

Sadhna Chaudhary vs The State Of Uttar Pradesh on 6 March, 2020

Equivalent citations: AIR 2020 SUPREME COURT 2542, AIR ONLINE 2020 SC 329

Author: Chief Justice

Bench: Surya Kant, B.R. Gavai, S.A. Bobde

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2077 OF 2020
[Arising out of Special Leave Petition(C)No. 8550 OF 2019]

Sadhna Chaudhary

..... Appellant

VERSUS

State of U.P. & Anr.

..... Respondents

JUDGMENT

Leave Granted.

2. This appeal has been preferred by Sadhana Chaudhary, being aggrieved, against an order dated 12.12.2018 passed by the High Court of Judicature at Allahabad by which her writ petition, seeking judicial review of her dismissal from the Uttar Pradesh Higher Judicial Services by Respondent No. 1, had been rejected. FACTUAL MATRIX

3. Services on 05.06.1975 and was posted as Additional Munsif, Dehradun. She was subsequently promoted to the Chief Judicial Page | 1 Magistrate Cadre in 1981, and again to the Uttar Pradesh Higher Judicial Services on 21.03.1987.

4. A Division Bench of the High Court of Judicature at Allahabad, while seized of the first appeal

against a Land Acquisition Reference, made certain observations on 05.03.2004 with regard to the manner in which some other land acquisition cases of similar nature were being adjudicated by subordinate judicial officers in the state of Uttar Pradesh.¹ A copy of the judgment was placed by the Registrar before the Administrative Committee of High Court for appropriate action. The Administrative Committee constituted a committee comprising of two Judges to probe into complaints of collusion in land acquisition matters. This enquiry committee after visiting numerous districts of western Uttar Pradesh (UP) and examination of many judgments, submitted a report on 19.09.2004 recommending initiation of disciplinary action against certain judicial officers, including the appellant.

5. Accordingly, a Charge Sheet was served upon the appellant with regard to two judicial orders delivered by her during her stint as Additional District Judge at Ghaziabad. Following were the charges attributed to the appellant:

“Charge No.1 □That you on 10.02.2003 while posted as IInd Additional District Judge Ghaziabad decided Land Acquisition Reference No.193/1996 Lile Singh Vs. State of U.P. and 35 Agra Development Authority v. State of UP, 2004 All LJ 1853.

Page | 2 others illegally and against all judicial norms and propriety awarding to the claimants solatium, additional amount and interest over and above the rate at which two other claimants had entered into compromise which was inclusive of such other benefits at an enhanced rate of Rs.265/□per sq. yard as against Rs.74.40 determined by the S.L.A.O. for land area 276 Bighas 12 Biswas and 15 Biswansi, unduly awarded an additional amount of Rs.47,73,39,903.86 which leads to an inference that you were actuated by extraneous considerations and you thereby failed to maintain absolute integrity and complete devotion to duty and you thus committed misconduct within the meaning of Rule 3 of UP Govt. Servants Conduct rules 1956.

Charge No.2 □That you on 7.11.2003 posted as Additional District Judge, Court No.1, Ghaziabad, while deciding Land Acquisition Reference No.91 of 2001 Umesh Chandra Vs. State of UP and 66 other cases enhanced the rate of compensation from Rs.100/□per square yard determined by the S.L.A.O to Rs.160/□per square yard, illegally disregarding the exemplars filed by the defendants including your own award in Land Acquisition Reference No.1 of 1992, Surendra Vs State of UP decided on 24.03.1993, for land acquired in the same year, in the same area and under the same scheme in order to award an additional amount of Rs.28,53,24,896.80 to the claimants for land area 483 Bighas, 14 Biswas and 8 Biswansis leading to inference that you were actuated by extraneous considerations and you thereby failed to maintain absolute integrity and complete devotion to duty, and you thus committed misconduct within the meaning of Rule 3 of UP Government Servants Conduct Rules 1956. ” (Emphasis applied) Page | 3

6. The appellant submitted detailed reply to the chargesheet, as well as additional written arguments. Subsequently, an enquiry was conducted and the Enquiry Committee through its report

dated 09.09.2005 held that both the charges had been proved for these were errors apparent in both cases which were such 'shocking blunders' that they could not be attributed to mere misjudgment, and consequently were proved to be 'deliberate'. The said report was placed before the Administrative Committee which accepted the same vide resolution dated 29.11.2005, and referred the matter to the Full Court for determination of quantum of punishment. The Full Court resolved to dismiss the appellant from service and consequently forwarded its recommendation to the State (Respondent No. 1), which through an office memorandum issued by its Appointments Department on 17.01.2006, dismissed the appellant from service with immediate effect. The appellant challenged the order of dismissal before the High Court on judicial side invoking the writ jurisdiction.

7. The Division Bench of the HC took note of the two land acquisition references which had been decided by the appellant. With regards to the first case of Lile Singh v. State² it held that the appellant had wrongly relied upon a compromise deed of two other claimants to enhance compensation from Rs 74.40/sq yd (as determined by the Special Land Acquisition Officer) to Rs 264/sq yd. Land Acquisition Reference No. 193 of 2006, delivered on 10.02.2003.

Page | 4 Additionally, she had awarded solatium and interest over and above the said determined rate, which led to a steep escalation to Rs 720/sq yd. Holding such reliance on compromise deeds as being incomprehensible owing to the statutory bar of Section 11(3) of the Land Acquisition Act, 1894, the escalation was deemed disproportionate and against judicial propriety.

8. With regard to the second reference in Umesh Chandra v. State³, the Court observed that the appellant as a judge illegally disregarded exemplars filed by the State Respondents, particularly, an award of Rs 108/sq yd passed only a few months ago by her in a similar case. Notwithstanding such evidence, the appellant was said to have increased the compensation from Rs 100/sq yd to Rs 160/sq yd, in contravention of all judicial norms.

9. The Bench opined that it was settled law that although the final decision made by a judicial officer was of no relevance for purposes of disciplinary enquiry, however, the legality and correctness of the decision-making process as well as the conduct of the officers in discharge of their duties ought to be considered. The High Court accordingly endorsed the Respondent's plea that the decision-making process of the appellant while deciding the aforementioned two land acquisition references was bereft of judicial propriety, settled judicial norms and was actuated by extraneous considerations. Additionally, the High Court placed emphasis on the windfall gain made available to Land Acquisition Reference No. 91 of 2001, delivered on 07.11.2003.

Page | 5 the claimants as being evidence of the deliberate lapses made by the appellant in response to extraneous considerations, and not merely errors of judgment. This, the High Court noted, amounted to misconduct as opined by the Enquiry Committee.

10. Furthermore, the Court noted that, even otherwise, strict rules of evidence were inapplicable to departmental enquiries, and the scope of judicial review in such matters also being very limited, findings of the disciplinary enquiry could be interfered with only in the complete absence of material, which was not the case at hand. CONTENTIONS OF PARTIES

11. Counsel for the appellant made a spirited argument that although the High Court undoubtedly expounded the correct law, however it failed to appropriately apply it to the facts of the present case. He argued that the chargesheet made no allegation of the 'decision-making process' being illegal, and the same could not be made a ground for the appellant's dismissal later. Taking the Court through the charge sheet on record, it was highlighted that no allegation of receipt of any illegal gratification or being swayed by any specific extraneous factor was even levelled against her, let alone being proved. No witnesses or material to cast doubts upon the decision-making process were adduced, except for merely the two land acquisition reference orders. This, as per *PC Joshi v. State of UP*⁴, (2001) 6 SCC 491.

Page | 6 was clearly impermissible. Even otherwise, determining appropriateness of the substance of the judicial orders was said to be the domain of appellate courts and not the enquiry committees.

12. Even on merits, it was contended that the High Court erred in holding that the appellant had illegally relied upon compromise deeds while authoring the order in *Liley Singh*, for the supposed bar under Section 11(3) of the LA Act was applicable only to awards by Collectors. Reference Courts were guided by distinct legal provisions under Sections 23 and 24, per which compromise deeds were not excluded. The escalations were also shown as not being arbitrary, but rather founded upon the Compromise Policy of the New Okhla Industrial Development Authority, which was tweaked to grant statutory dues of solatium and interest instead of the additional 10% developed land being granted by the State authorities. Hence, it was pleaded, that if anything, the net compensation of Rs 720/sq yd was effectively lower in cost to the State than the Rs 1120/sq yd being borne under their own policy.

13. Qua *Umesh Chand*, it was submitted that the deviation from the appellant's very own judgment rendered five months ago, was a result of the substantial development and increase in prices which took place in the interregnum. This was duly backed up by documentary evidence produced by the vigilant claimants, and hence compensation was enhanced by a factor of 60% to Rs 160/sq yd. Glaringly, this very Page | 7 compensation, which was found as being a shocking blunder by the enquiry committee, was further enhanced by the Apex Court in an SLP filed by some other claimants to Rs 297/sq yd., and appeals filed by the Local Development Authority had been dismissed. Thus, the very basis of the inference of misconduct was claimed as not having survived.

14. Reiterating the position of law expounded by the High Court, the appellant argued that it was the conduct of a judicial officer in discharge of her duties, and not the legality/correctness of her decision, could be subjected to disciplinary action. Given the detailed reasons in both references by the appellant, there was no 'reckless discharge of duties' either. Even if there were to be such omission in duty, in the absence of any charge of illegal gratification, it would amount to 'negligence' and not 'misconduct' as per this Court's order in *Union of India v. J Ahmed*⁵. The charges were said to be based merely upon unfounded suspicion, and any possible errors in the judicial orders were contended not to be grounds for action, owing to long-settled principles of judicial immunity tracing back to the Judicial Officers Protection Act, 1850.

15. The enquiry itself was stated to be roving in nature, without any rational basis for selecting those two cases only. The order of the High Court in Agra Development Authority (supra) was to be applicable AIR 1979 SC 1022.

Page | 8 only to instances where complaints of judicial impropriety or allegations of collusion in land acquisition reference cases were made against judicial officers, which was not the present case. Notwithstanding guilt, the appellant urged that the quantum of punishment was unfair. Having rendered almost thirty years of unblemished service, dismissing her on the strength of abovestated charges, was prayed as being disproportionate.

16. On the other hand, Learned Counsel for the High Court (Respondent No. 2) contended that judicial officers are not ordinary government servants, and that they must adhere to a higher standard of probity and ought to be above suspicion. Persons occupying such high posts should have high integrity, honesty, moral vigour, fairness and must be impervious to corrupt or venial influences. The limited scope of interference in matters of domestic enquiry where the allegations founded upon specific facts have been proved, was also highlighted.

17. The scope of the present proceedings, thus was sought to be restricted, by drawing attention to constitutional provisions which bestowed exclusive control of the High Court over the subordinate judges, with the aim of preserving independence of judiciary. Given the fact that opportunities of being heard and placing on record written submissions were duly accorded to the appellant, and her detailed replies had been considered and rejected, it was not open for Page | 9 her to seek re-determination of her case through this Court. Both the enquiry committee and the Full Court were contended to have applied their minds and passed reasoned orders wherein it was unequivocally found that the appellant had utterly failed to justify her conduct and had acted in a most reckless and arbitrary manner, which was bereft of all judicial propriety. This was pleaded to undoubtedly amount to 'gravest misconduct', justifying the dismissal of services for preserving public trust in the judiciary.

ANALYSIS

18. Undoubtedly, the High Court is correct in its observation of the applicable law. Indeed, the end result of the judicial process does not matter, and what matters is only the decision-making process employed by the delinquent officer. Clearly, it is a principle since the nineteenth century that judges cannot be held responsible for the end result or the effect of their decisions. 6 This is necessary to both uphold the rule of law, and insulate judicial reasoning from extraneous factors.

19. Even furthermore, there are no two ways with the proposition that Judges, like Caesar's wife, must be above suspicion. Judicial officers do discharge a very sensitive and important constitutional role. They not only keep in check excesses of the executive, safeguard See Judicial Officers Protection Act, 1850.

Page | 10 citizens' rights and maintain law and order. Instead, they support the very framework of civilised society. It is courts, which uphold the law and ensure its enforcement. They instil trust of

the constitutional order in people, and ensure the majesty of law and adherence to its principles. Courts hence prevent people from resorting to their animalistic instincts, and instead provide them with a gentler and more civilised alternative of resolving disputes. In getting people to obey their dicta, Courts do not make use of guns or other (dis)incentives, but instead rely on the strength of their reasoning and a certain trust and respect in the minds of the general populace. Hence, it is necessary that any corruption or deviation from judicial propriety by the guardians of law themselves, be dealt with sternly and swiftly.

20. It has amply been reiterated by this Court that judicial officers must aspire and adhere to a higher standard of honesty, integrity and probity. Very recently in *Shrirang Yadavrao Waghmare v. State of Maharashtra*⁷, a Division Bench of this Court very succinctly collated these principles and reiterated that:

“5. 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 (2019) 9 SCC 144.

Page | 11 should possess the sterling quality of integrity. This Court in *Tarak Singh v. Jyoti Basu* [*Tarak Singh v. Jyoti Basu*, (2005) 1 SCC 201] held as follows: (SCC p. 203) “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 justice delivery system resulting in the failure of public confidence in the system. It must be remembered that woodpeckers inside pose a larger threat than the storm outside.”

6. The behaviour 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* [*Daya Shankar v. High Court of Allahabad*, (1987) 3 SCC 1:1987 SCC (L&S) 132] held thus: (SCC p.1) “Judicial officers cannot have two standards, one in the court and another 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.”

7. 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.

8. Judges must remember that they are not merely employees but hold high public office. In *R.C. Chandel v. High Court of M.P.* [*R.C. Chandel v. High Court of M.P.*, (2012) 8 SCC 58 :

(2012) 4 SCC (Civ) 343 : (2012) 3 SCC (Cri) 782 : (2012) 2 SCC Page | 12 (L&S) 469] , 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: (SCC p. 70, para 29) “29. 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 secured that the 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 the rule of law to survive, justice system and the judicial process have to be strong and every Judge must discharge his judicial functions with integrity, impartiality and intellectual honesty.”

9. 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.

10. 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. ...” Page | 13 (emphasis supplied)

21. We are also not oblivious to the fact that mere suspicion cannot constitute ‘misconduct’. Any ‘probability’ of misconduct needs to be supported with oral or documentary material, even though the standard of proof would obviously not be at par with that in a criminal trial. While applying these yardsticks, the High Court is expected to consider the existence of differing standards and approaches amongst different judges. There are innumerable instances of judicial officers who are liberal in granting bail, awarding compensation under MACT or for acquired land, backwages to workmen or mandatory compensation in other cases of tortious liabilities. Such relief-oriented judicial approaches cannot by themselves be grounds to cast aspersions on the honesty and integrity of an officer.

22. Furthermore, one cannot overlook the reality of ours being a country wherein countless complainants are readily available without hesitation to tarnish the image of the judiciary, often for mere pennies or even cheap momentary popularity. Sometimes a few disgruntled members of the Bar also join hands with them, and officers of the subordinate judiciary are usually the easiest target. It is, therefore, the duty of High Courts to extend their protective umbrella and ensure that upright and straightforward judicial officers are not subjected to unmerited onslaught.

Page | 14

23. It is evident in the case in hand that the High Court itself was cognizant of this settled proposition of law. Learned senior counsel for the appellant also finds no fault with these principles, and instead only seeks for their application to the facts of the present case.

24. It is a matter of record that at the time when the High Court was seized of this matter, writ petitions against both of the appellant's land acquisition judgments had been dismissed by its coordinate benches. The High Court has, nevertheless, rightly observed that dismissal of writ petitions against the appellant's orders did not serve as vindication or confirmation of her orders. Indeed, as correctly noted by the High Court, the scope of judicial review under Article 226 is limited. The standards to be met prior to interference in exercise of writ jurisdiction are very high, and there needs to be gross substantive injustice through the conclusion, glaring irregularities in procedure or the need to resolve important questions of law for a writ court to overturn the Reference Court's order. Hence, dismissal of writ petition merely signifies the failure to demonstrate any of these high standards, in a particular case, and not the endorsement of the orders passed by a subordinate authority.

25. However, the facts of the present case are distinct. This Court, in fact, entered into the merits of one of the allegedly erroneous orders. Not only was the judgment affirmed, but rather the compensation was further enhanced. It hence can no longer be stated that the appellant's Page | 15 order was wrong in conclusion. This fact is significant as it establishes that the increase in compensation by the appellant was not abhorrent.

26. Had the charge been specific that the decision-making process was effectuated by extraneous considerations, then the correctness of the appellant's conclusions probably would not have mattered as much. However, a perusal of the charges extracted above makes it evident that the exclusive cause of enquiry, inference of dishonesty as well as imposition of penalty was only on the basis of the conclusion of enhancement of compensation. Given how the challenge to one of those two orders had been turned down at the High Court stage, and the other was both affirmed and furthered in principle by this Court, the very foundation of the charges no longer survives.

27. We can find no fault in the proposition that the end result of adjudication does not matter, and only whether the delinquent officer had taken illegal gratification (monetary or otherwise) or had been swayed by extraneous considerations while conducting the process is of relevance. Indeed, many times it is possible that a judicial officer can indulge in conduct unbecoming of his office whilst at the same time giving an order, the result of which is legally sound. Such unbecoming conduct can either be in the form of a judge taking a case out of turn, delaying hearings through adjournments, seeking bribes to give parties their legal dues etc. None of these necessarily need to affect the outcome. However, importantly in the present case, a Page | 16 perusal of the chargesheet shows that no such allegation of the process having been vitiated has been made against the appellant.

28. There is no explicit mention of any extraneous consideration being actually received or of unbecoming conduct on the part of the appellant. Instead, the very basis of the finding of 'misbehaviour' is the end result itself, which as per the High Court was so shocking that it gave rise

to a natural suspicion as to the integrity and honesty of the appellant. Although this might be right in a vacuum, however, given how the end result itself has been untouched by superior courts and instead in one of the two cases, the compensation only increased, no such inference can be made. Thus, the entire case against the appellant collapses like a house of cards.

CONCLUSION

29. In light of the above discussion, the appeal is allowed. The judgment of the High Court is set aside and the writ petition filed by the appellant is allowed. The order of dismissal dated 17.01.2006 passed by Respondent No. 1 is set aside, and the appellant's prayers for reinstatement with consequential benefits including retiral benefits, is accepted. No order as to costs.

.....CJI (S.A. BOBDE) Page | 17J. (B.R. GAVAI)
..... J.

(SURYA KANT) NEW DELHI DATED : 06.03.2020 Page | 18