

RULES AND ORDERS OF THE PUNJAB HIGH COURT

VOLUME IV

Canons of Judicial Ethics.

In 1953 the High Court issued the following circular letter to all District and Sessions Judges in the Punjab and Delhi and forwarded a set of rules for the guidance of all Judicial Officers.

I am desired by the Honorable the Chief Justice and Judges to forward herewith a set of rules framed by this Court for the information and guidance of all judicial officers. These rules have not been framed in exercise of powers conferred by any statute and must, therefore, be regarded as canons for professional conduct of judicial officers. They should be used as a reminder for judges and as indicating what the people have a right to expect from them. They are being issued as a general guide, but the enumeration of particular duties should not be construed as a denial of the existence of others equally imperative though not specifically mentioned. It is of the utmost importance that the public should have absolute confidence in the integrity and impartiality of judicial officers.

These canons of ethics should be deemed to be in addition to and not in derogation of the Government Servants Conduct Rules.

As justice delayed is justice denied, I am to request that all judicial officers should be asked to dispose of the cases pending in their Courts as early as possible. In this connection, I am to invite a reference to this Court's demi-official circular letter No. 11733-E/IX-A 16, dated the 15th December, 1949.

1. *Relations of the Judiciary.*—The assumption of the office of judge casts upon the incumbent duties in respect to his personal conduct which concern his relation to the state and its inhabitants, the litigants before him, the principles of law, the practitioners of law in his court, and the witnesses, jurors, assessors and attendants who aid him in the administration of its functions.

2. *The public interest.*—Courts exist to promote justice, and thus to serve the public interest. Their administration should be speedy and careful. Every judge should at all times be careful in his decisions and in the conduct of the business of the court, so far as he can, to make it useful to litigants and to the community. He should avoid unconsciously falling into the attitude of mind that the litigants are made for the courts instead of the courts for the litigants.

3. *Constitutional Obligations.*—It is the duty of all judges in this country to support the Constitution of India; in so doing, they should secure to the citizens of India the fundamental rights which have been guaranteed to them.

4. *Avoidance of Impropriety.*—A judge's official conduct should be free from impropriety and the appearance of impropriety ; he should avoid infractions of law ; and his personal behaviour, not only in court and in the performance of judicial duties but also in his everyday life, should be beyond reproach.

5. *Essential conduct.*—He should be temperate, attentive, patient, impartial, and, since he is to administer the law and apply it to the facts, he should be studious of the principles of the law and diligent in endeavouring to ascertain the facts.

6. *Industry.*—He should exhibit an industry and application commensurate with the duties imposed upon him.

7. *Promptness and punctuality.*—He should be prompt and punctual in the performance of his judicial duties, recognising that the time of counsel, litigants, and jurors is of value and that habitual lack of punctuality on his part justifies dissatisfaction with the administration of the business of the Court.

8. *Court Organisation.*—He should organise the Court with a view to the prompt and convenient despatch of its business and he should not tolerate abuses and neglect by clerks, and other assistants who are some-times prone to presume too much upon his good natured acquiescence by reason of friendly association with him.

It is desirable too that he should co-operate with other judges of the same court, and in other courts, as members of a single judicial system, to promote the more satisfactory administration of justice.

9. *Consideration for Jurors and others.*—He should be considerate of counsel, jurors, assessors, witnesses and others in attendance upon the court.

10. *Courtesy and Civility.*—He should be courteous to counsel, especially to those who are young and inexperienced and also to all others appearing or concerned in the administration of justice in the Court.

He should also require, and, so far as his power extends, enforce on the part of clerks, court officers and counsel, civility and courtesy to the court and to jurors, assessors, witnesses, litigants and other having business in the court.

11. *Unprofessional Conduct of Counsel.*—He should utilize his opportunities to criticise and correct unprofessional conduct of Counsel, brought to his attention ; and, if adverse comment is not a sufficient corrective, should report the matter at once to the High Court.

12. *Appointees of the judiciary and their Allowances and fees.*—Trustees receivers, liquidators, guardians and other persons appointed by a judge to aid in the administration of justice should have the strictest probity and impartiality and should be selected with a view solely to their character and fitness. The power of making such appointments should not be exercised by him for personal, partisan or communal advantage. He should not permit his appointment to be controlled by others than himself. He should also avoid nepotism and undue favouritism in his appointments.

While not hesitating to fix or approve just amounts, he should be most scrupulous in granting or approving compensation for the services or charges of such appointees to avoid excessive allowances or fees, whether or not expected to or

complained of. He cannot rid himself of this responsibility by the consent of counsel.

13. *Kinship or influence.*—He should not deal with a suit, appeal or application or act in a controversy where a near relative is a party; he should not suffer his conduct to justify the impression that any person can improperly influence him or unduly enjoy his favour, or that he is affected by the kinship, rank, position or influence of any party or other person.

14. *Independence.*—He should not be swayed by partisan or communal demands, public clamour or considerations of personal popularity or notoriety, nor be apprehensive of unjust criticism.

15. *Interference in conduct of trial.*—He may properly intervene in a trial of a case to promote expedition, and prevent unnecessary waste of time, or to clear up some obscurity, but he should bear in mind that his undue interference, impatience, or participation in the examination of witnesses, or a severe attitude on his part toward witnesses, especially those who are excited or terrified by the unusual circumstances of a trial may tend to prevent the proper presentation of the cause, or the ascertainment of the truth in respect thereto.

Conversation between the judge and counsel in court is often necessary but the judge should be studious to avoid controversies which are apt to obscure the merits of the dispute between litigants and lead to its unjust disposition. In addressing counsel, litigants, or witnesses, he should avoid a controversial manner or tone.

He should avoid interruptions of counsel in their arguments except to clarify his mind as their positions, and he should not be tempted to the unnecessary display of learning or a premature judgment.

16. *Ex parte applications.*—He should discourage *ex parte* hearings of applications for injunctions and receiverships where the orders may work detriment to absent parties; he should act upon such *ex parte* application only where the necessity for quick

action is clearly shown; if this be demonstrated, then he should endeavour to counteract the effect of the absence of opposing counsel by a scrupulous cross-examination and investigation as to the facts and the principles of law on which the application is based, granting relief only when fully satisfied that the law permits it and the emergency demands it. He should remember that an injunction is a limitation upon the freedom of action of defendants and should not be granted lightly or inadvisedly. On applying for such relief must sustain the burden of showing clearly its necessity and this burden is increased in the absence of the party whose freedom of action is sought to be restrained even though only temporarily.

17. *Ex parte Communications*.—He should not permit private interview, arguments or communications designed to influence his judicial action except in cases where provisions is made by law for *ex parte* application.

He should not permit the contents of written arguments presented to him to be concealed from opposing counsel. Ordinarily all communications of counsel to the judge intended or calculated to influence action should be made known to opposing counsel.

18. *Continuances*.—Delay in the administration of justice is a common cause of complaint; counsel are frequently responsible for this delay. A judge, without being arbitrary or forcing cases unreasonably or unjustly to trial when unprepared, to the detriment of parties, may well endeavour to hold counsel to a proper appreciation of their duties to the public interest to their own clients, and to adverse party and his counsel, so as to enforce due diligence in the despatch of business before the Court.

19. *Judgements and Orders*.—In disposing of controverted cases, a judge should indicate the reasons for his action in an order showing that he has not disregarded or overlooked serious arguments of counsel. He thus shows his full understanding of the case, avoids the suspicion of arbitrary conclusion, promotes confidence in his intellectual integrity and may contribute useful precedent to the growth of the law.

It is desirable that Courts of Appeal or Revision in remanding cases to granting new trials should so indicate their views on questions of law argued before them and necessarily arising in the controversy that upon the new trial counsel may be aided to avoid the repetition of erroneous positions of law and shall not be left in doubt by the failure of the court to decide such questions.

Without departing substantially from the principles enunciated above Judges should endeavour to see that their Judgements and orders are as clear and concise as the circumstances of the case permit.

20. *Adherence to Law.*—A judge should be mindful that his duty is the application of general law to particular instances, that ours is a Government of Law and not of men, and that he violates his duty as a judicial officer under such a system if he seeks to do what he may personally consider substantial justice in a particular case and disregards the general law as he knows it to be binding on him. He should administer his office with a due regard to the integrity of the system of the law itself, remembering that he is not a depositary of arbitrary power, but a judge under the sanction of law.

21. *Idiosyncrasies and Inconsistencies.*—Justice should not be moulded by the individual idiosyncrasies of those who administer it. A judge should adopt the usual and expected method of doing justice, and not seek to be extreme or peculiar in his judgments, or spectacular or sensational in the conduct of the court. Though vested with discretion in the imposition of mild or severe sentences he should compel persons brought before him to submit to some humiliating act or discipline of his own devising, without authority of law, because he thinks it will have a beneficial corrective influence.

In imposing sentence he should endeavour to conform to a reasonable standard of punishment and should not seek popularity or publicity either be exceptional severity or undue leniency.

22. *Business promotions and Solicitations for Charity.*—He should avoid giving ground for any reasonable suspicion that he

is utilizing the power or prestige of his office to persuade or coerce others to patronize or contribute, either to the success of private business ventures, or to charitable enterprises. He should, therefore, not enter into such private business, or pursue such a course of conduct, as would justify such suspicion, nor use the power of his office or the influence of his name to promote the business interests of others; he should not solicit for charities, nor should he enter into any business relation which, in the normal course of events reasonably to be expected, might bring his personal interest into conflict with the impartial performance of his official duties.

23. *Personal Investments and Relations.*—He should abstain from making personal investments in enterprises which are apt to be involved in litigation in the court; and, after his appointment as a judicial officer, he should not retain such investments previously made, longer than a period sufficient to enable him to dispose of them without serious loss. It is desirable that he should, so far as reasonably possible refrain from all relations which would normally tend to arouse the suspicion that such relations warp or bias his judgment, or prevent his impartial attitude of mind in the administration of his judicial duties.

He should not utilize information, coming to him in a judicial capacity, for purposes of speculation; and it detracts from the public confidence in his integrity and the soundness of his judicial judgement for him at any time to become a speculative investor upon the hazard of a margin.

24. *Executorships and Trusteeships.*—A judge should not accept or continue to hold any fiduciary or other position if the holding of it would interfere or seem to interfere with the proper performance of his judicial duties, or if the business interests of those represented require investments in enterprises that are apt to come before him judicially, or to be involved in question of law to be determined by him.

25. *Participation in Politics.*—While entitled to entertain his personal views of political questions, and while not required to surrender his rights or opinions as a citizen, it is inevitable that suspicion of being warped by political bias will attach to a judge

who becomes the active promoter of the interests of one political party as against another. He should avoid making political speeches, making or soliciting payment of contributions to party funds or participation in party politics.

26. *Self-interest.*—He should abstain from performing or taking part in any judicial act in which his personal interests are involved.

27. *Gifts and Favours.*—He should not accept any presents or favours from litigants or from lawyers practising before him or from others whose interests are likely to be submitted to him for judgment.

28. *Social Relations.*—It is not necessary to the proper performance of judicial duty that a judge should live in retirement or seclusion; it is desirable that, so far as reasonable attention to the completion of his work will permit, he continue to mingle in social intercourse. He should, however, in pending or prospective litigation before him be particularly careful to avoid such action as may reasonably tend to awaken the suspicion that his social or business relations or friendships, constitute an element in influencing his judicial conduct.

29. *A Summary of Judicial obligation.*—In every particular his conduct should be above reproach. He should be conscientious, studious, thorough, courteous, patient, punctual, just, impartial, fearless of public clamour, regular regardless of public praise, and indifferent to private political or partisan influences; he should administer justice according to law, and deal with his appoints as a public trust; he should not allow other affairs or his private interests to interfere with the prompt and proper performances of his judicial duties, nor should he administer the office for the purpose of advancing his personal ambitions or increasing his popularity.

30. *Dress of Judicial Officers and Lawyers and Advocates.*—The dress of the Presiding Officer should be in keeping with the dignity of his office. Shorts and shirts-sleeves are quite unsuitable for the Presiding Officer of a Court. Subordinate Judges and Magistrates should wear a white shirt, black coat and necktie and grey or white trousers. The necktie will not be

worn with a high collared coat. Tehsildars and Naib-Tehsildars are not required to wear black coats or any particulars design or colour of clothes.

^[1]District and Sessions Judges and Additional District and Sessions Judges should wear a white shirt and white bands, black coat and grey or white trousers.

^[2]The Judicial Officers who wear turbans shall be required to wear white or off white (motia) coloured turbans while functioning in the Courts.

^[3]The lady Judicial Officers should wear white sari with black blouse or white shirt and white shalwar, and black coat.

^[3]During the period from 15th April to 15th September, each year, the wearing of coat by Judicial Officers of the Subordinate Courts and Advocates appearing before them is optional.

^[4]Advocates appearing in subordinate Court should wear white shirts, black coats and grey or white trousers. A black necktie or white bands must be worn with the open neck style coat.

EXPLANATION:-For the purposes of this rule, 'Advocates shall include District/Assistant District Attorneys, Public Prosecutors, Government Pleaders and other persons entitled for the time being to practice as Legal Practitioners.

Prosecuting Deputy Superintendents of Police, Prosecuting Inspectors of Police and Prosecuting Sub-Inspectors of Police appearing in subordinate Courts should wear white shirts, black coats and grey or white trousers. A black necktie must be worn with an open neck style coat.

[1] Amended vide Correction Slip No. 88 Rules/II.D4 dated 03.04.1992

[2] Inserted vide Correction Slip No. 75 Rules/II.D4 dated 22.04.1985

[3] Added vide Correction Slip No. 88 Rules/II.D4 dated 03.04.1992

[4] Substituted vide Correction Slip No. 26 dated 20.02.1968

^[1]31. No judicial officer shall except with the previous sanction of the High Court participate in television programme or discussion.

^[1]32. No judicial officer shall participate in Radio Broad Cast or contribute an article or write a letter to a newspaper or periodical or publish a book on any subject without the prior permission/sanction of the High Court.

[1] Added vide Correction Slip No. 94 dated 28.03.1995