

From,

Rajnish Kumar,
Additional District & Sessions Judge,
Court No. 1, Deoria.

To,

The Registrar General,
Hon'ble High Court of Judicature at
Allahabad.

Through,

The District Judge,
Deoria

Subject: **Representation against the adverse remarks recorded against the applicant by the learned District Judge, Deoria for the Assessment Year 2020-21.**

Respected Sir,

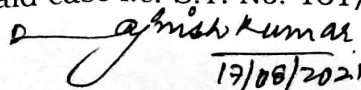
I most respectfully beg to submit my representation on the subject noted above as under:

1. I have been posted in the District Court, Deoria since 17.04.2019 as the Additional District & Sessions Judge, Deoria. The adverse remarks in Column Nos. 1 (a), (b), (c), (d), (i), (m), (n), 2 and 4 of my ACR for the Assessment Year 2020-21 have been recorded by Sh. Ravi Nath, learned District Judge, Deoria.
- 1.1 That the learned District Judge while making my overall assessment as 'Average' has observed in Column No. 1 (a) of my ACR that I positively lacked integrity. It is most humbly submitted to the Hon'ble Court that the aforesaid adverse remarks recorded by the learned District Judge, Deoria on my integrity and honesty are absolutely baseless, unfounded, highly prejudicial and *malafide* for the reasons stated by me in this representation of mine.
- 1.2 That the learned District Judge has made basis of my positively lacked integrity a Transfer Application moved by the counsel for the accused in S.T. No. 161/2008 titled as 'State Versus Rajesh & others' u/s 304-B, 498-A IPC & u/s 3/4 of the Dowry Prohibition Act, 1961 that was pending in my court at the stage of adducing defence evidence by the accused persons.
- 1.3 That total 30 dates were taken by the accused persons in the above S.T. No. 161/2008 for adducing defence evidence from 16.01.2020 to 18.01.2021, but the accused persons and their counsel were deliberately not leading the defence evidence and were applying all dilatory tactics to delay the disposal of the case. The accused persons and their counsel were not assisting the court in disposal of the case and were dilating the same by seeking adjournments on one pretext or the other. Somehow, only one defence witness could be examined on 30 dates given by the court to the accused persons during the period from 16.01.2020 to 18.01.2021. As the defence counsel and the accused persons were not at

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all ready to cooperate with the court towards disposal of the case and were not examining any other defence witness and producing any documentary evidence, the opportunity for adducing defence evidence was closed by me on 18.01.2021 by passing a detailed order by stating therein all the dilatory tactics being applied by the defence to delay the disposal of the case. Thereafter, the case was adjourned to 22.01.2021 for hearing arguments.

- 1.4 That after closure of the defence evidence by me *vide* my aforesaid order dated 18.01.2021, the counsel for defence moved a Transfer Application before the learned District Judge, Deoria seeking transfer of the case from my court to the court of the learned District Judge or some other court on the ground of closure of defence evidence by me. In compliance with the order of the learned District Judge, Deoria, I had submitted my comments to him on the said Transfer Application by stating therein the dilatory tactics having been applied by the counsel for defence towards delaying the disposal of the case by seeking adjournments on one pretext or the other and his unwillingness to lead any further defense evidence despite 30 dates given by the court for the same. But, the learned District Judge allowed the Transfer Application and withdrew the said case from my court to his own court and passed the judgment on 26.02.2021. It is pointed out that the accused persons had the remedy to challenge the order of closure of defence evidence before the Hon'ble High Court by filing revision. Copy of the Transfer Application moved by the counsel for the defence is annexed herewith as **Annexure No. 1**. Copy of the reply filed by the applicant to the Transfer Application is annexed herewith as **Annexure No. 2**. Copy of the order dated 28.01.2021 passed by the learned District Judge in Transfer Application is annexed herewith as **Annexure No. 3**.
- 1.5 That no allegations against me questioning my honesty and integrity were labeled by the accused persons and their counsel in the Transfer Application. Learned District Judge, Deoria sought transfer of the said case from my court and the same was transferred simply on the ground that the defense evidence was improperly closed by me. There has never been any complaint in my knowledge either against me in respect of the said case or any other case decided by me questioning my integrity nor there was an iota of evidence in that regard reflecting otherwise on my impartiality, honesty and integrity but the learned District Judge quite baselessly made his bald observations in my ACR that I positively lacked integrity.
- 1.6 That it is pertinent to state herein that I had not decided the said case but the same was decided by the learned District Judge. So, there could have been no justification for the learned District Judge to record a baseless observation against me in my ACR regarding my integrity in relation to the said case. It is further noticeable that the learned District Judge has not mentioned any other case or judgment or order of mine reflecting negatively on my honesty and integrity and as such his adverse remarks on my integrity are absolutely baseless, without any proof and simply subjective and highly prejudicial recorded for the reasons best known to the learned District Judge. The said Transfer Application moved against me in the said case i.e. S.T. No. 161/2008 therefore could


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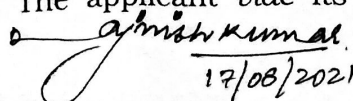
not have been made the basis for recording adverse observation against me on my integrity in as much as the said case has not been decided by me but by the learned District Judge himself.

- 1.7 That the learned District Judge, Deoria not being the appellate or revisional court over the court of mine at Deoria had no occasion to examine judicially the validity or invalidity of any judgment or order passed by me nor he had ever made any adverse observations against me in any judicial matter. It is pertinent and significant to mention herein that in the above mentioned S.T. No. 161/2008 the learned District Judge issued the D.O. letter dated 17.03.2021 to the applicant after more than 45 days of the staying the proceeding in the case and after about 20 days of the passing of the judgment by the learned District Judge. Copy of the D.O. letter dated 17.03.2021 is annexed herewith as **Annexure No. 4** and copy of the reply dated 23.03.2021 to the D.O. letter is annexed herewith as **Annexure No. 5**. and for that reason the D.O. letter dated 17.03.2021 given by him to me by observing that the closure of defence evidence in the said case ordered by me *vide* my judicial order dated 18.01.2021 was beyond his powers and jurisdiction in as much as he could not have commented adversely in administrative side on the validity of the judicial order dated 18.01.2021 for the reason that neither he was capable of commenting adversely on the judicial correctness of the said judicial order as appellate authority or the revisional authority.
- 1.8 That as stated in the preceding paragraphs, the bald adverse observations made by the learned District Judge, Deoria in Column No. 1 (a) of my ACR against my integrity are absolutely baseless, without any proof, highly subjective and prejudicial and for that reason the same are not sustainable.
2. That the observation of the learned District Judge in Column Nos. 1 (b), (c), (d) and (i) in my ACR that I am not fair and impartial in dealing with the public and Bar; that I am not cool minded and loose temper in court; that my private character is such as to lower me in the estimation of the public and adversely affects the discharge of my official duties and my relations with the members of the Bar was not good is absolutely wrong and factually false. The only instance for the above said adverse remarks recorded by the learned District Judge in my ACR is the Transfer Application in the S.T. No. 161/2008 moved by the defence counsel and whose case was withdrawn by the learned District Judge from my court to his own court. My relations with the members of bar were always normal. There had never been any incident of my misbehavior with any members of the Bar nor there any complaint to my knowledge as such against me. There being no complaint or proof of my bad relations with the members of Bar or losing temper in my court. There is no complaint or proof of my being unfair and impartial in dealing with the public and Bar nor there is any complaint against me which shows my private character as to lower me in the estimation of the public and adversely affects the discharge of my official duties. On the contrary, the learned District Judge has found my disposal of work as adequate with 117.81%. He has mentioned that my control over the file is proper. He has further observed that the judgments on facts and law, on whole are reasoned

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and expressed in English & Hindi language and appreciation of evidence and law is satisfactory. It is pertinent to mention that the applicant has given adequate quota despite the fact that the courts remained badly affected due to COVID pandemic. Therefore, the adverse observation against me in column nos. 1 (b), (c), (d) and (i) recorded by the learned District Judge is baseless and prejudicial.

3. The learned District Judge has adversely remarked in Column No. 1 (m) of my ACR that I am not amenable to the advice of the learned District Judge but the learned District Judge has not recorded any instance as to when and what advice was given by him to me which was not heeded by me. He has simply made basis the aforesaid Transfer Application moved by the defence counsel in the said S.T. No. 161/2008 for his observation that I was not amenable to his advice. The detailed reasons for closure of the defence evidence in the said Session Trial has already been stated by me in the preceding paragraphs. It is specifically pointed out here that the learned District Judge had never given me any oral or written advice in the matter of closure of defence evidence in the said Session Trial nor he has annexed any such proof with my ACR on the issue of his advice given by him to me that was allegedly not heeded. So, the observation of the learned District Judge on the issue of non observance of his advice is also highly prejudicial and *malafide* on his part for the reasons stated in the previous paragraphs.
4. The learned District Judge has adversely remarked in Column No. 1 (n) of my ACR that 'relation with members of the Bar is not good which is evident from the facts stated herein above'. Although, the Column No. 1 (n) pertains to "Behaviour towards women (respect and sensitivity exhibited towards them)". For the sake of brevity and to avoid repetition paragraph 2 of my representation be read as part and parcel of this para also.
5. That in my 6 years judicial service so far, I always worked hard and performed my judicial duty with utmost devotion, dedication, integrity and honesty and always earned appreciative assessment of mine as a 'Very Good' officer for the same in my ACRs recorded by all my previous learned District Judges and the Hon'ble Court.
6. The applicant is seeking liberty of the Hon'ble Court to most respectfully and humbly submit that the promotion proceedings from Class IV to Class III were held in the Deoria Judgeship in November, 2020. Being ADJ 1st the applicant was also the member of the promotion proceedings. As per my opinion the promotions were not done in accordance with the rules, so I refused to sign the promotion proceedings on the ground of dissenting opinion. Thereafter, the aggrieved employees challenged the promotion proceedings before the Hon'ble High Court by filing a Civil Writ Petition No. 14866/2020 titled as "Prem Nath Yadav & Others Versus State of U.P. & others". I have also been arrayed as a party Respondent No. 4 in the above said writ petition. Now, the said writ petition is pending for filing counter affidavit. But it is very sorry to state that the applicant has not been allowed by the learned District Judge to access to the concerned promotion file nor showing as to what reply is being filed on my behalf. The applicant *vide* its detailed letter dated


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24.03.2021 had apprised the Hon'ble Court about the factum of the above mentioned promotion proceedings held in the Deoria Judgeship. To avoid repetition, I am not reproducing the entire event in this representation but annexing herewith letter dated 24.03.2021 written to the Hon'ble Court as **Annexure No. 6**. The aggrieved employees have also filed an application dated 13.11.2020 before the Hon'ble Court about the promotion proceeding, the application dated 13.11.2020 has been annexed in the above said writ petition too. Copy of the application dated 13.11.2020 is annexed herewith as **Annexure No. 7**.

I am submitting with heavy heart that ever since I refused to sign the promotion list, the attitude of the learned District Judge changed adversely towards me. Consequently, he removed me from the In-chargeship of Infrastructue, Computers Nodal and Litigation. He replaced my office staff. Being ADJ 1st the applicant is Officer-in-charge Administration. Many a times I tried to meet learned District Judge to discuss administrative matters, but the learned District Judge stopped meeting the applicant at all. He never met me after the promotion proceedings were held. Even after umpteen requests he did not allow me to see the promotion file as to what has been written by him about my denial of signature. The administrative office has been asked strictly not to show any file to the applicant. Even my grievances were not forwarded by the learned District Judge to the Hon'ble High Court. Even till date I have been kept in dark by the learned District Judge regarding counter affidavit to be filed before the Hon'ble High Court in the said Writ Petition

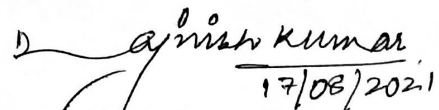
7. In view of the facts contained in the above mentioned paragraphs, the adverse remarks recorded in my ACR by the learned District Judge Sh. Ravi Nath are absolutely baseless, without any proof, highly subjective and prejudicial and for that reason the same are not sustainable and liable to be expunged.

I, therefore request your goodself to place this representation of mine before the Hon'ble Administrative Judge of the District Court, Deoria for His Lordship's kind consideration. I most respectfully pray to His Lordship to kindly expunge the aforesaid adverse remarks in Column Nos. 1 (a), (b), (c), (d), (i), (m), (n), 2 and 4 recorded by the learned District Judge, Deoria in my ACR for the Assessment Year 2020-21 and make my proper assessment for the said assessment year. I shall remain grateful to His Lordship for this grace for ever.

With profound regards,

Date: 17.08.2021

Place: Deoria

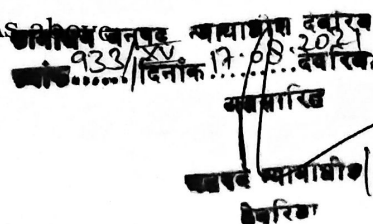

17/08/2021

(Rajnish Kumar)

(UP-2169)

Adl. District & Sessions Judge,
Court No. 1, Deoria

Annexures: As per


933/2021
दिनांक 17/08/2021
देवरिया

(कापी)

ANNEXURE No. 1

पेशी - 01-02-21

न्यायालय श्रीमान जिला एवं सत्र न्यायाधीश देवरिया

अन्तरण प्रार्थना पत्र सं० 10/2021

राजेश मिश्र वउम्र 41 वर्ष पुत्र शारदा प्रसाद मिश्र

निवासी ग्राम-तेतरिया थाना-मदनपुर, जनपद-देवरिया

.....आवेदक

बनाम

उत्तर प्रदेश सरकार

.....विपक्षी

एस०टी०नं० 161/2008

मु०अ०सं० 603/2007

धारा-498ए,304बी आई०पी०सी०

व 3/4 डी०पी०एक्ट

सरकार बनाम राजेश मिश्र व 5 अन्य

थाना-मदनपुर,जिला-देवरिया

तारीख पेशी-29-01-2021

प्रार्थना पत्र अन्तरण अन्तर्गत धारा 408 सीआर०पी०सी०

- 1-यह कि एस०टी०नं० 161/2008, मु०अ०सं० 603/2007, धारा-498ए,304बी आई०पी०सी० व 3/4 डी०पी०एक्ट, सरकार बनाम राजेश मिश्र व 5 अन्य थाना-मदनपुर, जिला-देवरिया का सत्र परीक्षण वर्तमान समय में न्यायालय प्रथम अपर सत्र न्यायाधीश देवरिया के न्यायालय में विचाराधीन है। जिसमें बहस हेतु दिनांक 29-01-2021 की तिथि नियत है।
- 2-यह कि उपरोक्त मुकदमें में हम प्रार्थी के अलावा हम प्रार्थी के परिवार के शारदा प्रसाद मिश्र पुत्र स्व० रामअवतार, श्रीमती दुर्गावती देवी पत्नी शारदा प्रसाद मिश्र, रामप्रवेश मिश्र पुत्र शारदा प्रसाद मिश्र, आरती देवी पत्नी रामश मिश्र व बिन्दा देवी पत्नी रामप्रवेश मिश्र निवासी गण ग्राम तेतरिया, थाना मदनपुर, जिला-देवरिया को गलत रूप से आरोपित किया गया है।
- 3-यह कि उपरोक्त मुकदमें में हम प्रार्थी के साथ अन्य पांच अभियुक्तगण के विरुद्ध आरोप दिनांक 07-08-2008 को विरचित हुआ और पत्रावली

(2)

दिनांक 01-09-2008 से दिनांक 07-08-2019 तक अभियोजन साक्ष्य में चली। तत्पश्चात दिनांक 03-01-2020 को अभियुक्तगण का बयान अन्तर्गत धारा 313 सीआर0पी0सी0 अंकित होने के उपरान्त पत्रावली सफाई साक्ष्य हेतु नियत हो गयी।

4-यह कि कोविड-19 की महामारी का प्रकोप माह दिसम्बर 2019 से प्रारम्भ हुआ उक्त बीमारी की समस्या के गम्भीर रूप धारण के उपरान्त दिनांक 25-03-2020 से दिनांक 04-01-2021 तक माननीय उच्च न्यायालय इलाहाबाद के दिशा-निर्देश के अनुसार जनपद न्यायालयों में साक्ष्य की कार्यवाही बाधित रही। इस कारण प्रार्थी के तरफ से इस अवधि में सफाई साक्ष्य प्रस्तुत नहीं हो सका।

5-यह कि उपरोक्त मुकदमें की कथित घटना में मृतका गिरिजा देवी ने स्वयं का अपने बच्चे के साथ कमरे का दरवाजा बंद करके आग लगाकर आत्म हत्या किया था और कथित घटना की तिथि को मृतका को बच्चे के साथ कमरे का दरवाजा तोड़कर जली हुई अवस्था में श्री त्रिलोकनाथ मिश्र पुत्र स्व० रामअवतार मिश्र निवासी ग्राम तेतरियां थाना मदनपुर, जिला-देवरिया न निकाला था तथा पुलिस को सूचना देने के उपरान्त मृतका को बच्चे सहित जली हुई अवस्था में जिला अस्पताल देवरिया में भर्ती कराया था। जिसका उल्लेख उपरोक्त मुकदमें की केस डायरी, मृतका के जिला अस्पताल में भर्ती के कागजात तथा मृतका के मृत्यु पूर्व दिये गये बयान (मृत्युकालिक कथन) में मौजूद है।

6-यह कि हम प्रार्थी ने उक्त गवाह को बतौर सफाई साक्षी प्रस्तुत करने हेतु प्रार्थना पत्र दिया था जिसे उक्त न्यायालय ने स्वीकृत भी किया है।

7-यह कि उक्त सफाई साक्षी श्री त्रिलोकनाथ मिश्र 91 वर्ष के वृद्ध व्यक्ति हैं, कोविड 19 की बीमारी से ग्रसित रह चुके हैं तथा वर्तमान समय में कूल्हे की हड्डी के टूटने के कारण डाक्टर की सलाह पर दिनांक 31-01-2021 तक बेड रेस्ट पर हैं।

8-यह कि माननीय उच्च न्यायालय इलाहाबाद के आदेश के परिपेक्ष्य में साक्ष्य की कार्यवाही पुनः प्रारम्भ होने के बाद प्रार्थी का तलबशुदा सफाई साक्षी

(3)

डी0डब्लू0 1 हरिशंकर हरिजन दिनांक 07-12-2020 को हाजिर न्यायालय आया किन्तु उक्त तिथि को न्यायालय द्वारा उक्त सफाई साक्षी की गवाही अंकित नहीं करायी गयी तथा उक्त सफाई साक्षी को लगातार तीन तिथियों दिनांक 07-12-2020, 09-12-2020 तथा 15-12-2020 को आने के उपरान्त उक्त सफाई साक्षी की गवाही पूरी करायी गयी।

9-यह कि हम प्रार्थी का उपरोक्त मुकदमा मुकदमे के तलबशुदा चश्मदीद एवं महत्वपूर्ण सफाई साक्षी श्री त्रिलोक नाथ मिश्र के साक्ष्य हेतु दिनांक 18-01-2021 को नियत था। उक्त तिथि को प्रार्थी की तरफ से स्थगन प्रार्थना पत्र कागज सं0 167 ख मय मेडिकल सर्टिफिकेट बाबत फ़ैक्चर एवं बेड रेस्ट कागज सं0 168 ख के साथ प्रस्तुत करते हुए सफाई साक्षी श्री त्रिलोक नाथ मिश्र की स्थिति को देखते हुए सम्पूर्ण विवरण का उल्लेख करते हुए सफाई साक्ष्य हेतु दिनांक 31-01-2021 के बाद कौ कोई तिथि नियत करने हेतु याचना किया गया था। जिसमें उक्त न्यायालय के पीठासीन अधिकारी द्वारा सरसरी तौर पर बिना सम्पूर्ण तथ्यों एवं परिस्थितियों को देखे निरस्त करते हुए बहस हेतु मात्र तीन दिन की तिथि दिनांक 22-01-2021 नियत कर दिया गया।

10-यह कि तत्पश्चात हम प्रार्थी के तरफ से मुकदमे के महत्वपूर्ण कागजात की नकले इकट्ठा करने के उपरान्त माननीय उच्च न्यायालय इलाहाबाद में आदेश दिनांक 18-01-2021 के विरुद्ध याचिका प्रस्तुत करने के उल्लेख के साथ दिनांक 22-01-2021 को उक्त न्यायालय के समक्ष मौके का प्रार्थना पत्र दिया गया जिस पर उक्त न्यायालय के पीठासीन अधिकारी द्वारा खुले न्यायालय में यह बात कहते हुए कि अब आगे कोई मौका नहीं दिया जायेगा बहस हेतु मात्र सात दिन की तिथि दिनांक 29-01-2021 नियत कर दिया गया है। जिससे हम प्रार्थी तथा अन्य सह अभियुक्तगण को सख्त हकतल्फी है और हम प्रार्थी तथा अन्य सह अभियुक्तगण को स्वतंत्र एवं निष्पक्ष न्याय से वंचित करना है।

11-यह कि उपरोक्त मुकदमे के महत्वपूर्ण साक्षी श्री त्रिलोक नाथ मिश्र की वृद्ध अवस्था एवं मेडिकल सर्टिफिकेट के बावजूद उक्त न्यायालय द्वारा आदेश दिनांक 18-01-2021 के तहत सफाई साक्ष्य से वंचित करना तत्पश्चात

Medical
18/1/21

(4)

बहस हेतु मात्र तीन दिन की तिथि दिनांक 22-01-2021 नियत करने तथा माननीय उच्च न्यायालय इलाहाबाद में याचिका प्रस्तुत करने हेतु प्रार्थना पत्र देने पर मात्र सात दिन की तिथि दिनांक 29-01-2021 बहस हेतु नियत करने से हम प्रार्थी तथा अन्य सह अभियुक्तगण को उक्त न्यायालय से निष्पक्ष न्याय की उम्मीद नहीं है और उक्त न्यायालय हम प्रार्थी तथा अन्य सहअभियुक्तगण के विरुद्ध विद्वेषपूर्ण एवं अन्य भावनाओं से वशीभूत प्रतीत हो रहा है।

12-यह कि न्याय की मंशा यह नहीं है कि न्याय सिर्फ न्याय हो बल्कि पक्षकारों को भी प्रतीत हो कि उनके साथ न्याय हो रहा है। यही विधि का सिद्धान्त है। ऐसी स्थिति में हम प्रार्थी मजबूर होकर सम्पूर्ण विवरण के साथ निष्पक्ष न्याय की गुहार हेतु श्रीमान के समक्ष अन्तरण प्रार्थना पत्र प्रस्तुत कर रहा है।

13-यह कि न्यायहित में हम प्रार्थी का सत्र परीक्षण सं० 161/2008 मु०अ०सं० 603/2007 धारा 498ए,304बी आई०पी०सी० व 3/4 डी०पी०एक्ट सरकार बनाम राजेश मिश्रा व पांच अन्य थाना मदनपुर जिला-देवरिया को न्यायालय प्रथम अपर सत्र न्यायाधीश देवरिया के न्यायालय से स्वयं के न्यायालय में अथवा किसी अन्य सत्र न्यायालय में स्थानान्तरित किया जाना आवश्यक है।

अतः श्रीमान से प्रार्थना है कि हम प्रार्थी का सत्र परीक्षण सं० 161/2008 मु०अ०सं० 603/2007 धारा 498ए,304बी आई०पी०सी० व 3/4 डी०पी०एक्ट सरकार बनाम राजेश मिश्रा व पांच अन्य थाना मदनपुर जिला-देवरिया को न्यायालय प्रथम अपर सत्र न्यायाधीश देवरिया के न्यायालय से स्वयं के न्यायालय में अथवा किसी अन्य सत्र न्यायालय में स्थानान्तरित करने की कृपा किया जावे।

अन्तरण पत्र के सम्बन्ध में सम्बन्धित न्यायालय से आरव्या तलब हो। निस्तारण हेतु प्रकाशित दिनांक 01.02.2021 का पत्र हो।

S2/SJ
28.01.21

प्रार्थी/अभियुक्त
राजेश मिश्र पुत्र शारदा प्रसाद मिश्र
निवासी ग्राम-तेतरिया,
थाना मदनपुर, जिला-देवरिया
दिनांक- 28.1.2021

Copy forwarded to JST Court No. 12 Deoria
for information & Compliance.
राजेश मिश्र

B. O.
Sy
28.01.21
JST COURT
Deoria

प्रेषक,

रजनीश कुमार,
अपर जिला एवं सत्र न्यायाधीश,
कक्ष संख्या-1, देवरिया।

ANNEXURE No. 2

सेवा में,

माननीय जनपद न्यायाधीश,
देवरिया।

विषय:-

अन्तरण प्रार्थना पत्र संख्या 10/2021 राजेश मिश्र प्रति राज्य में मॉगी गई
आख्या के सम्बंध में।

महोदय,

ससम्मान निवेदन है कि सत्र परीक्षण संख्या 161/2008, मु0अ0सं0 603/2007, अर्न्तगत धारा 498ए, 304बी भा0द0सं0 एवं 3/4 डी.पी.एक्ट राज्य प्रति राजेश मिश्र एवं अन्य मेरे न्यायालय में लम्बित है तथा न्यायालय की प्राचीन पत्रावलियों में से एक है। पत्रावली में दिनांक 07.08.2008 को आरोप विरचित कर साक्ष्य की कार्यवाही करते हुए दिनांक 03.01.2020 को अभियुक्तगण का बयान अर्न्तगत धारा 313 द0प्र0सं0 अंकित किया गया है और उसके उपरान्त पत्रावली सफाई साक्ष्य हेतु पूर्व पीठासीन अधिकारी द्वारा नियत की गयी। उसके उपरान्त तथा कोविड लाक डाउन से पहले पत्रावली में सफाई साक्ष्य हेतु दिनांक 16.01.2020, 27.01.2020, 11.02.2020, 15.02.2020, 28.02.2020 तथा दिनांक 28.02.2020 को अन्तिम अवसर देते हुए 17.03.2020 की नियत की गई।

दिनांक 17.03.2020 को कोरोना वायरस के संक्रमण के रोक थाम के सम्बंध में जारी दिशा निर्देश के अनुपालन में पत्रावली में दिनांक 27.03.2020 सफाई साक्ष्य हेतु तिथि नियत की गई है। बयान अर्न्तगत धारा 313 द0प्र0सं0 के बाद तथा लाक डाउन से पहले सफाई साक्ष्य हेतु छह तिथियाँ नियत की गयी और अभियुक्तगण को सफाई साक्ष्य हेतु अवसर दिया गया। सफाई साक्ष्य में दो साक्षियों के साक्ष्य अंकित कराये जाने के सम्बंध में माननीय महोदय से सफाई साक्षियों को तलब करने हेतु अनुमति भी प्राप्त किया गया है।

अभियुक्तगण की ओर से सफाई साक्ष्य में डी0डब्लू0-1 के रूप में हरिशंकर हरिजन को दिनांक 15.12.2020 को परीक्षित कराया गया है। उसके पश्चात दिनांक 18.12.2020, 21.12.2020 की तिथि सफाई साक्ष्य प्रस्तुत करने हेतु नियत किया गया।

माह जनवरी 2021 से न्यायालय में सामान्य कार्यवाही प्रारम्भ होने के बाद पत्रावली में अभियुक्तगण को सफाई साक्ष्य प्रस्तुत करने हेतु दिनांक 04.01.2021 व 18.01.2021 की तिथि दी गयी। परन्तु अभियुक्तगण द्वारा बिना पर्याप्त आधार के सफाई साक्ष्य हेतु स्थगन प्रार्थना पत्र प्रस्तुत करने के कारण अभियुक्तगण का प्रार्थना पत्र निरस्त करते हुए सफाई साक्ष्य का अवसर समाप्त किया गया।

इस प्रकार सत्र परीक्षण की पत्रावली अत्यन्त प्राचीनतम होने के कारण माननीय उच्च न्यायालय के दिशा निर्देशों का अनुपालन करते हुए पत्रावली के शीघ्र निस्तारण का प्रयास किया जा रहा है।

अभियुक्त राजेश मिश्रा द्वारा अन्तरण प्रार्थना पत्र में लगाये गये आरोप कपोल कल्पित मिथ्या एवं आधारहीन है। अधोहस्ताक्षरी पत्रावली में न तो किसी के प्रति कोई विद्वेष रखता है न किसी के प्रति कोई उसे दुर्भावना है न किसी के वशीभूत है। अधोहस्ताक्षरी का एक मात्र उद्देश्य अपने न्यायालय में लम्बित पत्रावलियों का गुण-दोष पर शीघ्र निस्तारण करने का है। पत्रावली को स्थानान्तरित करने में कोई आपत्ति नहीं है।

श्रीमान् चाहे तो पत्रावली को किसी भी सक्षम न्यायालय में अन्तरित कर

सकते है।

टिप्पणी माननीय महोदय के समक्ष सादर प्रेषित है।

दिनांक-01.02.2021

भवदीय,
Rajnish Kumar
(रजनीश कुमार) 01/02/2021
अपर जिला एवं सत्र न्यायाधीश,
क्र.सं. संख्या-1, देवरिया।

25/1/21
10:21 AM

न्यायालय सत्र न्यायाधीश, देवरिया ।

Or. T. N. No - 10/2021

राजेश मिश्र - vs - राज्य

घाटा - 408 Crpc

थाना - मदनपुर

जिला - देवरिया ।

ANNEXURE NO. 3

प्रतिलिपि आदेश -

28-1-2021: पुकारा गया।

पुकार पर प्रार्थी के विद्वान अधिवक्ता उपस्थित है।

अन्तरण प्रार्थना पत्र पर सुना गया।

संबंधित न्यायालय से टिप्पणी तलब हो। दिनांक 01-2-2021 को निस्तारण हेतु पेश हो। अन्तरण प्रार्थना पत्र के निस्तारित होने तक सत्र परीक्षण सं० 161/2008, राज्य प्रति राजेश मिश्र व अन्य, थाना मदनपुर, जिला देवरिया की कार्यवाही स्थगित की जाती है।

कार्यालय इस आदेश की एक प्रति संबंधित न्यायालय को दिनांक 29-1-2021 को प्रातः 10-30 बजे बाबत तामीला कराके उसकी तामीला आख्या इस पत्रावली पर प्रस्तुत करे। निस्तारण हेतु यह वाद नियत तिथि को पेश हो।

सत्र न्यायाधीश,

S. H. Hegde
28.01.21

Copy of order forwarded to ASJ No. 1,
Deoria for information & compliance.

S. H.

28.01.21

SESSION CLERK
SESSION COURT
Deoria

ANNEXURE No.4

अर्द्धशासकीय पत्र सं० ०१ / २०२१
विश्राम-कक्ष जनपद न्यायाधीश
दिनांक / देवरिया / मार्च १७, २०२१

श्री कुमार,

कृपया आप द्वारा सत्र परीक्षण सं० १६१/२००८, राज्य प्रति राजेश मिश्रा व अन्य, मु०अ०सं० ६०३/२००७, धारा ४९८ए, ३०४बी० भा०दं०सं० व धारा ३/४ दहेज प्रतिषेध अधिनियम, थाना मदनपुर, जिला देवरिया की पत्रावली आपके द्वारा सुनी जा रही थी, जिसमें नियत तिथि १५.१२.२०२० को बचाव साक्षी डी०डब्लू००१ के बयान पूर्ण रूप से आपके द्वारा अंकित किया गया था और इस सम्बंध में आपने आदेश पत्र में अपना आदेश लिखकर हस्ताक्षरित किया, तदुपरांत दिनांक १८.०१.२०२० को आपने बचाव साक्ष्य मात्र इस आधार पर समाप्त किया कि अभियुक्तगण द्वारा कोई सफाई साक्ष्य प्रस्तुत नहीं किया गया है और बार-२ सफाई साक्ष्य हेतु समय लिया जाता रहा है। ऐसी दशा में बचाव पक्ष के सफाई साक्ष्य का अवसर समाप्त किया जाता है।

आपका यह कृत्य न्यायिक अधिकारी के पद की गरिमा तथा दृष्टिहीनता का परिचायक है, क्योंकि आपने आदेश दिनांक १५.१२.२०२० के तथ्यों के विरुद्ध अपना आदेश दिनांक १८.०१.२०२१ उपरोक्त सत्र परीक्षण वाद में पारित किया।

उपरोक्त वाद में स्थानान्तरण प्रार्थना पत्र सं० १०/२०२१ प्रस्तुत किया गया, जिसमें लिखित टिप्पणी आपसे मांगी गयी, जिसमें आपने यह स्वीकार किया कि आपके द्वारा उपरोक्त बचाव साक्षी डी०डब्लू००१ का बयान लिखा गया था।

अतः आपको भविष्य के लिये यह चेतावनी दी जाती है कि आप अपने न्यायिक कार्य में विशेष रूचि लेते हुये अपने आदेशों को तथ्यों के आधार पर पारित करना सुनिश्चित करेंगे।

सेवा में,

श्री रजनीश कुमार,
अपर जिला एवं सत्र न्यायाधीश,
कक्ष सं००१, देवरिया।

भवनीष,
(रवि नाथ)

Received at 3-45 pm.
22/03/21
23/03/21

From: Rajnish Kumar,
Additional District Judge,
Court No. 1, Deoria.

ANNEXURE NO. 5

To: Hon'ble District Judge,
Deoria

Subject: In reference to your D.O. Letter No. 01/2021 dated 17.03.21.

Respected Sir,

Apropos to your D.O. letter No. 01/2021 dated 17.03.21 (served upon the undersigned on 20.03.21 at 3.45 p.m.) I am to state that the Session Trial No. 161/2008 titled as "State versus Rajesh Mishra & Ors." Case Crime No. 603/2007 under Section 498A, 304B IPC and Section 3/4 Dowry Prohibition Act, Police Station-Madanpur, District-Deoria was pending in the Court of the undersigned. It is to submit that the statement of the accused u/s 313 Cr.P.C. were recorded on 03.01.20 and thereafter the case was adjourned for leading defense evidence. Examination of the first defense witness was started on 09.12.20 and concluded on the next date on 15.12.20. Thereafter, the defense has sought as many as four adjournments on dated 18.12.20, 21.12.20, 04.01.21 and 18.01.21 for examining remaining defense evidence. But no evidence was adduced by the defense on the above mentioned dates.

Perusal of the entire order dated 18.01.21 passed by the court makes it explicitly clear that the above stated order of the closure of the defense evidence of the accused was passed after affording sufficient opportunities to the accused after examination of DW-1 on 15.12.20. The undersigned has also categorically explained chronology of the orders passed by my court in report dated 01.02.21 to the CrI. T.A. No. 10/21. Copy of the report dated 01.02.21 is annexed herewith as **Annexure-1** for your kind perusal and information.

It is relevant to mention herein that the undersigned through its letter dated 22.03.21 had demanded the complete file of above Session Trial No.161/08 for perusal in order to prepare the reply, but you did not supply the same to the undersigned. Therefore, the undersigned is preparing the reply after perusing the report dated 01.02.21 filed in CrI. T.A. No. 10/21. Copy of the letter dated 22.03.21 is annexed herewith as **Annexure-2**.

It is humbly submitted that the case being one of the oldest case of this court, this court was trying it's hard to dispose of the same on priority basis after giving reasonable opportunities to both the parties in order to fulfill the directions of the Hon'ble High Court issued from time to time to dispose of the old cases on priority basis. It is very sorry to state that the D.O. letter issued by you for passing judicial order has badly hurt the sentiments of the undersigned resulting into demoralizing the officer in expediting the trial of the old cases.

It is pertinent and significant to mention herein that the legal remedy against the closure of the evidence is to challenge the order before the Hon'ble High court. But to the utter surprise of the undersigned, a Transfer Application was filed by the accused on 28.01.21 and on the same day without waiting for my comments/report the proceedings of the case were stayed. Copy of the order dated 28.01.21 passed in Criminal Transfer Application

Rajnish Kumar
23/03/2021

No. 10/21 is annexed herewith as **Annexure-3**. The above stated order dated 28.01.21 was served upon the undersigned on ~~the~~ 29.01.21 at 10.25 a.m. in compliance of the order dated 28.01.21. Thereafter, the case was transferred to your court itself and the judgment was passed *vide* order dated 26.02.21 by your court. It shows that the old cases are to be decided expeditiously.


It is further submitted that you have passed the judgment which is subject to judicial scrutiny by the appellate court. The above file was got transferred by you from my court to your court *vide* order dated 01.02.21 passed by your court. Now after about more than 40 days of the transfer of the file and about more than 20 days of the passing of the judgment in your case you are serving me this D.O. Letter without any rhyme or reason. Once the file has been recalled by you, this office becomes *functus officio*. You have decided the file resulting into acquittal of the accused. Therefore, D.O. Letter issued by you is unwarranted and against the sound principles of judicial propriety.

Submitted please.

Date: 23.03.21

Place: Deoria

Encls: As above.


(RAJNISH KUMAR) 23/03/2021
Additional District Judge

From: Rajnish Kumar,
Additional District Judge,
Court No. 1, Deoria.

ANNEXURE NO. 6

To: Hon'ble Administrative Judge,
High Court of Judicature at Allahabad
for the District-Deoria

Through: District & Session Judge,
Deoria.

Subject: Regarding promotion of Class-IV to Class-III employees in Deoria
Judgeship

Hon'ble Sir,

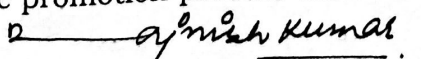
With due respect I humbly wish to submit that I am posted as Additional District & Session Judge at Deoria since April, 2019.

Sh. Ravi Nath, District Judge, Deoria had assumed charge of his office as District Judge, Deoria in July, 2020. Immediately after assuming charge of his office he took up the task of promoting Class IV employees to Class III in violation of the prescribed rules and wanted me also to be part of the selection process. I apprised him that the procedure of promoting the employees by conducting written examination (which he was proposing) is in derogation to the Uttar Pradesh State District Court Service Rules, 2013 (hereinafter referred to as "Rules"). It is pertinent to mention herein that the rules regulating the promotion of Class IV employees to the post of Class III employees do not envisage conducting of any written examination and evaluation of employees for promotion on merit criteria rather the promotion is to be regulated on the basis of seniority. The relevant rule is reproduced herein below for the ready reference and kind perusal of your good self;

"(b) Twenty percent by promotion from amongst Group "D" employees on the basis of seniority subject to rejection of the unfit with minimum of five years substantive and satisfactory service having qualification upto High School".

It is pertinent to narrate herein the entire events from time to time as they occurred. It goes like this, that in the month of August Learned District Judge asked me to see the procedure as to how the promotion is to be done. I referred to the relevant rules and briefed him that the promotion is to be done on the basis of seniority subject to the rejection of the unfit.

In the month of September he instructed me to conduct exams for the promotions. I pleaded him that there is no procedure under the rules to conduct any examination for the promotions. If we conduct any examination then it would be against the intent of the Rules. Again after few days the Learned District Judge reiterated that he has prepared one examination paper and I should take it from him and conduct exam but I again expressed my inability to go against the Rules. After few days he sent In-charge, Chief Administrative Officer (CAO) to my chamber. He told me that the Learned District Judge Saab is stating that he would not take it otherwise if you go on leave on the date of proceedings for promotion are to be conducted. Same day I met Learned District Judge, he told the same thing to me that if I do not want to participate in the promotion process then I may go on leave and he

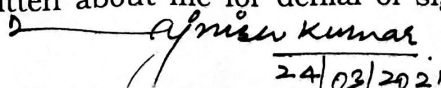

24/02/2021

will conduct the promotion proceedings on his own and he would not take it otherwise.

That in the month of August, 2020 Hon'ble High Court sent a letter for completing the process of promotion from Class IV employees to Class III wherever the vacancies arises. Learned District Judge again called me and said that as per rules I am supposed to be in promotion committee. I submitted to him that I am bound to follow his orders within the prescribed rules and accordingly participated in the promotion proceedings. It is pertinent to mention herein that Learned District Judge agreed that the name, father name, address, name of the court in which they are appointed and designation will be got written by the candidates in order to ensure if the candidates are competent to write or not as the nature of job of clerk is to write also.

On 06.11.20 interaction/interview for promotion from Class IV to Class III held in the chamber of Learned District Judge, Deoria. On 06.11.20 at 3.00 pm interaction/interview were started by the committee headed by the Learned District Judge as Chairman, senior most Additional District & Session Judge (myself) and Sh. Anand Priya Gautam, Civil Judge (Senior Division). One by one the candidates were called and they were asked to write their names, father names etc. but the Learned District Judge, Chairman of the committee also started asking questions on his own from the candidates and started writing something on blank paper which was not visible to me. I objected to the same but the chairman said that he is asking the questions in order to check their general knowledge. I *bonafide* had no clue at all what Learned District Judge had in his mind. The interaction/interviews concluded at 5.00 pm. Thereafter, Chairman asked us to leave. Next day on 07.11.20 at around 9.45 Sh. Anand Priya Gautam, Civil Judge (Senior Division) called me up and said that Chairman of the Promotion Committee (Learned District Judge) is calling him at his residence, upon which I told him that I have not received any such communication. Then Civil Judge (Senior Division) came to my chamber at about 10.00 AM and informed that he has signed the promotion list as directed by the Learned District Judge. At about 10.15 AM Learned District Judge called me in his chamber and asked to sign the promotion list. On perusal of the promotion list I was surprised to see that the promotions were not done by the Learned District Judge as per rules rather the same were in flagrant violation of the Rules. Promotions were done on pick and choose basis. I politely submitted to the Learned District Judge that I am unable to sign the list as the promotions have not been done as per the procedure laid down in the Rules. He pressurized me to sign the promotion list but I refused to sign the same and left his chamber. Then on 08.11.20 (Sunday) the result was declared without my signature. Thereafter, next day on 09.11.20 the promoted candidates were made to join their new posts of clerks. It is also important to mention that no minutes of exercise undertaken by the promotion committee were recorded. He deliberately as per his whims and fancies promoted Class IV employees without acceding to my advice to promote the Class IV employees as per the prescribed Rules.

It is also pertinent and significant to mention herein that I also demanded the concerned file of promotion to ascertain as to what has been written about me for denial of signature, but the


24/03/2021

same was not shown to me. I also asked the In-charge Chief Administrative Officer (CAO) to show me the file, but he said that the concerned file is in the custody of the Learned District Judge and he has not given back the file to him. The aggrieved employees have filed a Civil Writ Petition No. 14866/2020 challenging the promotion procedure in the Hon'ble High Court which is listed on 05.04.21 for filing counter affidavit.

It is respectfully submitted that the undersigned has been arrayed as a party respondent in Civil Misc. Writ Petition No. 14866 of 2020. I have strong apprehension that the promotion file can be tampered with and can be manipulated. Therefore, despite numerous oral and written requests made by the undersigned, the promotion file has not been shown to the undersigned for perusal till date. I being a party respondent have legal and lawful right to peruse the counter affidavit to be filed before the Hon'ble High Court in the above titled writ petition. It is further reiterated that if any counter affidavit is filed on behalf of the undersigned then it should be in the knowledge and signature of the undersigned.

It is, therefore, most humbly and respectfully prayed that the lordship may kindly intervene immediately in the matter and direct the Learned District Judge to make available the promotion file to the undersigned and also direct him to allow the undersigned to peruse the counter affidavit if any prepared on behalf of the undersigned to be filed before the Hon'ble High Court in CWP No. 14866/20 listed on 05.04.21.

With utmost regards,

Yours Sincerely,

Rajnish Kumar

(RAJNISH KUMAR)

I.D. No. UP-2169

Additional District Judge
Deoria

Place: Deoria

Date: 24.03.21

श्रीवा में

मा० महानिबंधक,

मा० उच्च न्यायालय, इलाहाबाद (उ०प्र०)

विषय :- दीवानी न्यायालय, देवरिया में चतुर्थ श्रेणी कर्मचारियों के प्रमोशन में धांधली के संबंध में।

महोदय,

निवेदन के साथ आपको अवगत कराना है कि दीवानी न्यायालय, देवरिया में चतुर्थ श्रेणी कर्मचारियों को प्रमोशन, तृतीय श्रेणी कर्मचारी हेतु साक्षात्कार के आधार किया गया जिसमें सभी चतुर्थ श्रेणी कर्मचारी भाग लिए जिसमें सभी कर्मचारियों को अपना-अपना नाम एवं पता अंग्रेजी व हिंदी में लिखने को कहा गया जिसमें लगभग सभी कर्मचारियों द्वारा नाम एवं पता सही लिखा गया, लेकिन प्रमोशन हेतु कमेटी के सदस्य मा० जनपद न्यायाधीश महोदय, अपर जिला जज प्रथम मा० रजनीश कुमार एवं मा० आनंद प्रिय गौतम सिविल जज सीनियर डी० द्वारा चतुर्थ श्रेणी सी० कर्मचारीगण का ध्यान न देते हुए जू० कर्मचारी का प्रमोशन कर दिया गया। यहाँ तक कि चतुर्थ कर्मचारी परवेज आलम व असलम सिद्दीकी का मामला मा० उच्च न्यायालय, प्रयागराज में स्पेशल अपील 1589/2013 लंबित है बावजूद उसके इनका प्रमोशन तृतीय श्रेणी कर्मचारी के रूप में कर दिया गया है। यहाँ तक सुनने में आया है कि प्रमोशन लिस्ट पर कमेटी के मा० वरिष्ठ सदस्य अपर जिला जज प्रथम, रजनीश कुमार का हस्ताक्षर भी नहीं हुआ है बावजूद उसके मा० जनपद न्यायाधीश, देवरिया द्वारा आनन-फानन में उक्त कर्मचारियों को ज्वाइन भी करा दिया गया, जिसको लेकर दीवानी न्यायालय परिसर में कई तरह की बातें हो रही हैं एवं कर्मचारियों में उक्त प्रमोशन को लेकर पक्षपात एवं अनुचित तरीके से प्रमोशन किए जाने के कारण काफी रोष व्याप्त है। ऐसी स्थिति में उक्त प्रमोशन के प्रक्रिया की जांच कराकर सी० चतुर्थ श्रेणी कर्मचारियों को न्याय दिलाया जाना आवश्यक है।

अतः प्रार्थना है कि दीवानी न्यायालय, देवरिया में चतुर्थ श्रेणी कर्मचारियों के प्रमोशन में हुए धांधली की जांच कराकर हम कर्मचारियों को न्याय दिलाए जाने की कृपा करें।

श्रीवा में

शमभद्र चौरसिया

साचिव न्यायालय

प्रदुर्गा पादर

प्रमोशन विभाग

मा० जिला जज

मा० उच्च न्यायालय

देवरिया

दिनांक 13-11-2020

श्रीवा में

प्रार्थीगण

चतुर्थ श्रेणी कर्मचारीगण
दीवानी न्यायालय, देवरिया

दि०-13-11-2020