

Reference Speech by Hon'ble Mr. Justice Manindra Mohan Shrivastava, Judge, Rajasthan High Court on the eve of retirement of Hon'ble Mr. Justice Akil Abdul Hamid Kureshi, Chief Justice, Rajasthan High Court, on 05th March, 2022 through Video Conferencing.

1. Chief Justice of Rajasthan High Court, Mr. Justice Akil Abdul Hamid Kureshi
2. My esteemed brother and sister Judges on the Bench at Jodhpur and Jaipur
3. Hon'ble Judges of Bombay and Gujarat High Courts
4. Mr. Mahendra Singh Singhvi, Advocate General, Rajasthan
5. Mr. Rajesh Panwar, Chairman, Bar Council of Rajasthan, Jodhpur
6. Mr. Nathu Singh Rathore, President, Rajasthan High Court Advocates Association, Jodhpur.
7. Mr. Sunil Joshi, President, Rajasthan High Court Lawyers Association, Jodhpur
8. Mr. Girraj Sharma, General Secretary, Rajasthan High Court Bar Association, Jaipur
9. Mr. Kamal Kishore, President, The Jaipur Bar Association, Jaipur
10. Learned Senior Advocates
11. Learned Members of the Bar
12. Members of Judicial Service and Registry
13. Revered Madam Smt. Sonal Kureshi and other dignified family members,
14. Ladies & Gentlemen,

.....

We have assembled today to bid farewell to the patron of State's judiciary, Hon'ble the Chief Justice of this august Institution, Mr. Justice Akil Abdul Hamid Kureshi, to commemorate eighteen years long period of His Lordship as the sentinel on the *qui-vive* to protect the fundamental rights of the citizens guaranteed under Constitution of India.

It is my privilege and honour to express, on behalf of Judicial fraternity, gratitude to His Lordship for his untiring and relentless efforts to serve the cause of justice with utmost dedication, commitment and preserve, promote peoples confidence in the judicial system, in challenging times.

His Lordship was born to an illustrious Gujarati family on 7th March, 1960. His grandfather Shri Gulam Rasul Kureshi was part of 'Arun Tukdi' which would walk the route of Dandi March ahead of Mahatma Gandhi's arrival. His father, Hamid Kureshi was a senior advocate and Trustee of the Sabarmati Ashram Preservation and Memorial Trust. After graduating in Mathematics in 1980 and Law in 1983, His Lordship joined The Bar and started legal practice. He worked as Additional Central Government Standing Counsel from March, 1992 to March, 1998 and then as Additional Counsel for Income Tax Department from January, 2000 to December 2001.

His Lordship was elevated as an additional Judge of the High Court of Gujarat on 7th March, 2004 and confirmed as permanent Judge on 12th August, 2005. Legal Aid Work in the State of Gujarat had many achievements during His Lordship's

tenure as Executive Chairman of Gujarat State Legal Services Authority.

His Lordship was appointed as Acting Chief Justice of the High Court of Gujarat on 2nd November, 2018. On 14th November, His Lordship was transferred to the Bombay High Court, where he served as Judge until he was appointed as the Chief Justice of the High Court of Tripura with effect from 16th November, 2019. His Lordship was transferred to the High Court of Rajasthan as the Chief Justice where he took oath on 12th of October, 2021.

Long eighteen years of noteworthy journey and illustrious career as Judge and then as Chief Justice in High Courts of Gujarat, Bombay, Tripura and lastly Rajasthan not only reflect highest judicial standards but also rich legacy of great qualities of moral values, ethics of profession and probity in public life, imbibed and ingrained in the familial background inspired by Mahatma Gandhi, the Father of the Nation and driven by Gandhian principles, values and practices.

Disposal of more than forty seven thousand cases including hundreds of reported cases bear testimony to His Lordship's hard work, dedication and quest for justice.

It is well said that a Judge is known by his judgments.

Law reports are replete with landmark judgments authored by His Lordship over last eighteen years.

Landmark opinions ranging from topics and subjects on Constitutional, Tax, Service, Commercial, Family, Criminal and

many diverse jurisdiction bear testimony to Lordship's fierce intellect, sound knowledge of law and legal principles, conceptual clarity on first and fundamental principles of law, sensitivity to the issue and substantial justice oriented approach.

These landmark verdicts have significantly impacted development of law in various branches.

His Lordship has turned his judicial skills to a number of high profile cases, revealing utmost firmness and commitment in upholding the constitution and the laws of the land and independence of judiciary.

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

In the case of Adam B Chaki Versus Government of India Through Secretary, while considering validity of Pre-matric Scholarship Scheme, speaking for the larger Bench of five Judges, His Lordship interpreted Articles 15, 16 as also Article 21A and held that right to education under that Article forms part of right to life under Article 21 of the Constitution of India, incorporated separately as an independent fundamental right.

Dealing with rights of a Parsi woman, after marriage with non-Parsi man, in the case of Goolrokh M. Gupta Versus Burjor Pardiwala and Ors., held in his separate judgment that such woman does not cease to be Parsi merely by virtue of solemnizing the marriage under Special Marriage Act, with a man belonging to another religion.

While deciding a criminal appeal arising out of conviction on charges of rape of a Scheduled Caste girl aged eighteen years, His Lordship brilliantly propounded and explained principles with regard to appreciation of evidence of a rape victim in the case of Parmar Manish Bhai Babu Lal Versus State of Gujarat.

Dealing with rights of pensioners, in the case of Deshmukh Dilipkumar Bhagwan and Ors. Versus The State of Maharashtra and Ors., His Lordship held that Government's liability to pay pensionary benefits to a retired employee of a private school can arise only when the Government has undertaken to pay 100% grant to the school.

As Chief Justice of Tripura High Court, His Lordship, while examining constitutional validity of Section 4 (4) (d) of the Tripura Electricity Duty Act, 2019, in the case of ONGC Tripura Power Company Ltd. Versus State of Tripura and Ors., interpreted fields of legislation under various entries of State List and Union List in Schedule II of the Constitution and the Constitutional Scheme of Legislative Powers of the Union and the State, with reference to Articles 246, 254 and other provisions and declared unconstitutional challenged provisions and held that no duty is leviable on inter state sale of electricity.

Protecting and enforcing fundamental right of freedom of speech and expression, in the case of Lipika Paul Versus The State of Tripura and Ors., it was authoritatively pronounced that petitioner, though a Government servant is not devoid of

her right of free speech, a fundamental right which can be curtailed only by a valid law.

In exercise of extraordinary jurisdiction, to save a minor victim girl, His Lordship took suo-motu cognizance of a newspaper report of sale of minor girl in State of Tripura, by her family due to abject poverty and issued direction for recovery, reunion with her family and payment of compensation.

His Lordship's commitment to cause of justice is widely reflected in large number of landmark judgments delivered as the Chief Justice of this august Institution despite a very short tenure of less than six months.

In the case of *Rajkamal Basitha Versus Rajasthan High Court and Others*, His Lordship explained the scope and ambit of judicial review in the matter of challenge to correctness of questions and answer key in selection process for appointment of judicial officers.

In another landmark judgment in the case of *Union Bank of India Versus Rajasthan Real Estate Regulatory Authority and Others*, while examining constitutional validity of Regulation 9 of Rajasthan Real Estate Regulatory Authority Regulations, 2017, principles applicable in the matter of delegation of judicial functions under the Act were propounded and explained.

In the case of *State of Rajasthan and Others Versus Dr. Kamaldeep Khatri*, jurisprudential approach in the matter of

right to study leave of Government employees on probation was enunciated and interpreting relevant provisions of service rules, it was held that while considering application for grant of study leave, exigencies of public service are of paramount consideration.

In a celebrated decision of His Lordship in *Rajendra Singh Chotiya and Another Versus The National Council For Teachers Education and Others*, various provisions of NCTE Act and RTE Act were interpreted and its interplay explained to eventually hold that notification dated 28.06.2018 was violative of enabling provisions under RTE Act.

In another important judgment, in the case of *Jagdish Kumar Choudhary and Others Versus Rajasthan Public Service Commission and Another*, noticing patent illegality in some of the answer keys, interfered with the process of selection, limited to the extent of noted illegality, directing to take remedial measures.

His lordship is admired by all who have worked and associated with for his rare qualities as a human being. His gesture of utmost humility, simplicity and cordiality has only won him friends, followers and admirers.

Though my association as colleague with His Lordship was very short, I have been greatly benefited by his rich and varied experience to deal with and run administration of the institution. As the Chief Justice, His Lordship has considered himself only as the first amongst equals and performed

administrative function based on collective wisdom and decision making, giving due respect and value to opinion of all colleague Judges. Significant achievements both on judicial and administrative front, amid COVID times, only establish great leadership qualities in His Lordship.

On this occasion of retirement of His Lordship, I wish him great times in best of health and cheer while ushering in new chapter in life.
