

Reference Speech dated 03.09.2019 by Hon'ble Mr.Justice S.Ravindra Bhat, Chief Justice, Rajasthan High Court, on the eve of retirement of Hon'ble Mr.Justice P.K.Lohra, Judge, Rajasthan High Court, Jodhpur

1. My Esteemed Colleagues on the Bench,
2. Shri M.S.Singhvi,
Advocate General
3. Shri Rajesh Panwar,
Co-Chairman, Bar Council of Rajasthan.
4. Shri Ranjeet Joshi
President, Rajasthan High Court Advocates Association,
5. Shri Sunil Joshi,
President, Rajasthan High Court Lawyers Association
6. Learned Senior Advocates,
7. Learned Members of the Bar,
8. Members of Judicial Service and Registry.
9. Mrs.Madhu Lohra and other members of the family.
10. Ladies & Gentlemen.

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We have assembled here to bid a warm and affectionate farewell to Hon'ble Mr.Justice P.K.Lohra, who is retiring after rendering meritorious and distinguished services in the Rajasthan Judiciary.

Justice Lohra was born on 04.09.1957. After schooling, he completed B.Sc. (Science Bio.) and LL.B. He was enrolled as advocate on 25.11.1979. He was elected Secretary (in 1989) and President of the Rajasthan High Court Advocates' Association in 2003. His specialization during practice was industrial and labour laws. He represented the SBBJ, RSRTC, MGB Gramin Bank and Jodhpur Central Cooperative Bank. He was also a panel lawyer for

Department of Technical Education from 1993 to 2003. He was designated as Senior Advocate on 15.01.2011. During his career at the Bar he picked up a successful practice and prominent place in the Bar. His hard work, sincerity and dedication found recognition when he was appointed as Judge of this Court on 08.01.2013. He represented Rajasthan High Court in three days' Regional Judicial Conference, West Zone organized by National Judicial Academy at Bhopal in April, 2014 on the subject "*Role of Courts in upholding rule of law*". He was appointed as member of Working Committee, Rajasthan State Judicial Academy. He was also appointed as Judge-incharge, Mediation, Rajasthan High Court, Jodhpur. He is avid reader of books (Fiction, Non-fiction and Research).

Justice Lohra's acumen and skills are known to all: that apart he is a multi-talented and versatile personality. He is embodiment of simplicity, courtesy, compassion and judicial rectitude, possessed of courage. Justice Lohra's work is visible in the many judgments he has delivered on several branches of law- service, labour, education, income tax, revenue, etc. He has an impeccable sartorial style and is always dressed in a dapper manner. He also possesses a rare quiet humor that often saw us helpless with laughter. His judgments reflect his style- clear in reasoning and elegant in prose.

Justice Lohra has delivered several important and landmark verdicts on a wide range of complicated issues covering all branches of law. His decisions are equipped with ornamental English and bear the stamp of his erudition, caliber, analytical skill and in-depth knowledge of law.

It is worthwhile to mention here that in *Dr.T.C.Barjatia V/s*

State of Rajasthan (2013(3) RLW 2260 (Raj.)) it was observed that the famous Indian proverb has made us to believe that "*doctors are next to God for a patient*". In illness the doctor is a father; in convalescence a friend; when health is restored, he is a guardian. In common parlance faith and confidence of a diseased person or his parents vis-à-vis a doctor is of such a high stature that during treatment he acquires a status akin to God. This common perception or a myth, which is prevalent since time immemorial, was subject matter of judicial scrutiny in that case where charge-sheet under Rule 16 of the CCA Rules was served for negligence in performing surgical operation. It was held that since there was substantial compliance of law by the respondent to apprise the petitioner about his indictment in the enquiry and the entire enquiry was conducted in presence of the petitioner, it cannot be presumed that he was unaware about the final outcome of the enquiry. It was further held that some minor infractions by the disciplinary authority cannot help the petitioner, nor such minor infirmities can persuade the Court to conclude that the alleged non-compliance with the rules. The judgment observed that the insensitivity of the petitioner vis-à-vis a minor patient shocked the conscience of the Court so as to dissuade it from taking any charitable view in the matter. It was observed that the petitioner, member of a noble profession had alienated ethics of a medical practitioner and prescribed norms of surgery. Justice Lohra, commenting on such conduct, said that it would redefine people's belief that "Doctors are next to God for a patient" He quoted A.L. GOODHART on "Justice" in these lines:

"There is something to be said for the view that justice

should not only be seen to be done to the individual but also that it should be done to the community as a whole. It is not so done when a guilty man is given an opportunity to continue his depredations owing to a technical slip.”

In *Darshana Gupta vs. None and Ors.* (AIR 2015 Raj.105) in the matter of denial of adoption of child girl to appellant, it was held that in present era of woman empowerment, such endeavor of appellant was appreciable and deserved encouragement by law Courts sans technicalities. Looking to social status of appellant and fact that she was maintaining child for more than seven months, there remained no doubt about her intentions and credentials. In changed social scenario, Acts were liable to be construed harmoniously to ensure rehabilitation and social reintegration of orphaned, abandoned and surrendered children. Thus, adoption of child girl to appellant was held to be legal; the appellant was held to be the adoptive parent of child with all the rights, privileges, responsibilities and consequences under the law.

In *Ashok Singhvi V/s State of Rajasthan* (2018 (2) RLW 1461 (Raj.)), it was observed that though from the record it is borne out that FIR was registered after 2 or 3 days and the coercive actions were undertaken against the petitioner prior to it, but this sort of delay cannot be construed as inordinate or deliberate which can be categorized as inexcusable in the backdrop of peculiar facts and circumstances of the case. Undeniably, the information received by the Inspector of ACB in the matter purportedly unearthed large scale corruption in Mines Department showing involvement of many officials of department and a senior officer of administration, per se delay 2-3 days cannot be categorized as abnormal. The

question was whether circumstances and evidence collected against the applicant prior to registration of crime are admissible as evidence. It was answered in affirmative, because the events from demand of illegal gratification, agreeing to receive such gratification in presence of independent punch witnesses would form a chain of events that would ultimately constitute offence under Section 7 of Prevention of Corruption Act, 1988.

In *Prashant Mehta and ors. V/s The National Law University, Jodhpur & Ors.* (D.B.Civil Writ Nos.8791, 9153 and 9223/2016 decided on 28.5.2019), the impugned Service Regulations 5 & 6 of the University Service Regulations, 2001 and amended Regulations 37 & 38 were declared ultra vires.

In a significant judgment, *Mayur Public Secondary School and Ors. V/s State of Rajasthan & Ors.* (D.B.Civil Writ Petition No.5080/2018 and connected matters decided on 14.8.2019), challenge was laid to validity of various provisions of the Rajasthan Schools (Regulation of Fee) Act, 2016 and Rajasthan Schools (Regulation of Fee) Rules, 2017. It was observed that challenge to a Statute as violative of fundamental rights deserves judicial scrutiny with pragmatic approach. Therefore, while examining this issue, Court is bound to see its real effect or operation on the fundamental rights. In such matters, Court cannot shirk from its duty to remain watchful for safeguarding constitutional rights of the citizens. Any attempt to encroach gradually or stealthily on the fundamental rights of the citizens by the State cannot lose sight of the Court. Article 13(2) of the Constitution also mandates that State shall not

make a law which takes away or abridges the rights of the citizens conferred by Part III. However, the Court, while examining Constitutionality of a Statute cannot question the State's wisdom or its need. After considering all previous judgments it was held that the Fee Regulation Act was a valid and regulatory piece of legislation.

Justice Lohra also authored the erudite Full Bench ruling in *Dalpat Singh Rajpurohit V/s State of Rajasthan* (2019(1) RLW 260) which held a rule framed by the State for recruitment to the Medical Service Collegiate Branch Rules ultra vires the provisions of the Indian Medical Councils Act, 1956.

Not only did Justice Lohra make remarkable contribution in the administration of justice, but his role on administrative matters as members of various Committees was also notable. His views and suggestions were valuable in resolving issues in administration. He was always keen and ready to offer his contribution beyond judicial work for betterment of the institution and the justice dispensing mechanism. We, his colleagues and members of the Court are deeply conscious of his lasting contribution as a Judge and a human being.

No doubt Justice Lohra is demitting the office and parting is always painful, but he shall always occupy a place in our hearts. His commitment and glittering career will continue to provide a source of inspiration to the legal practitioners. In future he will continue to work in the same fashion with spirit, dedication and devotion to serve the cause of justice.

I, on behalf of the Judges of this Court and on my own behalf, wish him all the best in his future pursuits. May choicest blessings of the Almighty be bestowed on him and his family members to lead a very delightful, healthy, prosperous and peaceful life.

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