunged by The Hon'ble Administrative Judge. However, The Hon'ble Administrative Judge has not considered my work at all. Further The Hon'ble Administrative Judge has failed to consider that The Respected District Judge made deliberate false statements relating to disposal of action plan files. Further no a single line of analysis has been made by The Hon'ble Administrative Judge.**

**Non-compliance of circular no D.O. no C 148/CF(B)/2022 related to Action plans Files.**

The Hon'ble High Court had on 26.03.22 pleased to issue a DO circular (**D.O. no C 148/CF(B)/2022**) and had issued direction to dispose action plan files. The Hon'ble High Court had issued various guidelines under the circular. The guideline "C" was that:

> **c)** The disposal of Action Plan cases be taken into consideration at the time of recording of Annual Confidential Report of the Judicial Officers.

As can be seen from the plain language, the guideline was mandatory in nature. The complete timely disposal of Two Separate action plans comprising of 63 oldest files should have been considered by The Hon'ble Administrative Judge as mandated by the circular. However The Hon'ble Administrative Judge has not remarked upon the same. The representation disposal order is devoid of any comment or remark in relation to completion of action plan files. **Thus circular no D.O. no C 148/CF(B)/2022 related to Action plans Files - Guideline C has not been abided to at all.**

**Reasons for upholding entry under 1(e)(i)(a), 1(e)(i)(b), 1(h), 1(l) and 1(m).**

The Hon'ble Administrative Judge has given the following reasons for upholding entry under columns **1(e)(i)(a), 1(e)(i)(b), 1(h), 1(l) and 1(m).**

> *However, insofar as entries in Column Nos. 1(e)(i)(a), 1(e)(i)(b), 1(h), 1(l), 1(m) and 4 are concerned, it needs to be mentioned that The Respected District Judge conducted a*

*surprise inspection of the Gram Nyayalaya at Sirauli Gauspur, Barabanki on 03.09.2022 at 02.00 p.m.. The Presiding Officer was not present at that time. The casual leave of the officer was admittedly sent at 01.00 p.m. No information with regard to absence of the Presiding Officer was sent to the office of The Respected District Judge before 01.00 p.m. The Respected District Judge, when left the headquarters, was not aware about the leave of the officer. The concerned court was about 30-35 kms. from the headquarters. Only after his arrival at the concerned station, The Respected District Judge came to know about the leave and thereafter the work was transferred to the Link Court. In my opinion, an officer is expected to inform The Respected District Judge or the office headquarters about his absence before the court starts to function, so that the work may be transferred to the Link Court. The record does not reflect that The Respected District Judge or the office of The Respected District Judge was informed before 10.00 a.m.. No material is available on the record to show that the litigants or the advocates were informed at 10.00 a.m. that the work of the court has been transferred to link court. Non-observance of discipline in such matters tends to lower the image of the judiciary. The said action of the officer cannot be appreciated.*

*It also needs to be mentioned here that the officer has admitted the fact that he helped an officer in drafting her complaints against The Respected District Judge.*

*The inspection note of The Respected District Judge contains specific details of the files inspected by him. It is self-explanatory. It also needs to be noticed that the officer has alleged malafides against The Respected District Judge in his representation. In that regard the officer has not cited any material or information or basis to justify such allegation. As such, there is no reason to take a different view with regard to such remarks of The Respected District Judge.*

*Therefore, such entries are maintained. Though the Integrity of the officer is 'certified', on overall assessment, he is rated as 'poor' officer. Accordingly, the representation stands disposed of.*

**Remarks related to Surprise Inspection.**

The Hon'ble Administrative Judge has remarked that ". *The Respected District Judge, when left the headquarters, was not aware about the leave of the officer. The concerned court was about 30-35 kms from the headquarters. Only after his arrival at the concerned station, The Respected District Judge came to know about the leave and thereafter the work was transferred to the Link Court. In my opinion, an officer is expected to inform The Respected District Judge or the office headquarters about his absence before the court starts to function, so that the work may be transferred to the Link Court.*"

**It is submitted with utmost humility that the above remarks are both factually and legally wrong.** These facts about transferring work late have not been mentioned by The Respected District Judge in any of his inspection notes. These facts have been mentioned for the first time by The Hon'ble Administrative Judge.

The remark "*Only after his arrival at the concerned station, The Respected District Judge came to know about the leave and thereafter the work was transferred to the Link Court.*" is not true at all. **In fact the rules and established practice of the Districts Courts is that The Respected District Judge nominates a link officer for every presiding officer by a standing order (Copy annexed for example purpose). Whenever a Presiding Officer is on leave or is absent the standing order comes into operation automatically and all work is then carried out by the link court. <u>No separate order is required or is ever made by The Respected District Judge in this regard</u>. Thus the observations of The Hon'ble Administrative Judge are factually erroneous. With utmost humility it is submitted that the procedure of transfer of work in the District Judiciary is wholly different to that of the Hon'ble High Courts.**

**The copy of order attached herein dated 10.09.20 nomination link officers mentions that "if any officer is on casual Leave or absent the link**

**court shall do the judicial work and this order shall come into force from immediate effect "**

It is also pertinent to note that these facts have not been mentioned by The Respected District Judge in any of his notes as this was never the case**. The Hon'ble Administrative Judge has erroneously assumed those facts.**

The Hon'ble Administrative Judge has further remarked that "*In my opinion, an officer is expected to inform The Respected District Judge or the office headquarters about his absence before the court starts to function, so that the work may be transferred to the Link Court. The record does not reflect that The Respected District Judge or the office of The Respected District Judge was informed before 10.00 a.m. No material is available on the record to show that the litigants or the advocates were informed at 10.00 a.m. that the work of the court has been transferred to link court. Non-observance of discipline in such matters tends to lower the image of the judiciary. The said action of the officer cannot be appreciated.*"

As I have submitted that the facts that work was transferred after 2 Pm is factually wrong. Further The Hon'ble Administrative Judge has been pleased to form an opinion about indiscipline based on the erroneous assumption. It is also mentioned by The Hon'ble Administrative Judge that no material is on record to show that information was given to the advocated and litigants that the work will be transferred. It is humbly submitted that this has never been the charge by The Respected District Judge that the litigants were not informed. This charge has been leveled for the first time by The Hon'ble Administrative Judge through his remarks in the disposal order. As this was the first time this charge of late transfer of work has been leveled, I wish to submit additional materials. In that regard I wish to cite three materials to negate this charge.

- I had informed the Suit clerk, Gram Nyayalay – Sri Sudheer about my leave in the morning itself. He has stated on record to The Respected District Judge that he was informed in the early morning. In fact The Respected District Judge has mentioned it in his inspection notes itself that Sri Sudhir informed him that I was on leave.
- The office had duly informed the Bar that the presiding officer shall be on leave. On request **The then President, Bar Association, Gram Nyayalay, Sirauli Gauspur Advocate Sri Satyanam Verma has stated on oath on**

**affidavit that the bar was duly informed of my CL. <u>(Copy of affidavit is annexed).</u>**

- I have also obtained by request the notice that was affixed on the Bar notice board informing everyone about my CL. (Copy annexed). The notice dated 03.09.22 was issued by Advocate Sri Rana Pratap Singh, the then Secretary, Bar Association, Gram Nyayalay, Sirauli Gauspur.

**Thus it is clear from the affidavit of the President of the Bar association and notice under the sign of Secretary that the Bar and litigants have been duly informed and no work suffered due to my CL.** Thus no loss of image occurred. Thus, I submit with utmost humility, that the remarks by The Hon'ble Administrative Judge are erroneous and are based on wrongful assumption of facts. There has been no indiscipline in this regard whatsoever.

**<u>Reasons for delay in Applying CL.</u>**

It is humbly submitted that while the office, litigants were duly informed in the morning itself, the Formal Online Application was made at about 1PM. The Reasons for delay in applying casual Leave are medical reasons. I had informed The Respected District Judge in the reply to this notice about the same. I had annexed the explanations for the kind perusal of The Hon'ble Administrative Judge. I had also annexed my medical papers separately before The Hon'ble Administrative Judge. However The Hon'ble Administrative Judge has not remarked upon the same and has probably not considered the same.

**On 02.09.22, a day before the surprise inspection, I got an extremely high fever of <u>104 Degree Celsius in the evening</u>. (Medical paper attached). It was accompanied by chills and body ache. This fever continued till morning and I was under no condition to attend court or make a formal application. I informed the office so that work does not suffer. After taking medicines and much sponging my fever receded but I started feeling very uneasy. I applied for casual Leave and Station leave and I was admitted to Emergency ward in the Chandan Hospital, Lucknow. ECG was performed and I was diagnosed with <u>Upper Respiratory Tract Infection</u> (URTI) and acute febrile illness with anxiety. I was discharged after I got better. <u>The Emergency ward medical papers of the most reputed Chandan Hospital, Lucknow is attached.</u>**

I humbly submit that on the eventful day I was admitted in the emergency ward of a reputed hospital and was diagnosed with **Upper Respiratory Tract Infection**. The Hon'ble Administrative Judge has not considered my attached medical papers and my condition on that day. Not a single remark has been made upon it by The Hon'ble Administrative Judge. **Further The Respected District Judge has himself approved my casual Leave for the said day (Copy Attached).**

**Another malafide remark by The Respected District Judge was that when I came to know of the surprise inspection I applied for casual Leave at 1 PM. This is the most misleading statement. In his inspection note The Respected District Judge has himself mentioned that he reached The Gram Nyayalay at 2 PM. Since it was a surprise inspection, I had no knowledge of it at 1 PM when I applied for CL. How can I know of a surprise inspection at 1 PM, which itself began at 2 PM. This fact has not been considered by The Hon'ble Administrative Judge.**

Further even if the one off event constituted indiscipline in the opinion of The Hon'ble Administrative Judge then I should have been issued a DO/Notice on the issue for making amends and improve myself. I was issued a notice by THE RESPECTED DISTRICT JUDGE to which I duly replied. My casual Leave was approved and I received no further communication is this regard either from The Respected District Judge or The Hon'ble Administrative Judge. The incident is dated 03.09.22 and the assessment year ended on 31.03.23. I did not receive any communication in this regard whatsoever in that period of 7 months. No DO, warning or notice was issued. I have no knowledge whether the incident was reported to The Hon'ble Administrative Judge by The Respected District Judge in writing. Assuming the matter was indeed reported to The Hon'ble Administrative Judge, The Hon'ble Administrative Judge did not communicate to me any shortcoming, warning, DO notice or any opportunity to improve. **I was always under the assumption that my explanation supported by medical papers has been duly accepted. Rule 645 of The General Rules Civil is also relevant at this juncture.**

**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"***

I humbly submit that I was not given the benefit of rule 645 ever. Infact I received no communication after I submitted my explanation. Nothing was ever pointed out to me nor was any opportunity to improve given by The Respected District Judge or The Hon'ble Administrative Judge. I had cited this rule in the representation but The Hon'ble Administrative Judge has not considered the same.

Thus I pray that this remark be expunged.

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

It had 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 had not communicated to me any complaint whether "oral" or "written" in respect of this entry. The Respected District Judge had not revealed in the ACR as to on which date in the assessment year, has he found me to be unpunctual or coming late.

**The Respected District Judge had countersigned my "Daily Sitting Register" regularly. The Respected District Judge did not put a single "Red Remark" on my register to indicate on which day I was late.**

The Hon'ble Administrative Judge has upheld this entry without assigning any reasons. I again humbly reiterate that during the entire span of the assessment year, there were no complaints against me from the bar or litigants. The Respected District Judge has not given me any notice in relation to my punctuality ever. **The Hon'ble Administrative Judge has failed to consider this and has upheld this entry without assigning any reasons. My explanation to this entry has not been dealt with and the materials (daily sitting register) supplied by me has not been remarked upon. The Hon'ble Administrative Judge has not**

**considered that The Respected District Judge has not given me any notice and has countersigned my register regularly without flagging any issues related to punctuality.**

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 Respected District Judge. **However, The Respected District Judge refused to provide me those notes (Copy of order attached).** Those papers corroborated 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.

**The Hon'ble Administrative Judge failed to consider that The Respected District Judge has refused to provide me papers which would have further corroborated my punctuality.**

I humbly reiterate that during the entire assessment year I have never been late in attending Court Dias ever. There is no complaint against me from the litigants or bar whatsoever. The Respected District Judge has never charged me being late or unpunctual.

Yet again Rule **645 of The General Rules Civil (Supra) is relevant here.** No communication whatsoever was made in regard to punctuality ever in the entire assessment year. Further the quantum of work I have achieved and Disposal of 620 cases would not have been possible unless I was punctual and regular in sitting in court.

Thus I pray that this remark be expunged.

**Other issues under Entry under 01 (h)-**

**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.

The annual inspection which is more detailed and through has been conducted near the end of the assessment year. **In this detailed annual inspection it was found that the office is running smoothly and all work is found as per norms.** I had submitted the same before The Hon'ble Administrative Judge along with the copy. However The Hon'ble Administrative Judge has not considered the same and has not remarked upon the same.

**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. All allegedly undated cases that were mentioned in the notice had duly fixed dates while some were disposed already. 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. the record of proceedings on 02.08.22 was duly submitted to the The Respected District Judge along with my explanation. This it is clear that the remark is malafide. Similar was the case with other files.

The Respected District Judge had conducted his surprise inspection on 03.09.22 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.**

However The Hon'ble Administrative Judge has not considered my explanation and has merely stated that "*The inspection note of The Respected District Judge contains specific details of the files inspected by him. It is self-explanatory*". I had submitted with proof that none of the files were undated but the same were not considered by The Respected District Judge or the The Hon'ble Administrative Judge. In the first notice The Respected District Judge alleged that 3 files were found undated. In the later notice he alleged that 9 files were found undated. This increase of 6 files in the second notice is unexplained and cannot be self-explanatory. I has explained with proof that none of the files were undated and that the difference in allegations is due t malice.

The Hon'ble Administrative Judge has not considered this difference in number of files alleged to be undated in two separate notices. The Hon'ble Administrative Judge has not considered that fact as to why and how initially it was only 3 files that were found undated and how it became 9 files later.

I have no knowledge whether this issue was reported to The Hon'ble Administrative Judge in writing or not. Assuming that it was, The Hon'ble Administrative Judge has never issued any warning, DO, Notice or communication whatsoever. Further when I had denied that any of the files were undated, The Respected District Judge or The Hon'ble Administrative Judge could have enquired into the facts by means of a fact finding enquiry so that the facts could have become clearer. The files could have been seized or inspected. Even if The Hon'ble Administrative Judge was pleased to assume that my explanation was not sufficient, he could have issued me a DO and warning and a chance to improve myself. No communication was ever made to me in this regard by The Hon'ble Administrative Judge. No enquiry was made nor any opportunity of improvement or warning given. Further in the annual inspection everything was found in order.

**Entry under 01 (e)(i)(a) and (e)(i)(b) - 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 Respected 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 newly constituted 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 total number of cases have increase by transfer in this court; the cause list has evened out and daily listing has increased manyfold.**

**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. Thus The Respected District Judge has himself found that the "fixation" in the later 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 Respected District Judge has not made any communication post that notice indicating that he was not satisfied with the reply and that no such remark has been mentioned in "Annual District Judge Inspection" indicating his dissatisfaction.

The Hon'ble Administrative Judge has not considered the explanation or remarked as to why the same has been insufficient.

**Some order sheets unsigned.**

In miniscule number of files order sheets were found unsigned in the surprise inspection, although orders were duly written on it. This was admitted to by the reader and departmental enquiry is pending against him. His explanation is attached along with my replies. The undersigned has not made any willful negligence or dereliction in this regard. Further, 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**).

**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. **These copies were never communicated to me ever earlier.**

**Remarks have been made in the ACR based on papers which were never served to me during the assessment year. They came to my knowledge for the first time when the ACR was uploaded on the portal. Since the files have been disposed and consigned I had no means to verify those papers. The Hon’ble Administrative Judge has also relied upon those copies but has failed to consider the fact that these alleged papers were never served upon me ever in the 10 months.**

**Entry under 1(m)**

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.

**Proof of malafide.**

**The The Hon’ble Administrative Judge while rejecting my explanation has also mentioned that**

> *It also needs to be noticed that the officer has alleged malafides against The Respected District Judge in his representation. In that regard the officer has not cited any material or information or basis to justify such allegation. As such, there is no reason to take a different view with regard to such remarks of The Respected District Judge. Therefore, such entries are maintained.*

It is humbly submitted that I had preferred a complaint against The Respected District Judge on 09.09.23 before The Hon'ble Administrative Judge himself. I had mentioned the same in detail before The Hon'ble Administrative Judge. However The Hon'ble Administrative Judge has mentioned is his reasoning that "*the officer has not cited any material or information or basis to justify such allegation.*". The Hon'ble Administrative Judge has not considered my serious complaint against The Respected District Judge.

The complaint dated 09.09.22 has serious allegation against The Respected District Judge. The complaint related to coerce me to pass judgments and orders in cases in which I had no jurisdiction and then on refusal, threatening me with dire consequences. This complaint was sent to the Hon'ble Court via proper channel through The Respected District Judge and also directly to The Hon'ble Administrative Judge.

**<u>Points to prove Malafide</u>**

- I had attached the complaint with the representation. It would have been a different scenario, had The Hon'ble Administrative Judge considered the complaint and may have found it insufficient. Instead The Hon'ble Administrative Judge completely overlooked the complaint and remarked ". *In that regard the officer has not cited any material or information or basis to justify such allegation*". I humbly submit that material (complaint) was indeed supplied to justify the allegation. However The Hon'ble Administrative Judge did not consider the same.
- The Hon'ble Administrative Judge has himself held that remarks 1(a), 1(b), 1(d), 1(g) and 1(j) are expunged as no material or facts have

been supplied by The Respected District Judge. While the entries were expunged, The Hon'ble Administrative Judge failed to consider as to why those entries were recorded without any justification or supporting material whatsoever in the first place.

- Further expunged entries under 1(a), 1(b) and 1(d) related to integrity, impartiality, fairness and corruption. These entries go to the roots of being a JUDGE. The Respected District Judge held me to be a corrupt, Partial and unfair judge which were extremely serious allegation. These entries without any supporting material were enough to show the malafide of The Respected District Judge. It is apparent on the face of it that the entire ACR was malafide.

**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 under some 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.

On this this The Hon'ble Administrative Judge has remarked that "*It also needs to be mentioned here that the officer has admitted the fact that he helped an officer in drafting her complaints against The Respected District Judge."* It is unclear as to why The Hon'ble Administrative Judge has held this against me. **It is humbly submitted that raising complaints against The Respected District Judge before the Hon'ble High Court is the most advisable and legal root.**

It is humbly submitted that, it is beyond my contemplation as to what is expected from an upright officer when a female officer, particularly a junior one seeks support in raising sexual harassment complaints. I merely told her to approach the Hon'ble High court and corrected her drafts for language errors. That the Hon'ble High Court has encouraged by circular (G.L. No. 3/IVf-80 dated 1st April,1953) that junior officers may seek help and guidance from senior officers.

How that does make me POOR officer is unclear from the disposal order.

**<u>Assessment of Work</u>**

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 Hon'ble Administrative Judge has failed to do so.

Out of the total **pendency of 1041 cases, I disposed 503** cases thereby reducing the pendency to about HALF (50%). 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.

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.

**I was NOT provided with a Stenographer in Gram Nyayalay**

**My Lok Adalat disposal was 452 cases**."

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

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.

The Hon'ble Administrative Judge has retained the poor entry without assessing my judicial work, action plan circulars and based on his own erroneous assumption of facts constituting indiscipline.

The Respected District Judge has assesses me to be "poor" overall on the basis of entries related to integrity and non-completion of action plan files. The Hon'ble Administrative Judge has expunged these entries as having no basis whatsoever but has held that there is no reason to take a different opinion from the District Judge. . The Hon'ble Administrative Judge remarked that ***"As such, there is no reason to take a different view with regard to such remarks of The Respected District Judge. Therefore, such entries are maintained."*** It is humbly

submitted that expunging those entries were reasons enough to take a different opinion. Further against those remarks I had presented relevant materials and had raised pertinent points which have not been considered at all in the disposal order dated 18.09.23

That despite expunging entries related to Integrity and work & disposal The Hon'ble Administrative Judge has retained the overall "Poor" entry granted by The Respected District Judge thus making no change whatsoever. The entry was not even enhanced one step despite expunging entries related to integrity.

**Entry under column 4- Other Remarks, if any)**

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

The Hon'ble Administrative Judge has not given proper consideration to the facts mentioned in my representation and has not perused the attachments annexed by me.

The undersigned has no knowledge whether the issue dated 03.09.22 was ever reported by The Respected District Judge to The Hon'ble Administrative Judge. That Hon'ble Court may also seek all the records if the matter was ever reported and if any orders have been passed on it by The Hon'ble Administrative Judge. It is submitted with utmost humility that The Lordships may peruse those orders (if any).

I request that this entry be expunged.

## Points/Materials overlooked by The Hon'ble Administrative Judge.

The following points shave not been dealt/discussed/analyzed in the Disposal order at all:

1. The effect of refusal to provide me papers.
2. The effect of expunging critical and serious remarks related to integrity.
3. My Medical papers.
4. Discrepancy in number of files alleged to be undated in two separate notices.
5. My work and disposal of oldest files.
6. Completion of Action Plans.
7. Other circulars of Hon'ble High Court.
8. My complaint dated 09.09.22 against The Respected District Judge.

## Surprise Visit by the The Hon'ble Administrative Judge.

The Hon'ble Administrative Judge made a surprise visit of Gram Nyayalay, Sirauli Gauspur, on 18 March 2023. The visit was made at 10:40 AM. The Hon'ble Administrative Judge found the undersigned working in court. The Hon'ble Administrative inspected the court and enquired about the disposal and action plans and general working and expressed his satisfaction. He also met Bar members and made enquiry about my punctuality and general working.

The Hon'ble Administrative Judge also summoned the undersigned to meet him personally on the same day which I did. The Hon'ble Administrative Judge did not communicate to me any dissatisfaction or any deficiency on my part whatsoever. I humbly reiterate that I have not received any notice, DO, Show Cause or communication whatsoever from The Hon'ble Administrative Judge ever.

**Prayer**

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 Lordships 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
22.09.23

# List of Attachments

1. Order by The Respected District Judge refusing to provide copies.

2. Medical paper dated 02.09.22 to establish that I had a High Grade fever of 104 Degree Celsius And Medical paper dated 03.09.22 to establish that I was diagnosed as having Upper Respiratory Tract Infection (URTI) and was admitted to the emergency ward of the Chandan Hospital.

3. Affidavit of Sri Satyanam Verma, Then President, Bar Association, Gram Nyayalay, Sirauli Gauspur stating that that the bar was duly informed of my CL.

4. Copy of notice dated 03.09.23 issued by Advocate Sri Rana Pratap Singh, the then Secretary, Bar Association, Gram Nyayalay, Sirauli Gauspur informing the Bar and litigants of my CL.

5. Copy of casual Leave dated 03.09.22 duly approved by The Respected District Judge.

6. Copy of pages of the Annual District Judge Surprise inspection in which it was mentioned that all work is being carried out smoothly. First and

last page (Being Voluminous) of annual inspection made by ADJ 2nd on behalf of District Judge.

7. My complaint dated 09.09.22 against The Respected District Judge sent to The Hon'ble Administrative Judge.

8. My complaint dated 09.09.22 against The Respected District Judge sent to The Respected Registrar General.

9. Action Plan DO/Circular that was violated.

10. Daily Sitting register countersigned By District judge proving punctuality.

11. Explanation to First notice of surprise inspection.

12. Second explanation to second notice of surprise inspection in respect of additional facts.

13. Other circulars that require consideration.

14. Disposal order of The Hon'ble Administrative Judge.

15. Standing orders made by The Respected District Judge for transfer of work to link court on account of leave or absence of any officer.

Khan Zishan Masood
Nyayadhikari, Sirauli Gauspur

Barabanki
22.09.23