

Role of Guardian Judges

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Role of Guardian Judges:

In this paper we would highlight the role of administrative judges or inspecting judges as they are known with various names in the various High Courts in India. During the study of these judges we need to know that they are known as guardian judges since they act as parent judges to the session judges of the district court. By acting in the capacity of an inspecting judge not only that they enjoy the control and supervisory powers but they also act as a mentor who guides them to the right path, once they commit a error either by not appreciating the facts of the case in the appropriate manner or if there is a lack in knowledge of law or they do not dispose the case within the given time, even grammatical errors are at times noted and corrected by these judges. Inspecting judges were introduced after independence during a time when the cases before the judiciary were few and these functions were practically possible to be done effectively by these appointed administrative judges, whereas today when there are around two or three sessions under one judge he will have to write an ACR for approximately forty to fifty judges who are far and near from the high court in a particular year so devoting his time not only in his court but also to analyze these judges may not be practically possible .we see that due to these difficulties faced there are few grey areas in the system due to which there occurs cases where judges write the ACR without looking into the merits and demerits of particular judge in the district sessions court. Also these reports do not take away the power from the sessions judge only helps them in getting better, because any judge even a session judge acting in his capacity is delivering a sovereign function and if there is a constant watch on him he might not enjoy complete immunity and freedom in delivering justice. Generally the essential role of these guardian judges will be supervisory and control over the district session judges who are under them. In Chapter III of the Rules of Court, 1952, made by the Allahabad High Court, there is a mention of the appointment and role of the inspecting judge. The Chief Justice shall nominate and assign one session division to each Hon'ble Judge as Inspecting Judge of that division for a period of one year. In a given situation, however, the Chief Justice may assign more than one sessions division to one Inspecting Judge and more than one Inspecting Judges to hold the charge

of one sessions division.¹ "Matters" which are within the jurisdiction of the Inspecting Judge are as under Review of Judicial work of subordinate Courts, and control of their working including inspection thereof, to record entries in the character rolls of the officers posted in the division assigned to the Inspecting Judge. Evaluation of inspection reports made by the presiding officers in respect of their own offices, audit reports received from those courts, tribunals, and to make orders thereon. Grant of casual leave (including special casual leave) and permission to leave headquarters to the District and Sessions Judge, Presiding Officers of the tribunals and special Courts etc. howsoever designated. Disposal of appeal against orders of punishment imposed on and representations etc., of the employees of the subordinate Courts. Any adverse remarks or strictures made by Inspecting Judge about Judicial work, conduct or integrity of any officer under his charge will be communicated to the officer concerned, who may make his representations, if any, within a month and the same shall be placed before the Administrative Committee for consideration and decision. Administrative Committee shall be a committee composed of the Chief Justice, two senior most Judges and six Judges to be nominated by the Chief Justice.

The High Court has over all control and supervisory jurisdiction under article 227 of the constitution of India, is expected to monitor and even call for quarterly report from the court concerned for speedy disposal. The disposal of the case and the recovery of speedy justice is not only the right of the accused but as well the responsibility of the judiciary (accused is entitled to speedy justice in as much as it is the duty of all incharge in dispensation of justice to see that the issues reaches its end as early as possible.)²

¹ High Court of Judicature at Allahabad Through Registrar Vs. Sarnam Singh and Anr AIR 2000 SC 2150

² V.S. Achutanandan Vs R.Balakrishna Pillai & others, SC 370, 2011 (Vol.3)

CONSTITUTIONAL PROVISIONS:

Control over subordinate courts

Article 235 states that the control over district courts and courts subordinate thereto including the posting and promotion of, and the grant of leave to, persons belonging to the judicial service of a State and holding any post inferior to the post of district judge shall be vested in the High Court, but nothing in this article shall be construed as taking away from any such person any right of appeal which he may have under the law regulating the conditions of his service or as authorising the High Court to deal with him otherwise than in accordance with the conditions of his service prescribed under such law.

Recruitment of persons other than district judges to the judicial service.

234. Appointments of persons other than district judges to the judicial service of a State shall be made by the Governor of the State in accordance with rules made by him in that behalf after consultation with the State Public Service Commission and with the High Court exercising jurisdiction in relation to such State.

Appointment of district judges.

233. (1) Appointments of persons to be, and the posting and promotion of, district judges in any State shall be made by the Governor of the State in consultation with the High Court exercising jurisdiction in relation to such State.

(2) A person not already in the service of the Union or of the State shall only be eligible to be appointed a district judge if he has been for not less than seven years an advocate or a pleader and is recommended by the High Court for appointment.

Validation of appointments of, and judgments, delivered by, certain district judges.

JUDICIAL DECISIONS:

(SUPREME COURT DECISIONS)

R. Rajiah³ AIR1988SC1388

There could be *ill conceived or motivated complaints. Rumors mongering is to be avoided at all costs as it seriously jeopardizes the efficient working of the subordinate courts. Time has come that a proper and uniform system of inspection of subordinate courts should be devised by the High Courts. In fact the whole system of inspection needs rationalization.* There should be some scope of self-assessment by the officer concerned. We are informed that the First National Judicial Pay Commission is also looking into the matter. This subject, however, can be well considered in a Chief Justices' Conference as the High Court itself can devise an effective system of inspection of the subordinate courts. The Registrar General shall place a copy of this judgment before the Hon'ble Chief Justice of India for him to consider if the method of inspection of subordinate courts could be a matter of the agenda for the Chief Justices' Conference.

State of Orissa and Ors. v. Ram Chandra Das⁴ (1996) 5 SCC 331

This Court finds that it has been ruled by this Court that ACRs for several years should not be recorded at one go and communicated thereafter. Normally, entries in confidential records should be made within a specified time soon following the end of the period under review and generally within three months from the end of the year. Delay in carrying out inspections or making entries frustrates the very purpose sought to be achieved. The mental impressions may fade away or get embellished. Events of succeeding years may cast their shadow on assessment of previous years. In a given case, proper inspection might not have been conducted nor have findings of inspection been properly maintained. In such a case, there is every possibility of a judicial officer being

³ AIR1988 SC 1388

⁴ (1996) 5 SCC 331

condemned arbitrarily for no fault on his part. Therefore, recording of entries for more than one year, later on, at the same time should be avoided. They should not be taken into consideration for any purpose or for the purpose of compulsory retirement. As stated earlier, in the normal course it would not be appropriate to record the ACRs of number of years at one point of time. However, at the same time it is not possible to lay down as an absolute proposition of law that irrespective of good, cogent, plausible and acceptable reasons, recording of ACRs of number of years at once should always be regarded as illegal and bad for all purposes. The inspecting judges had not recorded any remarks concerning the judicial reputation for honesty and impartiality of the deceased officer as a corollary the column regarding “Net Result” for these years was left blank by them. Instead the learned inspecting judges had observed that these remarks be recorded by the Full Court. When such a course of action is adopted, the reason is obvious. There was something amiss in the estimation of the learned inspecting Judges which they wanted entire Full Court to consider and, therefore, refrained from making their observations. If everything had been all right, nothing prevented the learned Inspecting Judges from mentioning that the honesty of the deceased officer was not in doubt at all. However, *when an inspecting judge receives certain complaints about the integrity of the officer concerned but has no means to verify the same, he leaves the matter to the Full Court, which appoints a Committee to go into the aspects and records relevant entries after report of the Committee is received.* This is what precisely happened in the present case as well.

High of Judicature at Bombay Through its Registrar v. Shirishkumar Rangrao Patil and Anr⁵ : (1997) 6 SCC 339, this Court emphasized that it is necessary that there should be constant vigil by the High Court concerned on its subordinate judiciary and self introspection. It is well settled by a catena of decisions of this Court that while considering the case of an officer as to whether he should be continued in service or compulsorily retired, his entire service record up to that date on which consideration is made has to be taken into account. What weight should be attached to earlier entries as compared to recent entries is a matter of evaluation, but there is no manner of doubt that consideration has to be of the entire service record. The fact that an officer, after an earlier adverse entry, was promoted does not wipe out earlier adverse entry at all. It would be wrong to contend that merely for the reason that after an earlier adverse entry an

⁵ (1997) 6 SCC 339

officer was promoted that by itself would preclude the authority from considering the earlier adverse entry. When the law says that the entire service record has to be taken into consideration, the earlier adverse entry, which forms a part of the service record, would also be relevant irrespective of the fact whether officer concerned was promoted to higher position or whether he was granted certain benefits like increments etc.

High Court of Judicature at Allahabad through Registrar Vs. Sarnam Singh and Anr(1999)⁶

Case summary:

Respondent in this case was retired compulsorily on the basis of his assessment report. When the respondent challenged the retirement in High Court, the decision was in his favour as the Court found that assessment report was not fair and justified. Report of assessment in such cases must be based on sufficient material beyond mere possibility. In the appeal before the Supreme Court the order of High Court is upheld.

Rules and guidelines laid down in the judgement:

Chapter III of the Rules of Court, 1952, (as amended up to 1.8.1994) made by the Allahabad High Court, deals with the Executive & Administrative Business of the Court. It provides for Inspecting Judges and Administrative Committee. The Rule relating to "Inspecting Judges" provides as under:

Inspecting Judge

The Chief Justice shall nominate and assign one session division to each Hon'ble Judge as Inspecting Judge of that division for a period of one year. In a given situation, however, the Chief Justice may assign more than one session division to one Inspecting Judge and more than one Inspecting Judges to hold the charge of one session division.

(a) In case of retirement, resignation, refusal or death of any Inspecting Judge, another Hon. Judge shall be nominated by the Chief Justice.

⁶ AIR 2000 SC 2150

(b) Inspecting Judge shall proceed for inspection in consultation with the Chief Justice. The Inspecting Judge will not ordinarily devote more than five working days for annual inspections.

The High Court has also prescribed "Self Assessment Forms" which are filled up by the Judicial Officers and are sent to the District Judges, The High Court has also issued **Circular letters laying down the appropriate guidelines and instructions for the District Judges to record the Annual Character Roll entries.**

- In Circular Letter No. C-54/71 dated 16th April, 1971, it is provided, inter alia, as under: Annual remarks recorded by the District Judges should give a correct and full picture of the work, conduct and reputation of the officers. In case annual remarks do not properly assess the work of the officers, administrative lapse on the part of the District Judge concerned would be presumed.
- In Circular Letter No. 17/78 dated 2nd February, 1978, it is indicated as under: The assessment of judicial work of an officer will be asked on the quality of his judgments or orders and not on the result of the appeals or revisions. The work of an officer will be assessed on the basis of quality of his judgments or orders and not on the basis of the number of judgments or orders reversed or modified in appeal or revision.
- Vide Circular Letter Nos. C-10/85 and C-14/89 dated 22nd March, 1985 and 10th March, 1989, respectively, it was emphasised that: The District Judge shall ensure that the following instructions as contained in various Circular Letters issued by the Court from time to time are followed strictly in recording the annual remarks in respect of the judicial officers:
 - (a) *The annual remarks should be recorded in respect of all the officers whose work and conduct was seen for three months or more during the year.*
 - (b) *Even if an officer has worked at the station for period of less than three months during the year, the District Judge should send the figures of his disposal for that part of the year, so that his full figures of disposal during the whole year may be worked out.*

The Inspecting Judges, as set out in the Rules, are nominated by the Chief Justice and a particular session division is assigned to them. The Rules also provide that the Chief Justice may assign more than one session divisions to one Inspecting Judge or for one session division, he may nominate more than one Inspecting Judges. The Rules visualise that the Inspecting Judge will be appointed by the Chief Justice strictly in the interest of administration of justice and the Chief Justice, while appointing an Inspecting Judge for a particular sessions division or assigning more than one sessions divisions to one Inspecting Judge or, for that matter, appointing two Inspecting Judges for one sessions division, will be guided by relevant factors pertaining to the proper and smooth running of the administration so that the High Court may effectively exercise its power of control over the subordinate judiciary as contemplated by Article 235 of the Constitution. Personal liking for a particular sessions division or convenience of the Judge will not be a relevant factor for his appointment as an Inspecting Judge.

The Inspecting Judge, according to Rules of Court, 1952, will proceed to inspect the sessions division assigned to him *only in consultation with the Chief Justice and will not ordinarily devote more than five working days for annual inspection*. The time limit has been fixed purposely so that the judicial work in the High Court, which is of prime importance, may not suffer. *This philosophy leads to the conclusion that the Inspecting Judge would not normally sacrifice the working days in the High Court at the cost of their visit to the Districts*. The Rules set out the matters which are within the jurisdiction of the Inspecting Judge and those which are within the jurisdiction of the Administrative Committee. According to the scheme set out in the Rules as also various circular letters issued by the High Court from time to time, it appears that *annual remarks would be recorded by the District Judges who would give a correct and full picture of the work, conduct and reputation of the Officers*. The guidelines on the basis of which annual remark would be given have also been laid down by the High Court in the circular letters issued from time to time.

R.G. V. Ishwar chand Jain⁷ (1999)

⁷ AIR 1999 SC 1677

Since late this Court is watching the specter of either judicial officers or the High Court's coming to this Court when there is an order prematurely retiring a judicial officer. Under Article 235 of the Constitution High Court exercises complete control over subordinate courts which include District Courts. Inspection of the subordinate courts is one of the most important functions which High Court performs for control over the subordinate courts. Object of such inspection is for the purpose of assessment of the work performed by the subordinate judge, his capability, integrity and competency. Since judges are human beings and also prone to all the human failings, inspection provides an opportunity for pointing out mistakes so that they are avoided in future and deficiencies, if any, in the working of the subordinate court, remedied. Inspection should act as a catalyst in inspiring subordinate judges to give best results. They should feel a sense of achievement. They need encouragement. They work under great stress and man the courts while working under great discomfort and hardships. A satisfactory judicial system depends largely on the satisfactory functioning of courts at grass root level. Remarks recorded by the inspecting judge are normally endorsed by the Full Court and become part of the Annual Confidential Reports and are foundations on which the career of a judicial officer is made or marred. Inspection of subordinate court is thus of vital importance. It has to be both effective and productive. It can be so only if it is well regulated and is workman like. Inspection of subordinate courts is not a one day or an hour or few minutes affair. It has to go on all the year round by monitoring the work of the court by the inspecting judge. The casual inspection can hardly be beneficial to a judicial system. It does more harms than good.

D.K.Agarwal v. High Court of Judicature at Allahabad

Provided that adverse remarks or strictures made by Inspecting judges about the judicial work and conduct of any officer of subordinate judiciary will be placed before the Chief Justice before issue. The rule requires that before an adverse remark is communicated to the concerned judicial officer, it must be placed before the Chief Justice and, in our opinion, by necessary implication, the rule requires concurrence of the Chief Justice for taking action on the adverse remark by communicating the same to the judicial officer concerned. In the instant case, the adverse entry was communicated to the appellant even on the face of the minutes of the learned Chief Justice. In other words, although the learned Chief Justice did not agree with the adverse remarks, yet action was taken on the same by communicating the same to the appellant. This

was done in utter violation of the proviso to Rule 4B and also in disregard of the minutes of enquiry of the learned Chief Justice. In this connection, it may be mentioned that the allegations which were made from time to time against the appellant resulting in the postponement of consideration by the Full Court of the recommendation of the Selection Committee for the grant of super-time scale to the appellant, were all found to be untrue. We may mention about one instance when the Full Court could not consider the case of the appellant for the grant of super-time scale at its meeting held on May 17, 1986 because an oral accusation was made by the learned Administrative Judge that the appellant and his son were involved in smuggling activity while posted as the District Judge, Gonda, in the year 1985. The matter was referred to the District Magistrate, Gonda, who by his letter dated May 31, 1986, informed the High Court that no such incident, as referred to him, had come to his notice wherein Sri Agarwal or his son might have been apprehended while carrying smuggled goods. Further, it was stated by him that he had verified from the concerned records of different Police Stations which also showed that there was no mention of any incident involving Sri Agarwal or his son in such a matter. Thus, the allegations made against the appellant or his sons were baseless.

Bishwanath Prasad Singh v. State of Bihar & Ors⁸ (2000)

CASE SUMMARY:

The case is regarding the rules of superannuation age of judges which has been directed by the Supreme Court in the 1993 case. the petitioner, who is a member of Bihar Superior Judicial Service and posted as District & Session Judge, Giridih, seeks issuance of writ in the nature of mandamus directing the State of Bihar to frame rules for enhancement of age of superannuation of the judicial officers of the State as per directions of the Supreme Court issued in the case of All India Judges' Association case MANU/SC/0039/1992 (1993).

Observations:

⁸ 2001 2 SCC 305

Article 235 of Constitution of India, rules or executives instructions requires that entries in confidential records are made within specified time following end of period under review and delay in making entries frustrates very purpose to be achieved. Mental impressions may fade away or get embellished events of succeeding year may cast their shadow on assessment of previous year recording entries for more than one period at one go is pregnant with risk of causing harm or granting undeserved benefit, periodical inspection of subordinate Courts have to be carried out regularly to keep vigil and watch on their functioning .High Courts need be vigilant in carrying out annual inspection at regular intervals, entries be regularly made in service record and adverse entry be promptly communicated to judicial officer.

Court held: A blanket extension in the age of superannuation is not what was intended by this Court nor is it going to serve the public interest and larger interest of the society. The rules need to be so framed or amended as to give benefit of extended superannuation age only to such judicial officers about whom the High Court feels satisfied of their continued utility to the judicial system, subject to evaluation of their potential by making an objective assessment of their work, conduct and integrity and also keeping in view the reputation acquired by them as judicial officers.

Rajendra Singh Verma (Dead) through L.Rs v. Lt. Governor of NCT of Delhi and Anr.⁹(2011)

Case summary: Petitioners were compulsorily retired from service due to poor judicial performance and doubtful integrity. The Present petition issue raised were Whether passing the order of compulsory retirement was justified .

Ratio Decidendi:

“If the authority bona fide forms an opinion that the integrity of a particular officer is doubtful, the correctness of that opinion cannot be challenged before Courts.”

Observations:

⁹ 2011 (4) KLT(SN) 29

On behalf of the Appellant Mr. P.D. Gupta, it was contended that for the year 2000 Hon'ble Mr. Justice M.S.A. Siddique was appointed as Inspecting Judge by the High Court but Hon'ble Mr. Justice Siddique had retired on 29.5.2001 without giving any Inspection Report and he had not inspected his Court during the year at all, whereas during the year 2001, three Judges had been appointed as Inspecting Judges namely Hon'ble Mr. Justice Dalveer Bhandari (as he then was), Hon'ble Mr. Justice Mukul Mudgal (as he then was) and Hon'ble Mr. Justice R.C. Chopra, but the report for the year 2000 in his respect was given by Hon'ble Mr. Justice K.S. Gupta who was not the Inspecting Judge either for the year 2000 or for the year 2001 and as Hon'ble Mr. Justice Gupta had visited his Court on 7.9.2001 and stayed only for ten minutes and asked him to send three judgments delivered in the year 2000 which were sent by the Appellant on 10.9.2001, the report given by Hon'ble Mr. Justice Gupta grading him as an average officer could not have been taken into consideration by the High Court while passing the order of compulsory retirement. It was further pointed out on his behalf that Hon'ble Mr. Justice Gupta had observed in his report dated 11.9.2001 that on inquiry from the cross section of Bar, he had come to know that Mr. Gupta did not enjoy good reputation and on the basis of this report, the Full Court in its meeting held on 21.9.2001 had graded his ACR as 'C' (integrity doubtful) without supplying the material to him and, therefore, order retiring him compulsorily from service was bad in law.

In reply to above mentioned contentions it was argued by the learned Counsel for the High Court that a single adverse entry indicating that the integrity of the officer is doubtful is sufficient to order his compulsory retirement, even if the said adverse entry relates to a distant past and in respect of all the three Appellants the last ACR for the year 2000 is C "integrity doubtful", which by itself is sufficient to sustain orders of compulsory retirement passed against them.\

Court held, if the Authority bona fide forms an opinion that the integrity of a particular officer is doubtful and it is in public interest to compulsorily retire them, it cannot be challenged before the Courts. On a careful consideration of the entire material, it must be held that the evaluation made by the Committee/Full Court, forming their unanimous opinion, is neither so arbitrary nor capricious nor can be said to be so irrational, so as to shock the conscience of this Court to warrant or justify any interference. In cases of such assessment, evaluation and formulation of opinions, a vast range of multiple factors play a vital and important role and No. one factor should be allowed to be blown out of proportion either to decry or deify an issue to be resolved

or claims sought to be considered or asserted. In the very nature of things, it would be difficult, nearing almost an impossibility to subject such exercise undertaken by the Full Court, to judicial review except in an extraordinary case when the Court is convinced that some real injustice, which ought not to have taken place, has really happened and not merely because there could be another possible view or someone has some grievance about the exercise undertaken by the Committee/Full Court.

Madan Mohan Choudhary v. The State of Bihar¹⁰

Case summary:

Whether any adverse remarks made to employees character roll necessarily to be communicated to him for the purpose of considering his compulsory retirement, mere fact that it was not communicated remarks taken into consideration while making decision on compulsory retirement may result in arbitrary decision.

Observations:

The Indian Constitution provides for an independent judiciary in every State by making a provision for a High Court being constituted for each State. The Constitution has conferred very wide powers and extensive jurisdiction on each High Court, including the power of superintendence over all the courts and tribunals in the territory over which it has jurisdiction. Undoubtedly, one of the most important wings of the judiciary comprises of the subordinate courts as it is in these courts that the judiciary comes in close contact with the people. In order to secure the independence of the subordinate judiciary from the Executive, Articles 233 to 237 has been placed in the Constitution. Article 233 deals with the appointment of District Judges and provides that appointments, posting and promotions of District Judges in any State shall be made by the Governor in consultation with the High Court, exercising jurisdiction in relation to such State.

Court held: The appellant had been categorised as "B" plus in 1990 by Mr. Justice B.K. Roy. There was no categorisation for the next three years and when the action for compulsory

¹⁰ AIR 1999 SC 1018

retirement of the appellant was initiated by the High Court on the ground that he had granted anticipatory bail in a case under Section 307 IPC, categorisation for 1991-92, 1992-93 and 1993-94 was done "at one go" which is unreasonable and not fair. Moreover, the compulsory retirement was ordered in 1996. What was the appellant's categorisation for 1994-95 and 1995-96 is not indicated in the original service record placed before us. It is on account of these abnormalities coupled with other strange circumstances of this case that we are of the opinion that the categorisation of the appellant as a "C" class officer for the years 1991-92, 1992-93 and 1993-94 could not have been legally taken into consideration. If these remarks are excluded, principle (iii) laid down in Baikuntha Nath Das's case (supra) becomes applicable immediately and the impugned action of compulsorily retiring the appellant from service cannot but be termed as arbitrary in the sense that no reasonable person could have come to the conclusion that the appellant had outlived his utility as a Judicial Officer and had become a dead wood which had to be chopped off. Writ Petition filed by the appellant is allowed and the order of compulsory retirement dated 02.08.1997, passed by the State Government, is quashed with all consequential benefits to the appellant. There will be no order as to costs.

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Rajiv Ranjan Sing 'Lalan' and Anr. v. Union of India and Ors¹¹. (2011)

On 26th July, 2006 this Court put up the following question in the form of order to the Registrar General of the Patna High Court:

1. Is it the practice in the High Court of Patna to prepare gradation/ remarks of the Judicial Officers by the Inspecting Judges?

In reply, the Registrar General of the Patna High Court stated as follows in paras 2 to 4: That this Hon'ble Court as mentioned in the Order dated 26.7.2006; I respectfully say and submit that there is a practice in the High Court of Patna to record remarks of Judicial Officers by the Hon'ble Inspecting Judges of the concerned Judgeships which is known as Annual Confidential Remarks. The Annual Confidential remarks recorded by the Hon'ble Inspecting Judges which includes knowledge of law, integrity, behaviour with Bar, general reputation, industriousness,

¹¹ 2006 (3) ACR 2559 (SC)

efficiency, behaviour towards superiors and subordinate colleagues and categorization made by the Hon'ble Inspecting Judges and net result categorization is to be placed before the Standing Committee where the gradation is given to the Officer by the Hon'ble Standing Committee.

(HIGH COURT CASES)

It has already been pointed out by this Court in Registrar, **High Court of Madras v. R. Rajiah**¹² AIR1988SC1388 that though the High Court, in its administrative jurisdiction, has the power to recommend compulsory retirement of a member of the Judicial Service in accordance with the rules framed in that regard, it cannot act arbitrarily and there has to be material to come to a decision that the officer has outlived his utility. It was also pointed out in this case that the High Court while exercising its power of control over the subordinate judiciary is under a constitutional obligation to guide and protect judicial officers from being harassed or annoyed by trifling complaints relating to judicial orders so that the Officers may discharge their duties honestly independently unconcerned by the ill-conceived or motivated complaints made by unscrupulous lawyers and litigants.

In **M.M. Gupta v. State of J&K**¹³[1983]1SCR593 , it was indicated that normally, as a rule, the High Court's recommendations for the appointment of a District Judge should be accepted by the State Government and the Governor should act on the same. If in any particular case, the State Government for good and weighty reasons find it difficult to accept the recommendations, it should communicate its views to, and have complete and effective consultation with, the High Court, It was also pointed out that there can be no doubt that if the High Court is convinced that the Government's objection are for good reasons, it will undoubtedly reconsider its earlier recommendation. Efficient and proper judicial administration being the main object, both the High Court and the State Government must necessarily approach the question in a detached manner.

¹² AIR 1988 SC 1388

¹³ [1983]1SCR593

In **State of Kerala v. A. Lakshmikutty**¹⁴ [1987]1SCR136 , this Court pointed out that the duty of the Governor to consult the High Court in the appointment of District Judges is integrated with the exercise of his power; he must exercise it in the manner provided by Article 233(1) or not at all. Normally, the High Court's recommendations have to be accepted by the State Government and the Governor has to act on the same but if the State Government for 'good and weighty reasons' cannot agree with the High Court, it should take the High Court into confidence and place before it the difficulties in acting upon the recommendations.

Barkha Gupta v. High Court of Delhi through Registrar General and Anr¹⁵

Case summary:

Annual Confidential Report not recorded every year annually, delay in Subsequent recording the integrity of judicial officer as doubtful in ACR on the basis of discreet inquiries made within one day. The inspecting judge neither consulted the judicial officer nor had any material to record doubtful integrity.

Observations:

There is clearly a necessity to frame some rules with regard to the writing of ACRs. We may venture to suggest that the rules may incorporate a requirement that the ACR must be written, to the extent possible, within two months or three months of the conclusion of the reporting year. Of course, the fixation of any period would, in a sense, be arbitrary but the failure to fix any period would be equally arbitrary, if not detrimental to the justice delivery system. The Court has, so far, been dealing with the issue of ACRs on the basis of some very nebulous practices the time has come to 'codify' these practices, at least for guidance, if not for adherence.

¹⁴ [1987]1SCR136

¹⁵ 2007(93)DRJ586

CONCLUSION:

The object of Inspection is to assess the work performed, capability, competency besides integrity of the candidate. Those gradations/categorizations given by Inspecting Judges are required to be placed before the Full Court.

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