

Reference Speech by Hon'ble Mr. Justice Manindra Mohan Shrivastava, Judge, Rajasthan High Court on the eve of retirement of Hon'ble Mr. Justice Sambhaji Shiwaji Shinde, Chief Justice, Rajasthan High Court, on 01st August, 2022 in the Court Hall of the Chief Justice at Principal Seat, Rajasthan High Court at Jodhpur.

1. Chief Justice of Rajasthan High Court, Hon'ble Mr. Justice Sambhaji Shiwaji Shinde.
2. My esteemed brother and sister Judges on the Bench at Jodhpur and Jaipur
3. Mr. Mahendra Singh Singhvi, Advocate General, Rajasthan
4. Mr. Sunil Beniwal, Chairman, Bar Council of Rajasthan, Jodhpur
5. Mr. Nathu Singh Rathore, President, Rajasthan High Court Advocates Association, Jodhpur.
6. Mr. Ravi Bhansali, President, Rajasthan High Court Lawyers Association, Jodhpur
7. Mrs. Nidhi Khandelwal, Vice President, Rajasthan High Court Bar Association, Jaipur
8. Mr. Kamal Kishore Sharma, President, The Jaipur Bar Association, Jaipur
9. Learned Senior Advocates
10. Learned Members of the Bar
11. Registrar General and Officers of the Registry, Judicial Officers
12. Revered Madam Umadevi Shinde and other dignified family members,
13. Ladies & Gentlemen,

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We have assembled today to bid heartfelt farewell to Hon'ble Chief Justice, Shri Sambhaji Shiwaji Shinde, to commemorate fifteen long years of His Lordship as crusader of justice, through his untiring efforts to serve the litigants at the doorstep of the Court. It is my proud privilege to express, on behalf of judicial fraternity, humble gratitude to His Lordship for his utmost devotion, dedication and commitment to cause of justice.

His Lordship was born on 2nd August, 1960 in a humble family of farmers and took up his schooling in Maharashtra Vidyalaya, Bansarola, District Beed and then graduated from Yogishwari Science College, Ambajogai in Maharashtra. His Lordship then studied Law and eventually graduated in Law from Maharashtra University at Aurangabad.

In pursuit of higher studies and specialisation in various branches of Law, His Lordship obtained Degree of Master in Law from Premier Institutions namely Pune University and Warwick University, United Kingdom.

His Lordship having resolved to join noble profession, got himself enrolled as an advocate with the Bar Council of Maharashtra and Goa on 9th April, 1987 and started practice in law in the High Court of Bombay, Bench at Aurangabad.

His Lordship soon made his mark in the legal profession and was appointed as Assistant Government Pleader and Assistant Public Prosecutor, Government of Maharashtra in the High Court of Bombay, Bench at Aurangabad. His Lordship was then appointed as

an Additional Government Advocate in the Office of the Government Advocate to represent the State of Maharashtra in the Supreme Court of India at Delhi. This indeed was recognition of merit and hard work of His Lordship.

In his journey upwards, His Lordship worked as in-charge Government Advocate and represented State of Maharashtra in the Supreme Court from 16th May, 1992 and appeared in large number of important matters including Special Leave Petitions, Civil and Criminal Appeals, Constitutional matters and Public Interest Litigations for more than ten years acquiring rich and varied experience in practically all branches of Law.

His Lordship's knowledge and competence was acknowledged in his elevation as Additional Judge of High Court of Bombay on 17th March, 2008, followed by confirmation as a permanent Judge on 13th March, 2010.

His Lordship served as Judge, High Court of Bombay, Bench at Aurangabad till 20th February, 2019, whereafter, His Lordship served at the Principal Bench at Bombay. In his capacity as a Senior Judge, His Lordship worked as Executive Chairman, State Legal Services Authority for Union Territory of Dadra and Nagar Haveli and Daman and Diu since March, 2020. Under dynamic leadership of His Lordship, legal services in Maharashtra achieved unprecedented heights to serve down-trodden and needy people making access to justice for all a reality.

His Lordship held important positions as Chairman and Member in various administrative committees of the High Court of Bombay.

His Lordship was appointed as the Chief Justice of Rajasthan High Court with effect from 21st June, 2022.

His Lordship is demitting his Office as Chief Justice of Rajasthan High Court, today, after long fifteen years as Champion of cause of justice, an illustrious and meaningful journey as Judge of the High Court of Bombay and then as Chief Justice of Rajasthan High Court, maintaining throughout, highest standards of purity and probity in public life, great qualities of moral values, ethics of profession in discharge of his duties and functions.

Disposal of more than 33800 cases including 1400 landmark judgments reported in Law Journals bear testimony to His Lordship's hard work and relentless efforts to reach injustice wherever found and to protect life and liberty of citizens.

These landmark opinions, ranging from Criminal, Civil, Constitutional, Service, Family matters and many diverse jurisdictions reflect His Lordship's indepth knowledge of law and legal principles, first and fundamental principles of law, sensitivity to cause at hand and justice oriented approach, overcoming technicalities.

Out of long list of landmark judgments, time constraint allows me to mention only a few of them.

In "State of Maharashtra Vs. Anil", His Lordship, while upholding conviction, considered the principle of 'rarest of rare case'

delving deep into various judicial pronouncements, to hold that previous pending cases could not be used as aggravating circumstances against the accused, thereby imposing life sentence in place of death sentence.

In "State of Maharashtra and Others Vs. Yuvraj Kashinath Sable and Others", His Lordship set aside the conviction, holding that circumstances taken together, cumulatively do not form chain, so complete that there is no escape from the conclusion that within all human probabilities that the crime was committed by the accused and none else. His Lordship interpreted scope and ambit of Section 106 of the Evidence Act. It was held, and I quote:-

"Legal principles are not magic incantations and their importance lies more in their applications to a given set of facts, than in their recital in the Judgment." Unquote.

In "Balaji & Others Vs. The State of Maharashtra and Others", His Lordship, interpreting constitutional spirit of fundamental right to Education under Article 21A and various provisions of Right to Education Act, authoritatively pronounced that State is under obligation to formulate permanent policy document, create permanent infrastructure as also appointments on permanent basis.

In a landmark order in "Sanjay Bhaskarrao Kale Vs. The State of Maharashtra and Others", a classic example of judicial activism in quick response to community's crying need of drinking water, His Lordship issued direction for reduction in supply of water to industries, breweries, distilleries so as to ensure availability of water

in areas suffering from severe drought situation and acute scarcity of water.

Entertaining a Public Interest Litigation in "Vijay Laxmanrao Dak and Other Vs. Union of India and Others", His Lordship interpreted various provisions of Air (Prevention and Control of Pollution) Act, 1981, issuing directions regarding waste management in larger public interest to obviate risk to human life as also protection of animal, birds etc.

In another landmark judgment in "P.V. Varavara Rao Vs. National Investigation Agency and Others", His Lordship held that an accused in custody can invoke Article 21 of the Constitution of India to seek his release on the ground that his continued incarceration is incompatible with his health condition and it would amount to endangering his life.

Not only in the legal fraternity but also amongst all stake holders, His Lordship's qualities as human being, as Judge, as Companion and as Patron of the State Judiciary, set up an example of what a Judge ought to be. His utmost humility, simplicity, respect to one and all alike, concern and compassion for everyone associated with him, whether it be a Judge or an employee in the lowest rung, add gravity and greatness to his persona. These qualities have won him only admirers not only in his home State of Maharashtra but in Delhi and Rajasthan also, I myself being one of them, having been in His Lordship privileged company for over a decade.

His Lordship's commitment and hard work, working tirelessly beyond working hours, have been echoed in Parliament recently.

Though, His Lordship's association as the Chief Justice of the High Court of Rajasthan and Patron of the Judiciary of Rajasthan has been short, it has made all of us realise that it is not the length but mutual respect, regard and faith which makes it memorable and unforgettable.

While bidding adieu, I, on behalf of my sister and brother Judges on the Bench and also on my own behalf, extend best of wishes to His Lordships, Respected Madam Umadevi Shinde, and all the members of his family with best of health, cheer and happiness in future.

Thank You.
