

(Through email and speed post)

Date: 01 March, 2024

From,  
Pawan Sharma-I,  
Additional District Judge,  
POCSO Court - Sultanpur.

To,  
The Registrar General,  
High Court of Judicature at Allahabad,  
Allahabad.

Through:- District Judge-Sultanpur

**Subject: Grievance and representation against the administrative orders of District Judge, Sultanpur.**

Esteemed Sir,

It is most respectfully and humbly submitted that:-

#### **Chronology of Facts**

1. The applicant is posted as Additional District Judge in Sultanpur District presiding over Special Court POCSO since April 2021.
2. That the applicant has grievances against the various administrative orders and professional misconduct of current District Judge Mr. Jay Prakash Pandey towards the applicant.
3. The applicant was heading the charge of several committees of Sultanpur judgeship which included Nazart, Purchasing committee, medical claim committee, infrastructure committee prior to the charge taken by current District Judge of Sultanpur judgeship on 02.09.2022. Annexure-1.
4. The district judge after taking the charge on 02.09.2022 removed the applicant from all the important effective committees within ten days of joining i.e. 13.09.2022, after the applicant refused nodding to district judge unethical practices. No complain oral or written was ever made to district judge by the bar or any staff against the applicant about the judicial or administrative working. The competency of applicant holding these positions was assessed by the previous district judge and was confirmed by the Hon'ble

High Court in ACR of year 2021-22. The district judge used his prerogative in a wrongful way. Annexure- 2 and 3.

5. That the district judge allowed several transfer applications of trials pending in the applicant court (POCSO Court No-12) without assigning reason on the pretense of avoiding any prejudice. Contrary when the applicant requested for transfer of a case St. vs. Thakur Prasad Nishad SPT No-831/2021 u/s 3/4 POCSO on the same ground of prejudice the district judge refused to do so and initiated fishing and roving enquiry. This action of district judge reflects his hostility towards the applicant originated from previous denial of unethical practices of district judge. Annexure 4 and 5.
6. That the district judge conducted a surprise inspection of courts on 08.08.2023. It was a working day and the Sultanpur Bar Association had declared a full day strike. The Bar proposal was circulated in the courts by the order of district judge. Despite it the district judge issued a Demi official Letter/ Show cause notice No. 60 with false time and content mentioned in it. This further reflects his inimical behavior towards the applicant. Annexure 6, 7 and 8.
7. That the district judge has issued a Demi Official notice No 58/S.T/D.J/2023 to the applicant on 07.08.2023 regarding the judgment and order passed in Misc. civil appeal No 14/2023 decided on 20.04.2023 (after 4 months of disposal). No complain oral or written was presented before the district judge in this regard. It is pertinent to mention that the said M.C.A was heard and admitted by the district judge and then transferred to the applicant court. The jurisdiction was already decided by the district judge on first date at the stage of admission. Hence there was no question for hearing the appeal on issue of jurisdiction. The district judge out of blue took personal interest and pain in reviewing the judgment and orders passed by the applicant in order to find out faults and issued the said D.O in order to settle his previous grudges against the applicant. Annexure 9 and 10.
8. That this act of issuing D.O on judicial side by the district judge has created an undue interference and is clear violative of freedom and independence of applicant working as a judge thus hampering the applicant from performing judicial functions freely and fearlessly. In catena of judgments of Hon'ble High Courts and Apex court the Hon'ble courts has refrained from writing such remarks. In Alka Pandey vs State of U.P and others 2389 of 2020 Hon'ble High Court Allahabad stated in para 11 that:

*“.....The said comment starkly reflects upon the persona of the judicial officer, and while deciding the said appeal the Sessions Judge was expected to judge the case which were before him, and had no jurisdiction to judge the judicial officer who was the author of the judgment. Undeniably the District and Sessions Judge has administrative control over the judicial officers subordinate to him, but the administrative control cannot be equated to power of superintendence which is vested only with the High Courts. The Hon'ble Supreme Court in this regard has also even cautioned the High Courts to refrain*

*from making observations extending to criticism of the subordinate judicial officer in as much as the said judicial officer is condemned unheard which is violative of principles of natural justice.....” Annexure 11.*

The intent behind issuing such notices to the applicant is purely malevolence. The additional district judge is at par with the district judge when it comes to judicial work and the district judge has only administrative control over the judicial officers. The district judge has no rights and power to interfere or comment in judicial work of ADJ. No such administrative review of any order/judgment of any other judicial officer posted in this judgeship has been done by the district judge till date despite receiving written complains. This act of district judge further reflects his animosity towards the applicant.

9. That the district judge issued two more notices/ D.O Letter No. 56 and 57 on date 07.08.2023, after inviting frivolous complains from Advocate Mr. Tarkeshwar Singh. Pertinent to mention that Mr. Tarkeshwar was D.G.C criminal in court of District Judge and after his retirement in September 2023, he was appointed by the current district judge as a defence counsel (Amicus curiae- a monthly salaried post) for D.L.S.A-Sultanpur. The district judge and Tarkeshwar Singh unethical alliance is no more a hidden factor in district court campus. Several complain of district judge, transfer application of trial and bail pending in district judge court has been filed by various litigants and complainants in Hon’ble High court, Hon’ble Supreme Court as well as before the previous Hon’ble Administrative Judge of Sultanpur in the past. A copy of such order is annexed along. Annexure 12, 13 and 14.
10. That the most astonishing act of district judge came to knowledge of applicant from reliable and authentic sources last year in May 2023. The district judge asked Mr. Tarkeshwar Singh and few close associates of him to bring false written complaint against the applicant so that he may write some remarks against the applicant. But his intentions and efforts could not get materialized.
11. That the district judge has already committed such a malevolence act previously by writing unjustified and unrequired remarks in ACR of applicant for the year 2022-23. Annexure. Annexure 15.
12. That on 09.03.2023 applicant name was sent by the district judge for vigilance officer post on a call from Hon’ble High court in order of seniority. Later on date 26.09.2023 without any justification the district judge removed the name of applicant from the list for the reason best understood from his previous conduct and a sense of fear developed in his mind. Annexure 16, 17 and 18.
13. That the district judge conducted a surprise inspection of applicant court’s office located on top floor of court building on 08.08.2023 at 1:30 p.m. His surprise inspection was more of a raid where he ransacked the entire office, yelled at office clerk, Munshi, litigants present there conducting an enquiry regarding their whereabouts terrifying the

people present there and using demeaning words for the presiding officer (applicant). This raid was conducted only for the applicant court's office and of none other. C.C.T.V footage may be looked into for more details. This act of district judge sent a wrong signal to the bar, litigants as well as the court staff. On several other occasions the district judge has used demeaning words for the applicant before the staff attached to applicant court, exhibiting his clear disrespect.

14. That the district judge is leaving no stone unturned to find faults and mistake if any of the applicant. The D.O No 56, 57, 58 and 60 all issued on 07.08.2023, 08.08.2023 and then raiding the applicant court office on 10.08.2023 (4 day time span) shows the district judge frustration and attacking efforts to find faults of applicant.
15. That the applicant has successfully completed six years of service, working extremely hard and has disposed more than 1100 plus session trials in these years on merits setting a new disposal record every year of which 670 trials are solely from Sultanpur Judgeship. There is not even a single complaint regarding the integrity or judicial dishonesty against the applicant in these six years, not even a whisper. Had there been any complain the advocates from the bar would not have cooperated in disposal of these many numbers of cases. Despite this fact, the district judge has mentioned in applicant ACR of 2022-23 for integrity column no. 01(a) as '*no written complaint and evidence available hence certified*' which the applicant strongly condemns and see it is an abuse of applicant honesty. The district judge intentions behind writing these lines are purely damaging. It's painful to see that a dishonest district judge writing such remarks for applicant honesty.
16. That the unprofessional attitude and personal grudges which the district judge holds against the applicant is detrimental for the institution growth, where an honest and hardworking officer is harassed for no reason. The officer will lose faith in the system if such harassment continues in future and will succumb to the corrupt practices of district judges; which may hamper the court work in future.

#### **Administrative Grievance**

17. That the applicant is currently the senior most Additional District Judge in the judgeship, post promotion and transfer of two senior Additional District Judges on 20.11.23. Currently there are 8 more Additional District Judges posted in Sultanpur Judgeship. Annexure 19.
18. That the District Judge Administrative Order No 320, 323, 324, 357, 358 is arbitrary and contrary to the principle of natural justice as well as against the established rules of seniority. Annexure 20, 21, 22 and 23.
19. That through these order the District Judge appointed Shri Abhai Srivastava second senior as officer in-charge of General administration as well as chairman of administrative committee. In the absence of District Judge, Shri Abhai is in-charge of

District Judge court as well as entire general administrative work of Sultanpur District Court.

20. That the section 5 of General Rules Civil 1957 states that:-

*Administrative control.* - Subject to the superintendence of the High Court, the District Judge shall have administrative control over all Civil Courts including the Court of Additional District Judge within the local limits of his jurisdiction; and where two or more courts are located at a place other than the headquarters of the District Judge the officer of the highest rank or amongst the officers of the same rank the senior-most officer in the station will be in immediate administrative charge of all the Civil Courts there subject to the administrative control of the District Judge.

**Further section 9 of Criminal Procedure Code states that:-**

In section 9 of the Code of Criminal Procedure, 1973 hereinafter referred to the said Code, after subsection (5), the following sub-section shall be inserted, namely;-

*"(5-A) In the event of the death, resignation, removal or transfer of the Sessions Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his court is held, the senior-most among the Additional Sessions Judges, and the Assistant sessions Judges present at the place, and in their absence the Chief Judicial Magistrate shall without relinquishing his ordinary duties, assume charge of the office of the Sessions Judge and continue in charge thereof until the office is resumed by the Sessions Judge or assumed by an officer appointed thereto, and shall subject to the provision of this Code and any rules made by the High Court in this behalf, exercise any of the powers of the Sessions Judge."*

*[Vide Uttar Pradesh Act 1 of 1984, s. 2]*

21. That notification of POCSO courts states that:-

*..It is to add that local arrangements shall be made by the concerned District & Sessions Judge in pursuance of the Circular Letter No.27/D.R.(S)/2000 dated 21.6.2000, Circular Letter no. 30/Admin.(Services)/2019 dated 19.11.2019 and Circular Letter No. 03/Admin.(Services)/2020 dated 03.03.2020 accordingly.*

*The aforesaid Officers posted as Special Judge in the exclusive Court for trying cases covered under the Protection of Children from Sexual Offences (POCSO) Act, 2012 shall continue to hold their respective Special Courts till completion of their tenure in the district, irrespective of any change in local seniority.*

Annexure 24.

22. The notification clearly states that there will be no change in the judicial work of presiding officer of POCSO court. PocsO courts presiding judicial officers are not counted in the seniority of court numbering being a special court but it has no effect on the administrative seniority decided by the Hon'ble High Court. The seniority of courts is

used for the purpose of special courts like S.C/S.T Act court, N.D.P.S court, Gangster Act Court, Electricity Act court. The officers posted in these special courts keep on shifting and shuffling with the change in their seniority created due to transfer or promotion of any ADJ. POCSO courts are exempted from the local arrangement and change only for Judicial Jurisdiction. Officers presiding POCSO Courts are changed only after the notification issued from Hon'ble High Court.

23. That in the District Auraiya, Amroha, Lucknow and many other district courts the same practice is followed as per rule. POCSO and special court presiding officers are incharge of administrative committee and administration in absence of district judge in these judgeship.
24. That the Learned District Judge has also allotted official vehicle (Order no 320) along with driver to Shri Abhai Srivastav, second A.D.J in order of seniority in the Judgeship ignoring the fact that the applicant is the senior most judicial officer. The car and driver has always been allotted to the senior most Additional District Judge in the past considering the hierarchy and seniority rules. Thus, this order of official car allotment is also arbitrary and contrary to the established principles of fair administration.
25. That the serious aftermath of these repressive orders are resulting into conflicts of interest, harmony disturbance between the officers and wrong signal is going to the Bar and public at large as well as affecting the general reputation of Judiciary.
26. That during the absence of District Judge from the station, the applicant attendance, leaves, station leaves permission and comments on cases are being considered by an officer in-charge administration, junior to the applicant. This act and order of District Judge is challenging the seniority determined by the Hon'ble High Court.
27. That the Learned District Judge without assigning any detailed order or reason has ignored the rules and law quoted above and has passed the impugned administrative orders contrary to rules. The District Judge has not misinterpreted the Hon'ble High Court order, but has intentionally interpreted it in mala-fide way.
28. That the District Judge Sultanpur holds grudges and a have a feeling of resentment against the applicant for reason explained above. His administrative orders as well his administrative act reflects his unfairness towards the applicant. The hidden objectives behind these administrative orders are only revengeful with no justification. No doubt district judge will treat the applicant unfairly in future when it comes to assess the applicant yearly judicial and administrative work disposal and writing the applicant annual entry.

#### **Prayer**

29. That the administrative order no 320/23, 323/23 and 324/23, 357/23, 358/23 passed by District Judge Sultanpur of various dates and consequential administrative orders be

revoked and the District Judge Sultanpur be directed to decide a fresh regarding appointing the office in charge of various department and sections as well as committees along with the allocation of official car as well as driver in accordance with rules considering the seniority determined by the Hon'ble High Court.

30. That the district judge should be refrained from issuing/passing Demi official Letters/notices on judicial side in future to the applicant and those which are already passed (55, 56, 57 and 60) be quashed.
31. That the applicant annual assessment for the year 2022-23 should be done by the Hon'ble Administrative Judges and not by the district judge Sultanpur.
32. That the district judge Sultanpur refused to forward this representation and hence being sent directly to your good-self.

Therefore you are humbly requested to place this representation before the Hon'ble Administrative Judges Sultanpur for kind consideration.

Yours sincerely,

(Pawan Kr. Sharma)

A.D.J-Sultanpur

Annexures: 1-24 as mentioned above.