

DISTRICT JUDICIARY & THE VIGILANCE SYSTEM

[Published in the Souvenir of XVII U.P. Judicial Officers' Sports Meet-2008 held in Lucknow on April 25, 26 & 27, 2008]

S.S. Upadhyay

*Former District & Sessions Judge/
Former Addl. Director (Training)
Institute of Judicial Training & Research, UP, Lucknow.
Member, Governing Body,
Chandigarh Judicial Academy, Chandigarh.
Former Legal Advisor to Governor
Raj Bhawan, Uttar Pradesh, Lucknow
Mobile : 9453048988
E-mail : ssupadhyay28@gmail.com
Website: lawhelpline.in*

1. Nearly 3000 years ago, Acharya Manu had cautioned the Kings (rulers) against the corruption among the officials of the State in these words :

ये नियुक्तास्तु कार्येषु हन्युकार्याणि कार्यिणाम् ।
धनोष्मणापच्यमानास्तान्निः स्वान्कारयेन्तृपः ॥
तान्विदित्वा सुचरितैर्गूढस्तत्कर्मकारिभिः ।
चारैष्चानेकसंस्थानैः प्रोत्साद्य वषमानयेत् ।
तेषां दोषानभिख्याप्य स्वे स्वे कर्मभि तत्त्वतः ।
कुर्वीत शासनं राजा सम्यक्सारापराधतः ॥

(The King must confiscate the entire wealth of those officials who have got themselves warmed with the ill-got money by wrecking their official duty. King must enquire and check the corruption indulged in by the unscrupulous officials of his State through his honest officers and whistle blowers and punish them proportionate to their misdeeds by open proclamation of the penalty before his subjects.) See : Manusmriti : Chapter 9, Verses 231, 261, 262.

2. Perhaps having realized that the officials of the District Judiciary are the major source of corruption bringing disrepute to the judicial system at the District Judiciary level, the All India Chief Justices' Conference held on April 6 & 7, 2007 in New Delhi, adopted a resolution to evolve vigilance

system at the District Judiciary level so that the corruption spread and indulged in by some of the officials of the District Judiciary is checked and the system may be made more transparent, clean and responsive to the recipients of justice at the District Judiciary level. Prior to the introduction of the vigilance system at the District Judiciary level, the general customary perception at different levels of our judicial system was that some of the Judicial Officers were the only ones responsible for bringing disrepute to our judicial system.

3. While it is true that no court or judicial system can function without the assistance of the officials, it cannot be belied that some of the officials posted and working on key posts in different judgeships do exploit the weaknesses of the system to serve their personal interest and agenda at the cost of the system. It is a matter of common knowledge that many corrupt officials in different judgeships have amassed huge wealth, movable and immovable property, quite disproportionate to their known sources of income. Unlike the Judicial Officers, such officials often being locals with strong nexus and proximity with many of the local lawyers and litigants, traders, businessmen and in some cases even with the local criminals and mafias, hold much influence in the system. Such unscrupulous and corrupt officials are though in small numbers in any judgeship but they enjoy much influence to manage the things to their own advantage and also to those whom they want to oblige.
4. Many a times corrupt officials manage to get posted on the important seats in the establishments of the District Judiciary. In many cases, such officials with known doubtful integrity, also succeed in getting their sons, kith and kin recruited and posted in different cadres of the officials of the judgeships which even Judicial Officers posted there cannot secure for

their kith & kin. Because of proximity and blessings of the authority at the helm of affairs in the District Judiciary, such cunning and corrupt officials of the judicial establishments treat themselves as masters of the system and instead of serving and achieving the objectives of the judicial system, start implementing their own as well as their master's personal agenda at the cost of probity of the judicial system.

5. The vigilance system recently introduced by the High Court at the District Judiciary level to check corruption of different nature and amplitude spread by the officials has not been taken kindly by such unscrupulous elements in the judgeships in our State. With a view to materialize and achieve the objectives set out by the All India Chief Justices' Conference held in 2007 for cleansing the District Judiciary from different sorts of corruptions indulged in by the corrupt officials and to dismantle the strong castle of corruption built by them, following measures need to be introduced and implemented :

- (1) Nearly 5% of the officials of District Judiciary who are widely known for their indulgence in corruption and who do have objectionable nexus with local litigant community involving criminals, mafias, traders and businessmen should be transferred to other districts of the State after every five years.
- (2) The officials posted in the District Judiciary should be made to compulsorily declare their wealth, movable and immovable properties, held / acquired annually as is done by the Judicial Officers.
- (3) It should be probed and examined by the High Court as to how and why the officials sitting on the important seats like those of Senior Administrative Officers, Central Nazirs, Deputy Nazirs, Amins and others in many judgeships have been successful in getting their sons, kith

and kin recruited and posted in the judgeships. Statistics of only past ten years, if collected, would suffice to reveal the horrifying state of affairs as to how in a large number, the officials sitting on the key seats of the judgeships, have been successful in getting their sons and relatives recruited and posted in different judgeships which even Judicial Officers posted there could/cannot secure for their kith and kin.

- (4) The saying is not devoid of truth that power corrupts but absolute power tends to corrupt absolutely. Concentration of all administrative and financial powers in the District Judges alone needs to be done away. Our High Court is already having quite democratic, transparent and effective mechanism in the form of Administrative Committee and Full Court for taking important decisions in relation to administrative, disciplinary, budgetary/financial matters and transfer & posting etc. of the Judicial Officers. It is not understandable as to why the same transparent, rational, democratic, decentralized and effective administrative mechanism in relation to the officials of the District Courts cannot be introduced and the matters like recruitments, transfers and postings, disciplinary actions, purchases, expenditures etc. cannot be dealt with by an Administrative Committee of the District Court comprising seven or nine Judicial Officers belonging to different cadres posted there. Such Administrative Committees constituted by the High Court with the District Judge as its chairperson should meet periodically to take decisions on recruitments, transfer/postings of officials in different courts/offices/sections/seats, disciplinary action, promotions, grievances redressal, purchases, expenditures and constructions etc.
- (5) It is often seen that the officials of doubtful integrity with numerous complaints against them from the Bar and the litigants community not

only succeed in getting posted in important courts like those of the Chief Judicial Magistrates, Railway Magistrates and on seats known to be lucrative but continue to be posted over there for years and in some cases with a dodging brief intervals again and again get posted on the same very seats.

- (6) The punishment to the delinquent officials should be awarded by the Nine-Member Administrative Committee of the District Judiciary with the District Judge as its Chairperson. It is often seen that even in cases involving misconducts of quite serious nature, the guilty official is awarded quite negligible and ridiculous penalty like warning or curtailment of increments which only encourages the corrupt officials to continue their misdeeds without any fear of being punished adequately.
- (7) After preliminary nature of fact finding vigilance enquiry of an official is completed by the Vigilance Officer of the District Court and the enquiry report is sent to the High Court as is presently done, the final enquiry of the officials should not be handed over to a Judicial Officer posted in the same district. It would be proper to hand over the final enquiry to the Vigilance Officer of the adjoining or nearby District Court and vice versa so that the local obstacles, pressure or influences may not work.
- (8) It is often seen that the corrupt officials of the different judgeships try hard to wreck and foil the recently introduced vigilance system at the District Judiciary level by applying all sorts of obstacles and tactics and by building up pressure and hostile atmosphere against the Vigilance Officers of the judgeships nominated by the High Court but these are only teething troubles as this is the most effective method devised by the High Court as per the recommendations of the All India Chief Justices' Conference held in 2007. Position of the subordinate Judicial Officers

nominated by the High Court as Vigilance Officers to enquire and check corruption in the District Courts spread by the officials is quite vulnerable and the same also needs to be tackled by the High Court so that the newly introduced vigilance system at the district level is not wrecked and foiled and may work effectively to achieve the objectives of the corruption free District Judiciary as set out by the All India Chief Justices' Conference, 2007.

- (9) To strengthen the vigilance system at the District Judiciary level, proper rules/guidelines need to be framed by the High Court so that there must not be any room for doubt regarding the powers and functions of the Vigilance Officers as in some cases the newly introduced vigilance mechanism has not been taken kindly by the District Judges and the officials as many of them treat it as an encroachment on the powers of the District Judges and want to have control over the functions, procedures and powers of the Vigilance Officers and over the result of the vigilance enquires as well.

* * * * *