

ANDHRA LEGAL DECISIONS

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ADDRESS OF FARE-WELL TO THE HON'BLE CHIEF JUSTICE OF ANDHRA PRADESH HIGH COURT, SRI PRABHA SHANKAR MISHRA

By Advocate General, Andhra Pradesh, Hyderabad

My lord Hon'ble the Chief Justice and Your Lordships, the Hon'ble Judges of the High Court of Andhra Pradesh.

It is with a heavy heart that I rise before this august Court to bid farewell to your Lordship on transfer as Chief Justice, High Court of Judicature at Fort William at Calcutta. On your Lordship's elevation as Chief Justice of A.P. High Court from the Office of senior-most puisne Judge of Madras High Court, your Lordship assumed Office in Andhra Pradesh on 15-5-1995. Your Lordship performed duties and responsibilities of this august office in Andhra Pradesh for over a period of 2 years and 5 months. Your Lordship is parting from us to assume the high office of the Chief Justice of High Court of Judicature at Calcutta. We are unable to reconcile ourselves to the fact that your Lordship will no longer be presiding over this Hon'ble Court and will be leaving us.

Our ancient seers have said 'Sakhyam Saapthapadham', which means that when you take seven steps with a stranger, he becomes your life long friend. In the quest for justice, we have not taken mere seven steps, but untold number of steps together with your Lordship and Companion Judges, these 2 1/2 years. The bond that is thus for unbreakable, even though your Lordship is proceeding another State in the same path in quest of justice sadness that is engendered

by this separation will hard to bear.

Your Lordship was born in an illustrious family of Lawyers on 6-3-1936. Early education was at Zilla School, Chaptra and graduation from Rajendra College, Chaptra in the year 1955. In the year 1958, your Lordship was awarded Master's Degree in Mathematics, after study in Patna Science College. Your Lordship obtained Law Degree awarded by Patna University. Enrolled as an Advocate in December, 1960, your Lordship joined the High Court Bar in Patna High Court. Your Lordship was designated as Senior Advocate in the year 1973 by the High Court of Patna. Your Lordship held the post of Special Public Prosecutor. Your Lordship also conducted many cases as Senior Advocate appearing for the Railway Ministry. Your Lordship was also elected for two terms as a member of Patna State Bar Council. In November, 1982, Your Lordship was elevated as a Judge of Patna High Court, which office your Lordship was pleaded to hold for 8 years. In the year 1990, your Lordship was transferred as a Judge of Madras High Court. In May, 1995, your Lordship was elevated as Chief Justice of A.P. High Court and assumed the august office on 15-5-1995.

Your Lordship hails from the State of Bihar, fertilised by the water of sacred 'Ganga', where from the mists of antiquity, Indian history was made. The land of Mithila

was ruled by King *Janaka* who was known as philosopher King. The land also witnessed rise and fall of two great empires with their seat of Pataliputra, near the present town of Patna. It was also the land which witnessed Buddha's early Ministry in the propagation of Buddhism. Traditions culture of this land find its reflection in the personality of your Lordship. Your Lordship's interests are not confined only to law and legal profession, but also extended to such diverse pursuits as literature, philosophy and religion. In your Lordship's pursuit of varied activities, your Lordship worked as Editor of well known Magazine called *Aparampara*'. Your Lordship was a regular contributor to the well known Patna daily 'Indian Nation'. Your Lordship's interests comprehend various schools of Hindu philosophy including Advaita, Saivism and other religious movements that marked development of Hindu thought and philosophy.

In reply to the Welcome Address given by the Advocate-General of Madras, while assuming the Office of a Judge of the High Court of Madras your Lordship stated as follows:-

'I take from today no new challenge. I took the challenge to administer justice without fear or favour in the year 1982. I take today's affirmation of oath as a reiteration of my commitments to the cause of law and justice and so I state that I do not attach any value to the authority which law gives to a Judge. I shall prefer upholding the rugged truth of life as a sole purpose of the administration of justice than niceties of law'.

In the Farewell Address given by the Advocate-General of Madras on the occasion of your Lordship's transfer as Chief Justice *designate* of A.P. High Court, the learned Advocate-General of Madras has stated as follows:-

'Look back over the years during which

your Lordship had rendered a number of landmark judgments, the Bar is more than happy that your Lordship had fulfilled the aspirations of the people whose rights and who came to the Court seeking Justice. Though your Lordship asserted that your Lordship is not an activist Judge, in fact, when look at the number of important judgments that your Lordship had rendered, one could easily see that yours Lordship always had the interests of the under-privileged who on account of their social disabilities and poverty could not afford luxury of engaging the services of leading number of Bar. In such cases your Lordship assumed the role of not only a Judge but also the champion of the cause of the poorest of the poor and down-trodden and rendered full justice to the cause balancing the interests of all the parties. Then the occasion demanded and sometimes, even administered stern warning, that such conduct on their part could not be tolerated'.

Recalling your Lordship's illustrious period as Chief Justice of A.P. High Court, I have utmost pleasure and satisfaction to reiterate the sentiments expressed by the learned Advocate-General of Madras in his farewell address above quoted. The profile of law, which your Lordship was pleased first to develop as a Judge of Madras High Court, was expanded and in several branches of law, your Lordship breathed new life and meaning, so as to take the law as 'living instrumentality' of social transformation. In our spheres of law, your Lordship was pleased to deliver many landmark judgments:

- (a) In controlling administrative action so as to preserve purity of environment and ecological balance;
- (b) Fashioning and moulding the newly discovered tool of justice in the form of Public Interest Litigation for the purpose of promoting welfare of dis-

advantaged and weaker sections of population, who by themselves, are not in a position to initiate legal action by engaging Advocates;

- (c) Restoring of the image of judiciary to a position of respect and regard by all the organs of the State and restoring the faith and confidence of the people reposed in judiciary in order to secure proper enforcement of rights guaranteed under the Constitution.
- (d) Expansion of judicial review is the sphere of human rights and industrial relations.

In the various conventional Branches of Jurisprudence also, your Lordship did not rest merely at interpretation and application of the existing law. Invariably, your Lordship while applying the law, found opportunities to expand frontiers of jurisprudence, so as to make the principles 'subserve' the needs of the changing society and the rising expectations. In this regard, your Lordship transcended the role of a Conservative Judge and treated the innovative paths of law-maker and legislator. Your Lordship stressed that this is what a Judge is bound by his oath, expected to do and it is not either activism or conservatives.

Your Lordship was also, quick to react to injustice in a spirit of righteous indignation. On such occasions, your Lordship was not averse to admonishing the Counsel, who persisted in advancing untenable arguments. While your Lordship's patience and forbearance in hearing exposition and new points of view, there were occasional outbursts of temper. In this connection I would like to quote a Telugu verse from Potana's Bhagavatham:

“Nindumanambu Navya
Navaneeta Samanamu

Palku Darunakhandala
Shashtra Tulyamu”

Your Lordship's mind is soft as butter, though the words uttered are occasional harsh.

Your Lordship was equally quick in recovering good humour and restoring the amiable spirit of legal debate. Your Lordship was kindness itself in treating the juniors in the profession and in helping them to articulate their thoughts in a proper way. Your Lordship held the scales even between the Seniors and Juniors, between rich and poor alike, and between the Government and the humble citizen. Undaunted by the complexities of case, your Lordship was able to get to the heart of matter in an eagle like 'sweep' and deal with the question that arose in the case.

Your Lordship in your own inimitable way, delivered several 'landmark' judgments. Most noteworthy among the said cases are;

- (a) Judgment relating to the powers of Governor and Speaker and the role of Legislature parties in the case, what is known as '*N.T. Rama Rao's case*'. (1995 (3) ALT 929)
- (b) The law relating to legality of qualified repealing Act of Prohibition. (1997(3) ALT 516)
- (c) The case relating to *Workmen of Hyderabad Allwyn Limited* (Unreported judgment in WP 22230/96)
- (d) The case of *ABCD Categorisation among SCs*. (1997(5) ALT 292)
- (e) Decision of the Full Bench in 1997(5) ALT, 384 in regard to Appellate side Rules of the High Court of Judicature and several decision of law, relating to practice and procedure of the High Court.

Your Lordship also delivered several notable judgments in regard to human rights, one among them being what is known as '*Madhusudhan Raj Yadav's case*'. Your

Lordship did not touch any branch of law without refining, adorning or embellishing it, making it a living testament of faith of a nation, in the Rule of Law and democracy.

Your Lordship developed attachment to the 'ethos' and 'culture' of the land and people of Andhra Pradesh, fertilised by great rivers Godavari, Krishna and Pinakini and great temples like Venkateswara in Tirupati, Lord Brahmaramba Mallikarjuna in Srisailem, Lord Bheemeswara in Draksharamam, and Lord Satyanarayana Swamy of Annavaram. Your Lordship visited these temples on few occasions and received blessings of the Presiding dieties of the said

temples.

Your Lordship is leaving us for the land of Hoogly. The Calcutta High Court has witnessed in its long career of more than a century, such legendary figures like *Ashutosh Mukherjee*. I fervently wish and hope that your Lordship will carry pleasant memories of Andhra Pradesh, and in particular, the cosmopolitan culture of Hyderabad. I also wish that the great dieties of Lords Venkateswara, Lord Mallikarjuna, Lord Bheemeswara and Lord Satyanarayana Swamy shower their blessings on your Lordship and your Lordship's family, and I wish your Lordship have an 'eventful tenure' as Chief Justice of Calcutta High Court.

REPLY TO THE FAREWELL ADDRESS OF ADVOCATE-GENERAL

BY HON'BLE THE CHIEF JUSTICE SRI P.S.MISHRA.

Dated 22-10-1997.

Mr. Advocate General,

It is not easy for me to respond to your scholarship and eloquence except that I do indeed accept with gratitude that during about two and half years of my stay, my companion Judges have since become my dearest brothers; Officers and staff of this Court have stepped into my family and great lawyers of this Court as well as young and not so young Advocates have taken me in unbreakable bondage. It would be difficult, nay impossible, to accept separation without always feeling sincerely the loss that I would suffer which the distance of Calcutta from Hyderabad would engender. I am more than embarrassed and gratified at the same time that you have not noticed my curt and harsh out-bursts of temper except occurring occasionally, my impatience beyond a point, and my over-bearing behaviour when dealing with cases either on judicial or administrative side of the work of a Chief Justice of the

Court. Your understanding of the men and matter is eloquent in condoning my shortcomings in appreciation or small contributions that I have made as a Chief Justice of this Court which according to you have brought recognisable changes in the administrative and judicial function of the Court.

I have known the rule "Satyam Vada, Priyam Vada" and also the injunction "Na Vada Satyama Apriyam". Priyam however, I have not equated with words which are used to please some one. Priyam is not an equivalent of pleasing. It means to me - words which are uttered for the benefit of the listener. Thus the injunction 'Na Vada Satyam Apriyam' for me is that speak the truth keeping in view the interest of the listener. If unpleasant truth is beneficial to the listener it is undoubtedly Priyam and thus must be said.