

(Through online web portal)

Date : 08, July 2024

From,
Pawan Sharma,
Additional District Judge,
Jhansi.

To,
The Registrar (Confidential),
High Court Judicature at Prayagraj,
Prayagraj.

Subject: Representation against the remarks and overall assessment given in annual confidential remarks (ACR) of the applicant.

Respected Sir,

This representation is humbly submitted against the remarks made by the district judge Sultanpur in the annual confidential entry of the applicant. The applicant was posted as Additional District Judge presiding POCSO Court in Sultanpur from April 2021- April 2024 (three years). The applicant is currently posted in Jhansi as A.D.J.

2. The District Judge Shri Jai Prakash Pandey took charge of District Judge Sultanpur on 01st September 2022. The district judge after taking charge created toxic environment for the applicant after the applicant refused to dance to his tune of unethical and corrupt practices.

3. The district judge has written insubstantial remarks in ACR of applicant for previous year 2022-23 to clear his personal grudges against the applicant (Annexure).

4. In the similar manner, the district judge has wrote baseless remarks in the ACR of applicant for this year 2023-24 also, with the sole intention to wreck the applicant's career and satisfy his person grudges as the applicant is on the edge of promotion.

5. In column 01 of the ACR form, district judge has mentioned:-

01 (b). If she/he is fair and impartial in dealing with the public and Bar?	No, I had received several oral complaints from the members of Bar in dealing with the public and Bar regarding his unfair & partial behavior.
01 (c). If she/he is cool minded and does not lose temper in court.	No, the officer is short tempered and he loses his temperament while sitting on dais.
01 (i). Relations with members of the Bar <i>(mention incidents, if any):</i>	Not Cordial
01 (j). Behavior in relation to sister/brother Officers <i>(mention incidents, if any):</i>	Not Cordial

6. The applicant has disposed 423 session trial and more than 400 bail application along with several other applications in the assessed year. Had, there been any unfair practice and partial behavior, as mentioned in the column, the bar would have never been cooperative in disposal of these many numbers of cases. The district judge has admitted that the integrity of applicant is beyond doubt. No complain has been ever raised nor any report called. Had there been any complain, the district judge would have definitely mentioned the incidents as required in the columns. Throughout the year the district judge was in pursuit of collecting evidence against the applicant. Thus his remarks in the above mentioned columns are baseless lacking material substance.

7. In the month of January, February and March 2024, total no of working days excluding the holidays, strikes and condolences were (11+14+7=32). The applicant has disposed 156 trials and sixty bails. The advocates of the bar have worked in the applicant court even during the strikes and condolences showing regard and respect toward the work environment of applicant court. No transfer application was moved by any counsel/ litigant in any case during the assessed year nor any oral or written complain has been filed by any party or the counsel. The applicant court has recorded highest number of evidence in the Sultanpur judgeship in the assessed year

and also in the past three years compared to any other judicial officer posted in the judgeship. These circumstance and disposal is a factual evidence and is clearly contradictory to the remarks district judge has mention in the column quoted above.

8. Similarly the district judge has mentioned that the applicant does not have cordial terms with fellow officers on surmise and conjectures. He has not mentioned any incidents in column which clearly show that his remark lacks substance and has been written to tarnish the applicant image.

9. It is pertinent to mention that the district judge submitted online ACR form of all the judicial officers by 30th May 2024. But for the applicant he adopted a fault finding approach, pulled out the entire disposal from the record room and on failure to find any error in judicial work, gave remarks out of his own thought to discolor the applicant image before the Hon'ble Court.

01 (e) (v). Whether interim order, injunction being granted, refused or retained for sufficient reasons?	No, the officer has passed interim order in MCA related with Electricity Act beyond jurisdiction, by using powers not vested in him. (Details in Annexure).
01(g) (iii). Number of civil cases decided on compromises / alternate dispute resolution.	N/A as the Court was exclusive Court only for POCSO Act.

10. The jurisdiction of the MCA mentioned above was decided by the district judge at the admission stage and the case was admitted as Misc. Civil Appeal. Thereafter the case was transferred to the applicant court for deciding the case on merit. Hence the jurisdiction error mentioned by the district judge is unjustified. In column no 01 g iii the district judge has clearly mentioned that the court was exclusive for criminal case then he should not have transferred the civil case in the applicant court as it is against the jurisdiction. His remarks are self-contradictory.

01 (h). Control over the Office and Administrative capacity and tact:	The officer has proper control over his office, he possesses administrative capacity and he is tactful as well.
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11. The district judge did not assign any administrative work despite the applicant possessing administrative capacity as mentioned in remark column 01 (h). The officer was the senior most officer among all the judicial officer posted in Sultanpur judgeship. The district judge also did not allotted official car to the applicant nor made in-charge of general administration (a post assigned to the senior most ADJ). He allotted the car to the officer next to the applicant in rank, which shows his personal grudges against the applicant. Representation in this respect was made previously before the Hon'ble Administrative judge in the month of March 2024.

01 (m). Whether amenable to the advice of the District Judge and other superior officers?	No
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12. The applicant has obeyed all the official administrative orders passed by the district judge in writing. The applicant is afraid not to mention that the district judge is fond of flattery and unofficial parties at home every fortnight. The applicant was reluctant to be a part of these gathering which also became a reason for district judge annoyance. Apart from it the district judge seek favor in judicial orders from the applicant in cases pending in the applicant court and on refusal by the applicant transferred the case to other court without assigning any reason. The details of these facts are mentioned in the previous representation sent by the applicant in the month of March 2024.

13. The applicant has disposed each case after proper appreciation of evidences and guide lines issued by the Hon'ble court time to time through for POCSO courts. The applicant is posted as Session judge for POCSO court from past 5 year and has disposed a good number of cases each year on the basis of work experience. The applicant has disposed more than 100 old cases against the minimum requirement of 40.

Sec 35 of POCSO Act states as quoted below:-

(1) The evidence of the child shall be recorded within a period of thirty days of the Special Court taking cognizance of the offence and reasons for delay, if any, shall be recorded by the Special Court.

(2) The Special Court shall complete the trial, as far as possible, within a period of one year from the date of taking cognizance of the offence.

14. The section quoted above mandates for quick disposal of cases. The applicant has disposed 93 cases within one year of taking cognizance as per the section. Out of total trial disposal 255 cases have been convicted and 165 cases ended up in acquittal. The applicant has worked hard day and night with full enthusiasm and dedication in disposing the cases so as to raise the reputation of judicial system and achieve the objective of the POCSO Act. Hon'ble high court has issued several letters, related with expedite trial and speedy disposal of cases. All the judgment of disposed cases is uploaded on district court Sultanpur website and can be accessed any time. The district judge remark on the speedy disposal is against the intention of act and the orders of POCSO Committee of Hon'ble High Court. The trial disposal of applicant is highest in the entire country. The data can be verified from NJDG website.

15. Other judicial officers and additional POCSO Court judges who have been assessed as outstanding and very good have not disposed even one fourth of applicant total disposal and evidence recording. The district judge has thus committed a grave error by not fairly assessing the applicant. The district judge has assessed the applicant in unprofessional way satisfying his personal grudge. The only reason being that the applicant could not be a 'yes man' to his corrupt and unethical practices.

16. Out of 40 judicial officers posted in this Sultanpur district court, only the applicant ACR report holds a lengthy analysis of the judgment and unwanted remarks are written. The remarks are derogatory for an officer who has worked extremely hard with dedication and honesty. These kinds of remarks will lower applicant confidence as well as may affect applicant working in future. Also it will leave a negative exemplary impact on honest and hardworking judicial brother officers. In the past four year assessments applicant have received 'very good' and 'outstanding' entries by the previous district judges.(annexure)

17. It is humbly requested from the Hon'ble Court to expunge the adverse remarks from the ACR and do a fair reassessment of the entire judicial work done by the applicant.

Therefore, it is, humbly requested to place this representation before the Hon'ble court for kind consideration.

Thanking you.

Pawan Sharma

Additional District Judge,

Jhansi.