2019 INSC 1033

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7306 OF 2019
(Arising out of SLP (C) No. 33818/2015)

SHRIRANG YADAVRAO WAGHMARE **APPELLANT(S)**

VERSUS

THE STATE OF MAHARASHTRA AND ORS. **RESPONDENT(S)**

J U D G M E N T

1. Leave granted.

2. The appellant was a Judicial Officer. He was appointed as a Judicial Magistrate on 01.03.1985. On 08.02.2001, he was put under suspension and dismissed from service on 15.01.2004. The appellant challenged his writ petition filed before the High Court. The same was dismissed. Notice was issued in the special leave petition on 14.12.2015 limited to the question of quantum of punishment. The only issue to be decided is whether the punishment imposed upon him is justified or a lenient view can be taken in the matter.

3. Learned counsel for the appellant has drawn our attention to the relevant provisions of the

Maharashtra Civil Services (Discipline and Appeal) Rules, 1979, especially Rule '5' thereof. We are concerned with the portion dealing with major penalties, which reads as follows:

> **"Major Penalties -**
>
> **(vii) compulsory retirement;**
>
> **(viii) removal from Service which shall not be a disqualification for future employment under Government;**
>
> **(ix) dismissal from Service which shall ordinarily be a disqualification for future employment under Government:**
>
> **Provided that, in every case in which the charge of acceptance from any person of any gratification, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act is established, the penalty mentioned in clause (viii) or (ix) shall be imposed;**
>
> **Provided further that, in any exceptional case and for special reasons recorded in writing any other penalty may be imposed"**

4. Emphasis of the learned counsel for the appellant is on the first proviso wherein it is stated that if an employee is held guilty of accepting gratification other than legal remuneration, as a motive or reward for doing or forbearing to do any official act, the penalty

mentioned in clause (viii) or (ix), i.e., removal from service or dismissal from service shall be imposed.

5. We are only concerned with the issue of penalty and we need not go into the entire gamut of facts. However, for the purpose of deciding this appeal, it would be necessary to mention the core allegation made against the appellant. The allegation was that he had a proximate relationship with a lady lawyer and due to this relationship he passed certain judicial orders in favour of her clients, including her mother and brother when they were parties to certain proceedings. Those findings of fact have been upheld by all courts and even this Court has not interfered with those findings and issued notice limited to the quantum of punishment.

6. The first and foremost quality required in a Judge is integrity. The need of integrity in the judiciary is much higher than in other institutions. The judiciary is an institution whose foundations are based on honesty and integrity. It is, therefore, necessary that judicial officers should possess the sterling quality of integrity. This Court in Tarak Singh v. Jyoti Basu [(2005) 1 SCC 201] held as

follows:-

> **"Integrity is the hallmark of judicial discipline, apart from others. It is high time the judiciary took utmost care to see that the temple of justice does not crack from inside, which will lead to a catastrophe in the judicial-delivery system resulting in the failure of public confidence in the system. It must be remembered that woodpekers inside pose a larger threat than the storm outside."**

7. The behavior of a Judge has to be of an exacting standard, both inside and outside the Court. This Court in Daya Shankar v. High Court of Allahabad and Others [(1987) 3 SCC 1] held thus:

> **"Judicial Officers cannot have two standards, one in the court and other outside the court. They must have only one standard of rectitude, honesty and integrity. They cannot act even remotely unworthy of the office they occupy."**

8. Judges are also public servants. A Judge should always remember that he is there to serve the public. A Judge is judged not only by his quality of judgments but also by the quality and purity of his character. Impeccable integrity should be reflected both in public and personal life of a

Judge. One who stands in judgments over others should be incorruptible. That is the high standard which is expected of Judges.

9. Judges must remember that they are not merely employees but hold high public office. In R. C. Chandel v. High Court of Madhya Pradesh [(2012) 8 SCC 58], this Court held that the standard of conduct expected of a Judge is much higher than that of an ordinary person. The following observations of this Court are relevant:

> **"37. Judicial service is not an ordinary government service and the Judges are not employees as such. Judges hold the public office; their function is one of the essential functions of the State. In discharge of their functions and duties, the Judges represent the State. The office that a Judge holds is an office of public trust. A Judge must be a person of impeccable integrity and unimpeachable independence. He must be honest to the core with high moral values. When a litigant enters the courtroom, he must feel secure that Judge before whom his matter has come, would deliver justice impartially and uninfluenced by any consideration. The standard of conduct expected of a Judge is much higher than an ordinary man. This is no excuse that since the standards in the society have fallen, the Judges who are drawn from the society cannot be expected to have high standards and ethical firmness required of a Judge. A Judge like Caesar's wife,**

> **must be above suspicion. The credibility of the judicial system is dependent upon the Judges who man it. For a democracy to thrive and rule of law to survive, judicial system and the judicial process have to be strong and every Judge must discharge his judicial functions with integrity, impartially and intellectual honesty."**

10. There can be no manner of doubt that a judge must decide the case only on the basis of the facts on record and the law applicable to the case. If a judge decides a case for any extraneous reasons then he is not performing his duty in accordance with law.

11. In our view the word 'gratification' does not only mean monetary gratification. Gratification can be of various types. It can be gratification of money, gratification of power, gratification of lust etc.,etc. In this case the officer decided the cases because of his proximate relationship with a lady lawyer and not because the law required him to do so. This is also gratification of a different kind.

12. The Judicial Officer concerned did not live upto the expectations of integrity, behavior and probity

expected of him. His conduct is as such that no leniency can be shown and he cannot be visited with a lesser punishment.

13. Hence, we find no merit in the appeal, which is accordingly, dismissed.

.....J.
[DEEPAK GUPTA]

.....J.
[ANIRUDDHA BOSE]

NEW DELHI,
SEPTEMBER 16, 2019.