

**ADDRESS TO THE HIGH COURT BAR ASSOCIATION BY HON'BLE
SRI JUSTICE B. PRAKASH RAO ON HIS LORDSHIP'S FAREWELL
ON 24.5.2011 AT 3.30 P.M.**

The President and members of the Bar of High Court of A.P.

Grateful to you for the good words you have spoken about me. I am astounded after listening to them if really I am a person of such quality. But I shall accept it as a truth because you are the cream of the society, who can Judge the quality of Judges in your regular professional life. I have had several occasions addressing the Bar at different times and on different topics but this is a unique occasion which I never intend to miss. This gives me a breath for introspection of what I have intended while on the Bench and of what I could really deliver up and whether the goods delivered from my duty are useful to the society, because, it is said by Justice *Barbara Milano Keenan* of U.S. that *Judges are essentially social engineers*. So it is the habit of engineer to review the quality of the construction once the project is completed.

According to Article 217(2) of the Indian Constitution, apart from other provisions, a person shall not be qualified for appointment as a Judge of High Court unless he is a citizen of India and has for at least 10 years been an Advocate of a High Court. Similarly Article 124(3), concerning Supreme Court. These two constitutional provisions have made it possible for an Advocate to transform himself into a Judge and thus assume the aptitude of deciding himself a matter today, the like of which he was arguing yesterday. Therefore, the qualities imbibed in that person as an Advocate keep on to thrive even after his appointment as a Judge and for this reason, his anxiety, love and regard for the profession which made him a Judge, remains the same. Therefore, the Advocate's gene entrenched in a person is likely to last long and the constitutional acknowledgement of

the unending relationship between the Bench and the Bar compels such Judge forever to look to the Bar with his aspirations, sincere expectations and for legitimate guidance. Work culture alone can be the apparent line to keep the Bench and the Bar jointly affianced in legal pursuits. There cannot be a high-quality judgment unless there is vigorous teamwork of the Bar and there cannot be good arguments unless the Judge's respectivity is broad based. In this connection I recall how my Senior Sri *Gannu* taught the day-to-day practical working in the Courts. The involvement of Senior Advocates in shaping the juniors attending his chambers had been unique and unparalleled. This training left everlasting impact in the career of the new-entrants. It is in this period when the new entrant into the profession is trained how and why peaceful co-existence of Bar and Bench is imperative for dispensation of justice. In fact, the relationship has to be made so harmonious that the Court's ambience becomes sublime. But, if either side loses melody or goes out of beat or plays unmindful of tunes, the sublimity is bound to be lost. There is nothing more strident to the ears than an ill measured and out of scale symphony.

There are certain throbbing experiences where the learned members of Bar have chosen to take out processions and call for strikes, withholding work in Courts for reasons unlinked to the profession. I know certain maladies in the functioning of justice delivery system. The system is laden with mounting case numbers, rapid filing but snail pace disposal, led by recurrent, unnecessary and stretched adjournments, repeated absence of judicial officers, short of coordination are a few instances of worry. My disquiet is to appraise the loss of judicial working hours in that period, but not criticizing the cause of

struggle. Who can dispute that the confidence of litigants in the judicial system alone can perpetuate the democratic fabric of our motherland ?

Foundation of the rule of law is dependent on a cause being taken up in Courts and decided in accordance with law with the assistance of the Lawyers. If a litigant does not get the chance to get his matter decided through Courts of law and the time-honoured legal methods, he is bound to develop annoyance and look out for extra-legal methods. If this mind-set develops in the litigants, it is likely to result in raising mafias and criminal gangs as also encourage anti-social elements. There is no alternative for the citizens of this country but to rely upon Lawyers and the Courts, should any obscurity or grievance relating to personal or legal rights arise. Their faith in the Judiciary is unqualified. Simultaneously, it speaks volumes of the uprightness of the advocates when it is noticed that the clients handover their valuable documents and money to their Counsel without any hitch or dithering and repose inclusive confidence in them. In return the Advocate is to swear a sincere professional discharge of his duty and nothing more.

The State has drawn many of its political leaders from out of the members of the Bar just as so many eminent administrators and Judges. Therefore, all the three wings of the State machinery, the Executive, the Legislature and the Judiciary have a persisting common link between them and that is the Bar. In fact, the Bar has grown in its numerical strength enormously. The members of the Bar have to be the best security of the Bench while the persons manning the Bench have to be the well wishers of the members of the Bar by upholding the rule of law, impartial conduct and unimpeachable integrity. It is heartening to think that the glory of the Courts will be enhanced by the new generation of Advocates by understanding

each other's responsibility and limitations wheels, will carry forwards the chariot of justice to the envy of every adversary and to the satisfaction of all concerned.

To rise to occasion there is advice to the junior members of the fraternity. They shall improve English language and grammar. They shall read every day editorial and centre page articles in Hindu, Times of India *etc.*, besides a page at least from *Salmond's Jurisprudence*; one judgment of Privy Council. Every one of you must read complete set of *Moore's Indian Appeals*, and a meaningful reading of *Halsbury's laws*. There are certain authors you should not forget, like *Maxwell* on Interpretation of Statutes; read books in English literature, allied subjects like developing fields of law having current and contemporary importance like Cyber Laws, IPR Avenues, Environmental Laws, Corporate Laws, economics, political science, sociology, psychology. One shall never lose the self confidence and confidence of the colleagues. Train and equip yourself by participation actively through programmes like seminars, discussions, workshops on the innovative fields of law and know the basic protocols to keep up. More particularly, you must invariably maintain a dress-code to communicate to the others that you are a self regimented personality.

I have been pondering over a question all the time, why do Lawyers and Judges often encounter problems in dealing with one another in their professional roles ? My answer is that these difficulties often result from the isolation of Judges with the legal profession and from lack of understanding that many Lawyers and Judges should show toward one another. When I became Judge, I was confident that I would not become isolated but would remain connected to my fellow lawyers without many changes in our relationships. But I realized slowly, that somewhat I am secluded in my new role. I have detected reasons for the abyss

between the two split ends of the law system. That is, Judges and Lawyers habitually appear not to appreciate the particular burdens of their differing roles. Lawyers face tremendous pressures from clients and from the organizational and financial realities of conducting a busy law practice. Judges, on the other hand, have to deal daily with different cases, problems and personalities under the attentive scrutiny of the Bar and public. Then, what can we do to perk up the relationships between the Bench and Bar?

We need to have more contact with one another outside the Courtroom sitting. This contact will accentuate our common bonds and amplify our genuine regard for one other. In these type of casual sittings, we all can throw out our professional titles and plainly enjoy each other's company. Other comfortable social events can accomplish the same result in ways that a formal Bench-Bar dinner cannot. Judges and Lawyers can increase their combined participation in Bar and community projects. They can work together teaching secondary, and college students about the import of the rule of law in our society. They can address social groups and women folk in the rural and semi urban areas to promote legal literacy. Both the Bench and Bar can benefit from participating in mentoring efforts for newer Lawyers. One by one, these personal relationships that are established will adjoin to

the collective strength of our professions. In these and other ways, we need to promote and protect the unique character of the work that defines us as a 'profession', rather than as a mere 'occupation'. In doing so, we will not only enjoy ourselves but will contribute a concealed legacy for further generation. To me, the glorious mores of the Bar and Bench are objects of worship and the binding bonds between them are inseparable.

I am leaving the office of Judge; but not the legal stream. I have an enthrallment to the legal profession. I have quite a few projects in my mind. I will capture your involvement. Let all of us share our experience and design tools to the next generation to meet the ever-growing demands from society, to the profession.

I am thankful to President, and Executive Body of the Bar Association for giving this warm farewell. A special mention is need to the entire body of Advocates for their active presence. I am taking leave from you, carrying a lot of recollections from the glorious past I spent amidst you for all these years in this magnificent building.

I conclude quoting *Henry Austin Dobson* from his 'The Paradox of Time'-

Time goes, you say ? Ah no! Alas, time stays, we go.

A CRITICAL APPRAISAL OF BIO-TECH PATENTS AND INTELLECTUAL PROPERTY RIGHTS

By

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Introduction :

The subject of bio-technology patents acquires great significance around the globe,

because of the procedure in patenting the products or services that are invented becomes very difficult. The rules and regulations in patenting their products are also differ from