

IMPARTIAL, ALOOF AND SOBER AS A JUDGE

Judges must ponder and pursue the old norms that earned them respect and public confidence

As I read media accounts about the Supreme Court decision convicting Prashant Bhushan of contempt of court, I was reminded of another case of alleged contempt which my father always recalled with a chuckle. It took place in the early 1950s when he was a junior lawyer in the Allahabad High Court. A villager from Uttar Pradesh had written postcards making allegations against a magistrate. The magistrate complained to the High Court. The court sent a number of notices to the villager to appear in court but he ignored them. Finally, non-bailable warrants were issued and the police produced the villager in court.

The Bench asked the villager why he had not responded to the notices. He said he could not afford the railway fare and as the police had brought him to court, he did not have to pay a paisa for the journey. The judges conferred with each other and decided that his allegations would not shake the administration of justice in the State; a warning would be sufficient. So, they warned him to not make such allegations and told him that he could go back home. "How will I go home? I have no money," the villager told the judges. That flummoxed them but they quickly recovered and decided to personally pay the fare! A senior advocate who was there to assist the court offered to ensure that the villager was given a meal and dropped to the railway station.

Qualities of a judge

Now, the times are very different. A magistrate is a lowly cog in the great judicial machine and not a judge of a superior court. But the personal qualities that were then required of judges and shown by those two Allahabad High Court judges are no different from those expected of present-day judges. Apart from integrity, in all its aspects including intellectual, and impartiality, the one word which comes readily to mind on the qualities of judges is sobriety.

Indeed, sobriety in a judge is so significant that it is part of the simile 'as sober as a judge'. Sobriety is not greyness or humourless grimness but a characteristic that denotes balance and connotes a desire to shun the limelight. It is the opposite of flamboyance which is in itself not a negative personal attribute and perhaps even appropriate for some callings, but is it so in judges? Judges in the past and most now too avoid being flamboyant. Sobriety and flamboyance are relevant in the Prashant Bhushan case but have not received any focus. This is because the Supreme Court has avoided any comment on the Chief Justice of India (CJI)'s photograph which has been, in a manner, the origin of the present action.

In paragraph 62, the court in the Bhushan judgment notes: "The first part of the first tweet states, that 'CJI rides a 50 lakh motorcycle belonging to a BJP leader at Raj Bhavan, Nagpur without a mask or helmet'. This part of the tweet can be said to be a criticism of the CJI as an individual and not against the CJI as CJI". It thereafter proceeds to mention the second part of the tweet where Mr. Bhushan says, "at a time when he keeps the SC in a lockdown mode denying citizens their fundamental rights to access justice". The court holds that the second part of the tweet was critical of the CJI as CJI and was contemptuous.

As the court has itself categorically opined that any comment on the photograph of the CJI cannot attract contempt, citizens are safe from being hauled up for contempt if they draw inferences as long as they do not make that a basis for making adverse comments about the the CJI's role in the administration of justice in the country. This fortifies citizens to make observations on the photograph as well as the changing nature of conventions regarding the personal conduct of the judges of the superior courts so long as they do not imply any criticism of the judges' functioning as judges. There too the court has discussed at great length how fair and constructive criticism of judicial functioning and of court judgments without attribution of motives is healthy for the functioning of Indian democracy.

A reputed wire service reported that people who were knowledgeable about the incident said that the CJI did not know who owned the motorcycle and that he merely wanted to get a feel of it. It also claimed that he wants to buy a motorcycle after his retirement. The fact is that the photograph was unique for never has a superior court judge, leave alone a CJI, been seen astride a motorcycle. The question is whether the CJI was wise to do so while occupying the august office he does or whether he should have curbed his enthusiasm till he had retired. What would he feel if many judges and magistrates follow his example, and photographs of them getting a feel of objects of their enthusiasm — for example, sports cars — appear? This is a question only he can answer after giving it the thought it deserves. I will only add that he himself knows that many lawyers on elevation to the bench have to curb their enthusiasm, change some habits and become sober in their conduct.

Shunning the limelight

In the immediate aftermath of independence, judges also maintained a tradition of aloofness. They did not seek public attention; indeed, they avoided it. For instance, unlike politicians and officers of the executive branch, they moved without pilots and escorts or sirens and red lights on their cars. It may now come as a surprise but it was only in the 1980s that High Court judges were provided with official cars. Till then, at least in the Allahabad High Court, many judges drove to the court themselves.

At some stage judges began to seek to be equated with executive officers and politicians in terms of some perks and privileges. This does not imply that the standards of judicial work were compromised but it did mean that they came more in the public eye. This led to a weakening of the strong norms of aloofness. The limelight was shunned. Official cars with sirens and red lights were symptomatic of the changing mores.

There was yet another tradition that most judges strictly adhered to. They mainly confined themselves to their judicial work and only spoke through their judgments. This does not mean that they did not pursue their hobbies and write on non-judicial subjects in which they had expertise but they avoided issues of public policy which may come before the courts. Certainly, they did not give their views on controversial political and social issues. Largely this tradition continues to be pursued.

All in all, judges of the superior courts must, even in these changing times, ponder deeply the old norms that earned them respect and public confidence, and pursue them. There is no surer foundation for the judicial branch of the state.

Meanings of Difficult Words:

- ❖ **impartial** (adjective) – unbiased, non-partisan, disinterested, neutral, fair-minded.
- ❖ **aloof** (adjective) – detached, unresponsive, reserved, uncommunicative.
- ❖ **sober** (adjective) – serious/sensible, serious-minded, self-controlled, restrained, unemotional.
- ❖ **ponder** (verb) – think about, consider, review, reflect on.
- ❖ **pursue** (verb) – engage in, conduct, follow.
- ❖ **account** (noun) – narrative, report, explanation, interpretation.
- ❖ **convict** (verb) – declare guilty, give a sentence.
- ❖ **contempt** (noun) – it refers to the offence of showing disrespect to the dignity or authority of a court (& its officers).
- ❖ **criminal contempt** (noun) – it includes any act or publication which: (i) ‘scandalises’ the court, or (ii) prejudices any judicial proceeding, or (iii) interferes with the administration of justice in any other manner.
- ❖ **civil contempt** (noun) – it refers to the wilful disobedience of an order of any court.
- ❖ **chuckle** (noun) – a quiet/soft laugh.
- ❖ **allegation** (noun) – charge, accusation, complaint.
- ❖ **magistrate** (noun) – the judicial officers or civil officers of a state who handle minor legal cases in a specific area like town, district etc.
- ❖ **non-bailable** (adjective) – not capable of being released on bail.
- ❖ **warrant** (noun) – an order issued by the court to either a police officer or any person addressing them to arrest the accused and produce them in front of the court.
- ❖ **confer** (verb) – consult, have discussions, discuss things, exchange views.
- ❖ **flummox** (verb) – baffle, bewilder, mystify, perplex, confuse.
- ❖ **a cog in the machine** (phrase) – a small member of a large organization/system.
- ❖ **integrity** (noun) – fairness, uprightness, morality/honesty.
- ❖ **intellectual** (noun) – academic, scholar, learned person.
- ❖ **impartiality** (noun) – fairness, equality, neutrality, probity.
- ❖ **sobriety** (noun) – the state of being sober; seriousness, severity, self-control, self-restraint.
- ❖ **simile** (noun) – metaphor, figure of speech, figurative expression (as a method of comparison).
- ❖ **greyness** (noun) – dullness, uninterestedness.
- ❖ **humourless** (adjective) – serious, grave, serious-minded.
- ❖ **grimness** (noun) – harshness, strictness, cheerlessness, aloofness.
- ❖ **characteristic** (noun) – attribute, feature, quality, aspect.
- ❖ **connote** (verb) – suggest, indicate, imply.
- ❖ **shun** (verb) – avoid, ignore, reject, eschew.
- ❖ **limelight** (noun) – the focus of attention, public attention, public notice.
- ❖ **flamboyance** (noun) – excessive display, flashiness, showiness.
- ❖ **calling** (noun) – profession, occupation, career.
- ❖ **flamboyant** (adjective) – showy, swashbuckling, extravagant.
- ❖ **lockdown** (noun) – an emergency protocol implemented by the authorities that prevents people from leaving from a place; An extended state of confinement/encirclement/isolation of a person by the authority.
- ❖ **hold** (verb) – give (a verdict/judgement).
- ❖ **contemptuous** (adjective) – scornful, disdainful, disrespectful, insulting.

- ❖ **categorically** (adverb) – absolutely, unquestionably, certainly, clearly, unequivocally, unambiguously.
- ❖ **opine** (verb) – suggest, put forward, propose, say (an idea/opinion).
- ❖ **haul up** (phrasal verb) – to force (someone) to appear for trial (in a court of law).
- ❖ **adverse** (adjective) – unfavourable, disadvantageous, bad.
- ❖ **fortify** (verb) – strengthen, reinforce, bolster, consolidate.
- ❖ **convention** (noun) – practice, tradition, habit.
- ❖ **conduct** (noun) – behaviour.
- ❖ **imply** (verb) – say indirectly, suggest, indicate.
- ❖ **constructive** (adjective) – useful/helpful, productive, practical/effective/beneficial.
- ❖ **wire service** (noun) – news agency.
- ❖ **leave alone** (phrase) – stop disturbing someone/something, stop interfering with someone/something.
- ❖ **astride** (preposition) – With a leg on each side of something (motorbike).
- ❖ **august** (adjective) – acclaimed, venerable, distinguished, highly regarded.
- ❖ **curb** (verb) – control, contain, restrict, limit.
- ❖ **enthusiasm** (noun) – eagerness, warmth, interest.
- ❖ **elevation** (noun) – promotion, upgrading, advancement.
- ❖ **in the aftermath of** (phrase) – as a consequence of, as a result of.
- ❖ **aloofness** (noun) – introvert behaviour; reserved character; the state/quality of being remote/distant from others.
- ❖ **for instance** (phrase) – as an example.
- ❖ **the executive** (noun) – a branch of government which enforces the law as written by the legislature and interpreted by the judiciary; government.
- ❖ **come as a surprise** (phrase) – to be unexpected, to make someone feel surprised.
- ❖ **equate with** (verb) – correspond, be equivalent, amount to.
- ❖ **perk** (noun) – a benefit (perk/quite/bonus/gratuity/reward/extra) someone gets from the job (apart from regular wages/salary).
- ❖ **privilege** (noun) – benefit, advantage, or favour, gain.
- ❖ **compromise** (verb) – undermine, weaken, lessen.
- ❖ **the public eye** (phrase) – the spotlight, the limelight, exposed to a lot of public notice and attention.
- ❖ **symptomatic** (adjective) – indicative, suggestive, symbolic.
- ❖ **mores** (noun) – traditions, practices, habits, conventions.
- ❖ **adhere to** (verb) – abide by, follow, obey, comply with.
- ❖ **all in all** (phrase) – taking everything into account, all things considered, on the whole.