

**REFERENCE SPEECH BY HON'BLE MR. JUSTICE GOVIND
MATHUR ON 04.04.2016 TO MOURN SAD DEMISE OF
HON'BLE MR. JUSTICE RAJESH BALIA, FORMER JUDGE,
RAJASTHAN HIGH COURT AND FORMER CHIEF JUSTICE,
PATNA HIGH COURT, WHO PASSED AWAY ON
2nd APRIL, 2016.**

My esteemed colleagues,

Shri Narpat Mal Lodha, Advocate General and
Chairman, Special Committee, Bar Council of Rajasthan,

Shri Malam Singh Rathore,
Vice President, Rajasthan High Court Advocates' Association,

Shri Kuldeep Mathur,
President, Rajasthan High Court Lawyers' Association,

Senior Advocates,

Other Members of the Bar,

Learned Judicial Officers,

Officers of the Registry,

Ladies and Gentlemen.

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In its history of about seven decades, our High Court is illuminated by few highly talented lawyers who ultimately turned into Judges of the highest caliber. Late Justice Rajesh Balia is one among those sparkling personalities.

Born on March 3, 1946, Late Justice (Shri) Rajesh Balia left this world for heavenly abode on April 2, 2016 after completing the age of 70 years and a month. He utilised these seventy precious years of life in most systematic and disciplined manner and that made him a person admirable. While passing through the journey of life, he gave complete satisfaction to the planet earth for producing him as its worthy son.

I am fortunate enough to witness this great personality as a lawyer, as a lawyer opponent, as a Judge, as a colleague Judge and as mentor of young generation of Judges.

Late Justice Rajesh Balia, after obtaining the degree of law, joined legal profession on April 9, 1967, obviously, as an associate to great legal luminary, Shri Sumer Chand Bhandari, being his grandson. While working with Shri Sumer Chand Saheb, he not only learnt fundamentals of law, but also the values and ethics, a lawyer should possess.

As a lawyer he represented big corporate groups, former rulers of princely States, big bureaucrats, trade unions and very oftenly the students. He also remained Deputy Government Advocate in the years 1977 and 1978. He also

represented the Government of India as its standing counsel for the Department of Income Tax. He always gave his best to every brief, big or small and this was notwithstanding of the fee offered.

Late Justice Rajesh Balia , while unfolding profile of Late Shri Sumer Chand Bhandari, mentioned that "he never adhered to principle "work according to the return". For him, each case was reposition of trust by the client in him, which has to be discharged with best of ability. Fees was a matter of agreement only that was accepted voluntarily." I adopt the same words for Justice Rajesh Balia.

I had occasion to assist him and also to oppose him as a lawyer. In an important land acquisition matter of Jodhpur District, I assisted him. While drafting the writ petition I learnt fundamental principles of pleadings from him. As a counsel opponent, I found him a lawyer capable not only to turn the stones, but the rocks settled.

In the year 1985, the Supreme Court of India decided cases of Railway Employees, who participated in Railway strike and the main judgment was in the case of Tulsi Ram Patel. In the same year the Central Administrative Tribunals were

created under the Administrative Tribunals Act, 1985. Several writ petitions similar to Tulsi Ram Patel's case, which were pending before the Rajasthan High Court, were transferred to the Central Administrative Tribunal. Justice Balia then was representing the Railway employees. Being associate to Justice N.N.Mathur, who then was railway counsel, I was arguing those matters on behalf of the railways. Justice Rajesh Balia, by taking support of the judgment given in the case of Tulsi Ram, which as a matter of fact was against the railway employees, got the transfer applications allowed. He, as a lawyer, persuaded the Tribunal to call the original record, in which reasons for invoking extraordinary powers under Rule 14(2) of the Railway Service Discipline and Appeal Rules, 1965, were said to be recorded. On production of the record, it revealed that as a matter of fact the reasons as required were not recorded. The acceptance of these transfer applications was a lesson for me and, therefore, as a Judge too I prefer to call original record in several cases.

His tenacious style of working and taciturn personality was enough to attract the then Chief Justice of this Court to pick him up for elevation as Judge.

October 21, 1991 was the day auspicious when the oath was administered to him as an Additional Judge of the

Rajasthan High Court. Within a period of few months he was made a permanent Judge.

He was transferred to Gujarat High Court on June 24, 1994. This was the time when Justice M.R.Calla and Justice G.S.Singhvi were also transferred to other High Courts. Justice N.N.Mathur, Justice S.K.Keshote and Justice R.M.Lodha were transferred to other High Courts prior to it. This was a huge loss to the Rajasthan High Court.

In Gujarat, legal fraternity fondly remember Justice Balia as a razor sharp Judge with superb legal acumen. As a Judge of Gujarat High Court, Justice Balia delivered the landmark judgment in the case of Alka Synthetics v. SEBI, first time interpreting Sections 11 and 11-B of the SEBI Act and further the regulations made therein. He also had opportunity to interpret the provisions of Sections 391 and 304 of the Companies Act, 1956 in Mihir Mafatlal's case, holding therein that the Company Court had jurisdiction not merely to approve amalgamation scheme on the basis of majority decision, but also to consider pros, cons and fairness of the scheme.

In December, 1994, when I met Justice Balia at Ahmedabad, I found him a person highly satisfied, despite his

transfer. He was satisfied being workaholic, he was satisfied as the advocates at Ahmadabad were seeking less adjournments, he was satisfied with the nature of litigation available in Gujarat, he was satisfied being in company of Justice M.R.Calla and Justice N.N.Mathur. He was a man searching positivity in each and every event of life, therefore, he was a person satisfied.

Fortunately, Justice Rajesh Balia was restored as a Judge of Rajasthan High Court on December 13, 1999.

Justice Balia, though was suffering from a serious ailment, worked tirelessly. He was the Judge, used to come in Court at 10:30 and leaving after the scheduled court hours. He was the Judge examining the cases threadbare, though he never carried any file or record of the case with him at home. He use to dictate every order and every judgment in open court.

After 1999, me, most of my colleagues and other lawyers of my generation were frequently appearing before him. In every appearance before him we were learning something new. It was pleasure for every lawyer to get his case examined by him.

In a matter of high stakes, when the case was called, I was not present to attend that. My three associates present in Court started arguments before Justice Balia. After few minutes, when I came in Court and tried to take over the arguments, he objected with a very positive remark that my associates are gifted lawyers and I should not interfere with their arguments. This kind of positive waives coming from this great Judge made not only me, but my associates too a successful lawyer.

He was the instrumentality in making me a Judge of Rajasthan High Court. Not only me, but he noticed other talented young lawyers for their elevation as Judge. Because of his choice, Justice Dinesh Maheshwari, Justice Ajay Rastogi, Justice G.K.Vyas, Justice Vineet Kothari, Justice Manish Bhandari and Justice Sangeet Lodha are Judges of Rajasthan High Court.

I had opportunity to share Division Bench with Justice Balia in the year 2005. I found him a Judge treating law as a ball, with which he use to make efforts to search real intent of the law makers, specially in making India a true welfare State. In his tenure as a Judge of Rajasthan High Court he rendered numerous judgments of great importance. He remained Acting Chief Justice of Rajasthan High Court twice i.e. from 16.06.2007

to 15.07.2007 and from 12.11.2007 to 04.01.2008. He injected new energy in entire judicial system of the State and that highly enhanced reputation of the institution in the eyes of common people.

I would like to refer two occasions when he gave certain tips, which are treasure for me. On 18.8.2004, he was at Ajmer, being a member of selection board recruiting members to Rajasthan Judicial Service. I sought his blessings on telephone being notified to be appointed as a Judge of Rajasthan High Court. He gave me the first tip that - "don't do anything which you did not like from a Judge as a lawyer". I try to adhere that.

The other occasion came after few years when he was transferred to Patna High Court as Chief Justice in the month of January, 2008. I, alongwith Justice Dinesh Maheshwari went to his residence to pay our regards and best wishes. Incidentally, me and Justice Maheshwari both mentioned that his absence will cause a great loss to the Rajasthan High Court. He, with his usual smile, quoted ' "Benjamin N. Cardozo", I quote - "we have been called upon to do our part in an ageless process. Long after I am dead and gone and my little in its forgotten, you will here to do your share and to carry the torch forward. I know that flame will burn brighter while the torch is in your keeping."

Me and Justice Maheshwari immediately asked, Sir, how you are keeping all these quotations in your memory? He just mentioned that its my way of life. On the next morning I received a photocopy of page No.110 of the Rajasthan High Court Golden Jubilee Souvenir, where the quotation referred above was printed. I am still having that leaf with me. I am sure, he must have given a copy of the same leaf to Justice Maheshwari also. The quotation referred extends a faith in coming generation.

He remained Chief Justice of Patna High Court only for a period of about two months. After his retirement, initially he chose to be at Delhi, but quite soon the call of his native land compelled him to be at Jodhpur. His services were utilised by the Government of Bihar as Chairman of "Kosi River Commission". He was also appointed as the Chairman of the Human Rights Commission, Rajasthan, but he did not choose to join the office.

This is a brief reference of Justice Rajesh Balia as a man of law, but he was not only a man of law, he was a person of every field of life. Beside the law, he had several other wings and he provided adequate flight to those also. He was a founder member of "Swar-Sudha, Jodhpur". Though he was not a performer, but he was having great knowledge of music. His presence was essential in audience to each and every

programme of music in Jodhpur city. Till death, he was attending music concerts including programmes at Ramanuj Kot, Jodhpur. He was an active member of Film Society, Jodhpur. He was in habit of creating Dipawali Greetings with his own poetic writings in his own handwriting. He was a voracious reader with great knowledge of Mythology, History, Geography and even movies.

He was a great lover of paintings and he was having knowledge in depth about different "Shailieys" of Indian Art. He was also a wonderful player of tennis and had love for tennis and that resulted into the "Jodhpur Tennis Academy" which trains around 100 kids at any given point of time. Late Justice Rajesh Balia was also a great orator. A man can be good orator only if he is having absolute grip on the issues to be addressed. He had such grip on every aspect of life. A child with a zeal to learn every event of life, was in his heart till last. He use to collect complete information of globe and that made him a genius.

He left this planet earth in the morning of 2nd April, 2016, leaving behind his wife respected Sarlaji, son Shri Vikas Balia, a practicing advocate of this Court, Smt. Ira Shishodia, his loving daughter and wife of Shri Manish Shishodia, a known lawyer of this Court and sweet grand children. His cousin Shri Manoj Bhandari is also a prominent advocate of Rajasthan High

Court. Shri Vikas Balia, Shri Manish Shishodia and Shri Manoj Bhandari will carry the bright legacy of Justice Balia ahead.

The death of Justice Rajesh Balia is a huge loss to the legal fraternity.

At this sad moment I, on my behalf and on behalf of my colleagues convey our heartfelt condolences to the bereaved family.

May the departed soul rests in peace.

(GOVIND MATHUR)

As a mark of respect to the departed soul, we shall stand up and observe silence for two minutes.

There shall be no court sitting thereafter.

(GOVIND MATHUR)