

## ARE JUDGES BOUND BY PROFESSIONAL STANDARDS AND CODE OF CONDUCT IN THEIR UNOFFICIAL CAPACITY?

ApurvUmredkar<sup>1</sup>

### INTRODUCTION

History has proven time and again that any country's growth and development is directly linked to its judiciary and judicial independence. Judiciary is considered as a watchdog of constitutional rights and protector of fundamental rights of citizens from the arbitrary and powerful state machinery acting as a lawful government. It has powers to declare a legislation or statute void if it is of opinion that law is violative of the basic structure or fundamental rights of the constitution. And as far as judges are concerned, they are the agents of the third pillar of democracy and impart justice to the society and citizens. They are under the constant watch of society and are expected to meet the highest professional standards. Acting as a proponent of justice and equality, it is imperative<sup>[1]</sup> for a judge to be wise, knowledgeable, honest, open-minded, and impartial not only in legal matters but also in spheres of economy, social security, sociology, psychology, etc. In addition to having great knowledge and experience in the field of law, he must also keep in mind judicial ethics, code of conduct, his duties and responsibilities under this profession, and the expectations a society keep from him. Many a time's judges are held liable or guilty outside the courts for behaving or acting in a certain manner not up keeping the standards and ethics to be maintained by a judge.

### INCIDENT

A few months ago, our Hon'ble Chief Justice of India Mr. Sharad Arvind Bobde was found trying a Harley Davidson superbike Limited Edition CVO 2020 at RajBhavan, Nagpur. The bike had a registration number CG-07-BP-0015 of Durg district, Chhattisgarh belonging to Rohit SonbajiMusale, son of a BJP Leader from Nagpur. The internet got crazy and twitter took to storm as soon as his photo went viral. Various legal fraternities expressed their views and opinions regarding this. Some favoured him citing his passion and love for bikes and living life to the fullest despite having a hectic schedule as a Chief Justice. While others criticized him for tarnishing the judiciary's and legal field's image by not wearing helmets and masks being himself the holder of the position of highest judge in the country.

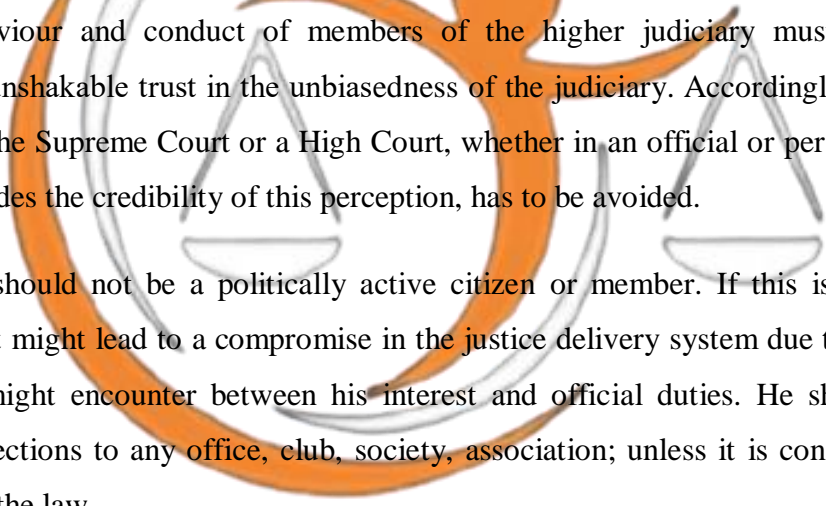
<sup>1</sup> Graduate , KIIT University, Bhubaneswar.

## CODE OF CONDUCT FOR JUDGES

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The law profession is the second noblest profession in the world, the first one being medical. Judges not only in India but all over the world are considered as echelon or elites of the legal profession. Our society views them as disciplined, path guiding and law-abiding person of the court, and as a temporary occupant of the court of law, there are some protocols and regulations to be followed by Judge breaching of which would be considered as grave misconduct on part of them.

In 1997, The Supreme Court of India adopted a charter<sup>[2]</sup> called the “*Restatement of Values of Judicial Life*” drafted by a Committee of 5 judges headed by Justice A.S. Anand. It succors as guidelines and constraints to be strictly adhered to by the judges in our country for the smooth and hassle-free functioning of the justice delivery system. This resolution was circulated to all High Courts and other lower courts in the form draft statement and then again prepared as a final report with further suggestions. It reads as under:-

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- The behaviour and conduct of members of the higher judiciary must reaffirm the people's unshakable trust in the unbiasedness of the judiciary. Accordingly, any act of a Judge of the Supreme Court or a High Court, whether in an official or personal capacity, which erodes the credibility of this perception, has to be avoided.
  - A Judge should not be a politically active citizen or member. If this is not followed properly it might lead to a compromise in the justice delivery system due to the conflicts a judge might encounter between his interest and official duties. He should also not contest elections to any office, club, society, association; unless it is connected with or related to the law.
  - A judge's relationship with a member of the bar or an advocate practising in the same court is allowed until the companionship between them is not hampering or misguiding the truth, justice, and honesty in delivering judgements in our judicial system.
  - A Magistrate ought not to allow any of his relatives/family members, if that someone has gone through the bar, to stand in front of themselves or in any way involved in the management of the case.

- The Judge's dwelling/working place should not in any way be occupied or even be remotely put in utilization by anyone related to him/her and is from the Bar.
- A Magistrate must possess and display qualities that represent him as someone with a lot of class and poise.
- A Judge should cease from choosing or giving decisions in an issue in which relatives or close family members are involved.
- A Judge will communicate his perspectives openly on political issues or on issues that are forthcoming or are probably going to emerge for legal assurance.
- A Judge is relied upon to allow his decisions to represent themselves. He will not offer meetings to the media with respect to the forthcoming decisions he is to give.
- A Judge should not take note of endowments or cordiality apart from the ones that are near and dear.
- A Judge shouldn't listen and acknowledge an issue that is in any way connected with an organizational body, in which he has stakes with an exception in cases where he has already disclosed his position and no party has problems with it.
- A Judge shouldn't connect straightforwardly or even hideously in business/trade, either without anyone else or in a relationship with some other individual. (Distribution of a legitimate composition or any action in the idea of a diversion will not be interpreted as exchange or business).
- A Judge shouldn't plead, or give acknowledgment to commitments, or in any case efficiently assist oneself with the making of any asset.
- A Judge shouldn't aspire for financial benefits as an advantage related to his workplace with the sole exception if one can openly access it. Whatever confusion there is should be settled immediately and an explanation must be given from the side of the Chief Justice.
- Each Judge must be at untouchable knowledgeable of the fact that he's under the public's supervision and one must not do any showoff or do exclusion that might prompt to derogation or demeaning of the legal institution in which he possesses.

## NEED FOR PROFESSIONAL ETHICS FOR A JUDGE

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1. **Competence** - A set of professional ethics guides the judge in performing to the best of his capabilities in exercising power in justice delivery. The decision taken by the judge holds the power to affect one's life and future. That's why judges have to take utmost care and diligence in giving judgement. He should not be affected by external forces and influences. A judge when acts according to the code of conduct, emphasizing proper guidelines are held competent to be called a judge in its truest sense.

2. **Equal Treatment** - Professional ethics bind the judge to give impartial and unbiased judgement. According to the principles of natural justice, everyone is equal in front of the law and there should be equal protection of laws. A judge by following a professional code of conduct provides the 'right to be heard' to all the parties, assesses all the facts and related information regarding the case, and gives his judgement fairly and justly. A judge ignoring the basic points to be kept in mind during the trial will lead to a miscarriage of justice.

3. **Public Confidence** - Transparency in the functioning of courts will increase confidence in common people as interested ones will be able to gather correct info directly from court sources, misinformation will be debunked, working pattern of the court will become open to the public, common problems during trials and how the judicial system deals with it will also be known by the public. The only way to make the people of our country trusts our judiciary and justice delivery system is to make everything related aspect crystal clear. This will also remove doubts one might have regarding the judiciary.

4. **Accountability** - Government and public officials are held responsible for their official acts leading to any fraud or illegal task. Accountability creates a sense of fear in the minds of a judge because he will be held liable for any misconduct during his course of duty, breach of code of conduct in the rulebook, and other work that will lead to his impeachment. A judge acting in an irresponsible manner harms the prestige and nobleness of the judiciary and justice system. Therefore it is important to set proper work roles and accountability so that irrespective of the power and position the guilty could be held liable for his misdeeds.

## MY POINT OF VIEW ON THIS INCIDENT

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As soon as the photo of Chief Justice with the superbike gone viral over the internet, many took the help of a keyboard to rant out their frustration and anger. The Hon'ble Chief Justice

was accused of being on unwarranted terms with RSS and BJP politicians as his photo was captured at Raj Bhawan in Nagpur. This is a completely baseless, frivolous, and unjustified accusation thrown upon by Anti- BJP politicians to malign the Chief Justice's image. First of all, during this Covid-19 period when everybody is doing work from home, it is not uncommon that lawyers and judges are doing work from home by conducting trials online with video conferencing. Nagpur being CJI's hometown, he is staying there at his house and conducting trials online. It was already mentioned by Mr. S.A. Bobde in various interviews that he is very much fond of bikes and used to have a Bullet and a Jawa during the early days of his legal career. He also sustained injuries in an accident that forced him to stay away from his work to recover as fast as possible. He was also accused of not wearing a helmet and mask in such a demanding situation despite being a Chief Justice himself. Remarks like "*Protector of Law or Law Breaker*" were indiscriminately tossed into him. Apropos this, it was confirmed that he was wearing a mask, only at the time of trying the bike he kept it in his pocket to give the perfect photogenic look.

Judges often don't have or enjoy a social life outside the purview of their office or duties. Social events like marriages, family get-togethers, are many times not attended by the judge or attended only by the judge's family members. One aspect of such behaviour is that judges fall within the ambit of public figures and issues concerning justice are considered to be of public interest. The code of conduct applicable to judges is not confined only to performing in their official capacity. Both on and off-bench judges are expected to carry themselves with integrity, prosperity, reserve, and discretion, both on and off-the-bench. There are no hard and fast rules mentioned in any rulebook. These are the principles reflecting moral values. One must understand that noncompliance with judicial ethics does not mean a breach of professional ethics and code of conduct because a breach of ethics does not violate legal procedures or contravene statute provisions.<sup>[3]</sup>

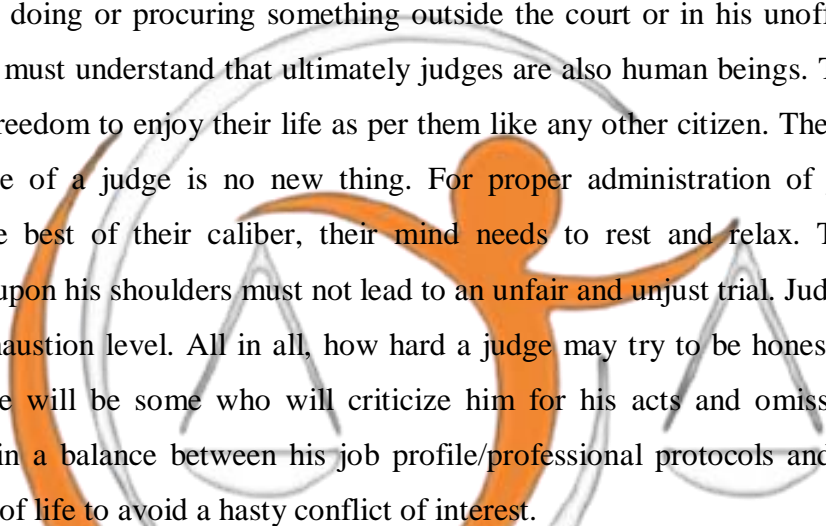
To be honest, I am in complete support of what was done by our Chief Justice. At the end of the day, everyone is human no matter whether Chief Justice or a common man and as a human, it is completely plausible to keep lifted the passion and love of your life. Life is not meant only for endless endurance, tolerance, suffering, and fortitude but for enjoying the fruits of one's labour and hard work. It is not at all wrong for CJI to have a keen interest in bikes and he only tried to have a look and feel of that newly launched superbike. Haters and critics will always snoop at whatever we do. It's up to us how we take this criticism.



## CONCLUSION

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In the legal profession, Judge is the most respected and privileged position. With respect and power comes great responsibility and accountability which the judge always has to keep in mind not only when acting as a public officer in the court of law but also when he is off duty. There's a reason there are a lot of expectations from a judge by society. People see a judge as a justice giver, a person who has the power bestowed upon him to punish the wrongdoer and provide justice to those who seek it. A judge must know all the laws and regulations, along with the practical problems while conducting providing justice, while trials, and how to effectively and astutely tackle them to minimize the infringement of rights and maximize the benefits of the same. There are typical examples where a judge has caught the public attention often doing or procuring something outside the court or in his unofficial capacity. But the public must understand that ultimately judges are also human beings. They also have the right and freedom to enjoy their life as per them like any other citizen. The workload and hectic schedule of a judge is no new thing. For proper administration of justice and to perform at the best of their caliber, their mind needs to rest and relax. The burden of responsibility upon his shoulders must not lead to an unfair and unjust trial. Judges should not cross their exhaustion level. All in all, how hard a judge may try to be honest, truthful, and impartial; there will be some who will criticize him for his acts and omissions. A judge should maintain a balance between his job profile/professional protocols and his personal/private sphere of life to avoid a hasty conflict of interest.



## REFERENCES

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