

From,  
Ruchi Tiwari,  
Additional Chief Judicial Magistrate  
Court No. 01, Mathura.

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

Subject: Representation to the Hon'ble Administrative Judge of the District Court: Shamli at Kairana against the adverse remarks recorded by District Judge, Shamli at Kairana against the applicant for the Assessment year 2020-2021.

Respected Sir,

I with utmost respect I beg to submit my representation on above mentioned subject as under:-

(1)- That I belong to 2013 batch of Civil Judge (Jr.Div.) and had joined the judicial services on 16.02.2015 in District court Banda and then in April 2018 I was transferred to Kairana, Muzaffarnagar which was the then outlying court of District Muzaffarnagar. I joined there as Civil Judge (Jr.Div.), Kairana, then after on creation of Session Division Shamli the outlying court of Shamli. There I was appointed as Civil Judge (Jr.Div.) Shamli and on 08.01.2019 I was promoted as Civil Judge (Sr.Div.) Kairana and till march 2021 I served in Shamli Judgeship in cadre Senior Division.

(2)- That, during the said Assessment year 2020-2021 Respected Shri Ajay Kumar-II was learned District Judge of Shamli and till date he continues to be Ld. District Judge of Shamli.

(3)- That, during the Assessment year 2020-2021 the Pandemic Covid had badly effected the working of courts and it was very difficult to work in the circumstances of covid and inspite of the hardships created due to covid I tried my level best to work properly and sincerely and my target to achieve the outturn in the said assessment year was 659.28 units and as a result of my sincere and hard work I was able to achieve 1208.27 units which is 183.27 percentage of work done and the Ld. D.J. in Point 01(g) of my ACR (Annual confidential remark) has recorded that the judicial Outturn of the officer is 605.01 units and rest 603.26 units have been achieved as administrative work or as incharge of other courts. Here it is very pertinent to mention that the outturn claimed by me was according to the G.L. No. 11/IV - h- 14/2019 of Hon'ble High Court dt. March 05, 2019 and during the hard times of Pandemic covid and otherwise also, there were several instances when I performed judicial work of other courts in the capacity of incharge officer of that court. Moreover in the same paragraph of ACR it has been recorded by Ld.Respected D.J. that the disposal of work by the officer is adequate which is self contradictory.

In the same point 01(g) of ACR the Ld. D.J. has further recorded



that officer has decided very few Cases as contested Cases keeping in view huge pendency of criminal and civil cases in court. Here it is very important to mention that the statement showing the working days and workdone and yearwise statement of pendency and disposal annexed with the self assessment clearly shows that I have decided 10 civil and criminal cases on merit as contested case, 19 cases decided on the basis of compromise, 17 cases decided as otherwise which includes exparte judgment, withdrawl of case, Succession cases and cases dismissed in default i.e. total 46 cases were finally decided by me in the said assessment year. Further the statement annexed regarding out turn reveals that I have decided 39 applications u/s-156(3)Crpc, 9 applications u/s- 155(2) Crpc, 60 report commissions, 21 injunction applications, 95 amendment applications, 32 issues were framed and 25 issues were decided and other miscellaneous work was performed by me. Apart from this I have performed the remand duty on regular basis during the said period of assessment. It is one more time worth mentioning that all this above mentioned work was done by me in the crucial circumstances of covid.

(4)- That, the Ld. Respected D.J. has mentioned in point-01(a) that no written complaint received, therefore integrity certified. This means that if any false and frivolous complaint had been received by Ld. Respected D.J. he would have doubted my integrity aswell . Further this remark of Ld. D.J. reveals one more fact that Ld. Respected D.J. maintains grudge with me as I along with other judicial officers were facing same problems in our day today working during the said assessment year and those problems were reported in writing to the Hon'ble Administrative Judge of District Shamli. These problems were pertaining to the discriminatory nature of Ld. Respected D.J. and Ld. Respected the then C.J.M. Shri R.M.S. Yadav regarding distribution of work, remand duty and other judicial and administrative work against us.

Despite of the fact that Ld. Respected D.J. is holding the most influential post of 'DISTRICT JUDGE' he has not received even a single complaint of mine, even though he out lasted me in District Shamli as Ld. D.J. had even sought extra time to report my ACR to the Hon'ble Court which in itself shows his discriminatory nature towards me and he has run from pillar to post to find any critical error of mine but has not been able to report in ACR. Here it is pertinent to mention that Ld. Respected D.J. has him self recorded in point 01(b) of my ACR that office was fair and impartial in dealing with public and Bar.

(5)- That, it has been mentioned by Ld. Respected D.J. in point 01(c) (iii) of my ACR that there were certain cases which were dismissed in default by me during the restrictions imposed by Hon'ble High court in the time of pandemic covid but the above mentioned fact of Ld. Respected D.J. is not correct one because it is very evident from the statement of disposal annexed in the self assessment that the cases mentioned by Ld. Respected D.J. were decided by me after 5th of January when the restrictions imposed by the Hon'ble High Court. were not in existence (copy of order of Hon'ble High Court. annexed here with).

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(6)- That, it has been stated in point 01 (e) (iii) of my ACR by Ld. Respected D.J. that the statements provided by me were wrong and I have shown wrong cases as 5 year old case and 10 year old case i.e. the cases which were less than 5 year old and less than 10 years old were shown as 5 year old and 10 year old by me and it is also not clear from the statement that whether the case is being decided as contested or otherwise. Here it is very important to mention regarding this point that it is well known fact that the statement regarding pendency, disposal and other work of each court is submitted monthly, quaterly and on yearly basis in the office of Ld. D.J. for the perusal of Ld. D.J. and then after monthly meeting of judicial officers is conducted every month and the work of each judicial officer is evaluated on the basis of those statements submitted and it is often observed that Ld. Respected District Judges use to give directions in the monthly meeting for improvement and efficient working. Here I have not been given any specific directions by Ld. Respected D.J. in respect of the statements of the old cases, that, I have submitted incorrect statements. Moreover there was a committee chaired by Ld. Respected D.J. to monitor the old cases but by that committee also never such directions were given to me that the statement submitted by me were incorrect. It is again very important to mention if in case the Ld. Respected D.J. was that the statement submitted by me were incorrect then he would have given me directions regarding this. It is again very pertinent to mention that Ld. Respected D.J. has done yearly Inspection in the month of February 2021 of my court and Ld. Respected C.J.M. Shri R.M.S. Yadav has also done yearly inspection of my court but no such directions regarding the incorrect statement were given by them to me. Further as far as the Ld. Respected D.J. has recorded in my ACR that it was not clear from the statement annexed that whether the case was decided as contested or otherwise, I would most respectfully submit that there is statement of yearly disposal and work done annexed with my self assessment which clearly mentions that I have decided 10 cases as contested case, 19 cases were decided on the basis of compromise and 17 cases were decided otherwise by me.

(7)- That, it has been mentioned by Ld. Respected D.J. in point 01 (e) (iv) of my ACR that there was only 1 execution case decided by me on merit. Here it is of utmost importance to mention that in the said assessment year there was critical situation due to pandemic covid which had adversely effected the working of courts as well and due to which Hon'ble High court have issued time to time guidelines for working of courts and in the of justice there were certain restrictions also imposed out of which one restriction was that there would be no eviction of any person in of any execution case and this restriction last for almost complete year and it was lifted on 5th of January 2021 i.e. there were approximately only 3 months to decide the execution cases in the said assessment year and due to circumstances created by covid from 1st of April to 5th of Jan it was almost impossible to pass any corecive order in execution case and moreover Ld. Respected D.J. himself has explained that there were 51 cases pending in my court out of which 39 cases were stayed by Hon'ble High court and out of remaining 12 cases I have decided one case on merit.

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(8)- That, it has been mentioned by Ld. Respected D.J. in point 01 (f) and in annexure 'A' of my ACR that the judgments passed in O.S. No. 53/2009 and O.S. No. 187/2008 as well as orders passed on release application in case crime No. 206/2020 and 122/2020 of P.S. Jhinhana are not sound on law and facts. Here it is very important to mention that Ld. Respected D.J. have probably misinterpreted the facts. The correct facts are as under:-

(a) That O.S. No. 53/2009 was filed by plaintiff against defendants for relief of declaration and injunction of 3 disputed agricultural properties out of which there was registered sale deed on record for two of those properties in favour of plaintiff and for the remaining disputed property the witness of defendants who was a govt. employee 'Lekhpal' has clearly stated that plaintiff is in clear possession of the said property. Moreover there was a copy of order of Hon'ble High court on record passed in writ petition No. 938/2009 which clearly states that plaintiff should not be evicted from the disputed property without due process of law. Here it is pertinent to mention that this order of Hon'ble High Court was and due cognizance to the said order of Hon'ble High Court in spirit and I was bound by that order and had to respect it. Above all the Ld. Respected D.J. neither has been able to allow the appeal nor has stayed the operation of my order till date to the best of my knowledge and as per his remark communicated to me. (copy of the Judgment annexed here with)

(b)- That, O.S. No. 187/2008 was filed by plaintiff seeking declaration and injunction against defendants over the disputed property. In this case also the relief of declaration was rejected by me for want of jurisdiction however the defendant witness who was govt. employee 'Lekhpal' has stated on oath that since long plaintiff's are in clear possession of the said property. Moreover defendant who was state Govt. (Gaon Sabha) failed to show any document of ownership and possession in their favour over the disputed property. So in such circumstances it was stated by me in the judgment that plaintiff should not be evicted from the disputed property without due process of law. Moreover in this case also the Ld. Respected D.J. neither has been able to allow the appeal nor has stayed the operation of my till date to the best of my knowledge and as per his remark communicated to me.

(c)- That in case crime No. 206/2020 and 122/2020 about the release of vehicle u/s-72 of Excise Act I was bound by the directions of the then, Ld. Respected C.J.M. Shri R.M.S. Yadav who had directed all the magistrates subordinate to him to allow the release of vehicle as stated in case of Sundarlal Ambalal Desai V/S State of Gujarat by Hon'ble Apex court. Prior to which I use to reject the release of vehicle etc in cases u/s 72 Excise Act but the then Ld. Respected C.J.M. pressurized me and other magistrates for the release stating that Advocates are not satisfied with the rejecting of release and also when Ld. C.J.M. is allowing such release then it is incumbent on other magistrates under his administrative control to do so and follow his directions.

(9)- That, it has been stated by the Ld. Respected D.J. in point 01 (e) that

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officer is punctual and regular except one surprise inspection conducted on 24.02.2021. Here it is important to mention that I had gone for few minutes to the washroom attached to my chamber to attend the nature's call and it appears that Ld. Respected D.J. took round of district court campus and my absence, however at that time I was not been given an opportunity to explain as to why I was not present on dias.

(10)- That, it has been stated by the Ld. Respected D.J. in point 4 that officer was entrusted regular Departmental Enquiry No. 02/2020 against sri Nanoo Kumar, process server, which was not conducted by her. Here it is worth mentioning that I have been the said enquiry in the month of December then there were winter holidays in district court and in the month of January I had framed charge on Sri Nanoo Kumar process server and made it received to Sri Nanoo Kumar and a copy was also sent to Ld. Respected D.J. for approval. Here it is worth mentioning that the said enquiry was initially marked as preliminary enquiry to me. I have concluded the enquiry and submitted it to Ld. Respected D.J. then he said that by mistake it was marked as preliminary enquiry and it was regular departmental enquiry and the Ld. Respected D.J. has made amendments and changes in that enquiry which took sometime and moreover due to covid circumstances it was very often that court remained closed for sanitization and other work and on 12.04.2021 I left the charge in Kairana, Shamli as I was being transferred to Mathura by the order of Hon'be court in annual transfer.

(11)- That, it is stated by Ld. Respected D.J. in point 4 that, the officer was also principal Magistrate J.J. Board with effect from 01.04.2020 to 08.11.2020 but statement of pendency, institution and disposal of J.J. Board has not been annexed by the officer. No. Judgement or order passed in J.J. Board has been annexed by the officers in her assessment. Here it is very important to mention that I have submitted all the statements in due time in office of Ld. Respected D.J. and also to Hon'ble High court. Moreover Ld. Respected C.J.M. is being entrusted in J.J. Act 2015 that he has to conduct quarterly inspection of J.J. Board but nothing was communicated by Ld. Respected C.J.M. regarding the statements of J.J. Board in the said assessment year. Here it is again important to mention that Ld. Respected D.J. has also conducted the yearly inspection and use to organise regular quarterly meeting of J.J. Board but there was nothing related to statements of J.J. Board was ever communicated to me.

Here it is worth mentioning that the assessment made by Ld. Respected D.J. is self contradictory where by he has over all stated me as a "Good" officer with adequate outturn of work, Punctual on sitting on dias, fair and impartial in dealing with public and Bar, integrity being certified,marshalling of fact and law being good and satisfactory, relation with brother officers satisfactory, control over the office and administrative capacity and tact satisfactory, so if still there was lacunae against my working as it is evident from the remarks given by Ld. Respected D.J. then how could had he rated me as "Good" officer. This itself is sufficient to show that Ld. Respected D.J. carries grudge with me as I along with other judicial officer reported against Ld. Respected D.J. and Ld. Respected C.J.M. about their discriminatory behavior towards

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me and also the various other problems faced by us in day today working. (copy of the said letter annexed here with).

Therefore, it is kindly prayed with folded hands before the Hon'ble Court to please expunge the remarks made by the Ld. Respected D.J. in my ACR dt. 22.10.2021 and my overall rating as an officer may kindly be upgraded.

With Utmost Regards

Your's Sincerely

  
17/11/21

(Ruchi Tiwari)

Additional Chief Judicial Magistrate

Court No. 01, Mathura.

I.D. No- U.P.-2075

Date- 17/11/2021

Annexures: as above