

## **JUDICIAL DISCIPLINE**

**Justice V. K. Bist\***

Before writing on the 'judicial discipline' and explaining the term 'discipline', I remember an anecdote relating to a Gurukul. Some disciples in an ashram asked their Guru about the discipline. The Guru had not answered the question regarding the meaning of discipline, but asked them to assemble at the bank of river Ganga. In the next morning, Guru and all the disciples assembled at the bank of river Ganga. Guru asked about the name of river. Every disciple said it's Ganga. The Guru further asked from where the Ganga emanates? The disciples answered from Gangotri. Another question asked by the Guru was where it goes? The disciples answered Gangasagar. Then the Guru explained about the discipline that river Ganga emanates from Gangotri, goes to Gangasagar within the limits of two banks. Except under the exceptional circumstances of heavy rains, it never violates the rules of confining itself within the two banks throughout the journey. It is the discipline. It means every person should lead the life within the social and legal parameters. If one is going beyond these parameters, he violates the social and ethical rule known as indiscipline.

The discipline means regulating one's behaviour in a way to make others comfortable. If by the behaviour of one person, others are not comfortable, this act will be called as indiscipline. Discipline can also be said as good mannerism in one's behaviour. It is said that it is very nice to be important but it is very important to be nice. When we talked about the judicial discipline, it means the personality and behaviour of a judge should be such that no one in and outside the court feels uncomfortable and every one comes to the court with the hope that justice shall be properly delivered. Katyayan in his Mimansa has mentioned the following qualities of a judge namely-

- (a) Restraint;
- (b) Impartial;
- (c) Stead fast;
- (d) God fearing;

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- (e) Free from ego; and
- (f) Leading the righteous life.

The observance of all above qualities comes with in definition of judicial discipline. The judge should sit at the dais with a view to emanate ray of hope in every one's life. Only a judge, disciplined in all the vocations of life, can do so. The Katyayan has further said that the duty of the judge is to do justice to the parties with affable mind.

The mimansa principles were very well prevalent in the Mugal period. During the Mugal period, in the appointment letter of Kazi (judge), it was specifically mentioned that Kazi will be a just, honest and impartial man, who will hold trial in presence of parties, will forbidden for accepting gifts, will not engage in any immoral act and will not also accept entertainments. No doubt in the appointment letters of the judges, in present time, these qualities are not mentioned but the same are considered to be the inherent and inbuilt qualities of a judge.

Thus, judicial discipline means regulating the behaviour of in a way so that he or she can do justice without any bias or prejudice. For the purpose of the discipline, I can distinguish it as-

- (a) Personal discipline;
- (b) Family discipline;
- (c) Social discipline;
- (d) Professional discipline; and
- (e) Ethical discipline.

If a person has maintained the personal discipline, it will be the guarantee of all other types of discipline with some extra precautions.

**Personal discipline-** The personal discipline means a person is very humble and liberal for oneself. He has regulated his behaviour for himself to move on a righteous path and to do justice to himself. The personal discipline includes the good speaking habits in a sweet language, proper attire and occupant of moral values. For proper attire, it is not necessary that he is dressed with costly dress material but affordable and sober garments. Shakespeare, the famous English Noblest has said that "*costly the raiment as the person can afford*". It means that every person

should wear the garments according to the financial status and position but the same should be sober and comfortable.

For personal discipline, the moral values have to be preferred in life. If a normal person is violating the moral values, the people may ignore it, but not when it is violated by the King or a Judge. The matter of Bill Clinton and Monika Lewinski of United States can be quoted here. The charges of consensual extra marital relations with a female employee at the workplace are not given so much of importance in United States, but when the charges were against President, we witnessed a hue and cry in the American society. It is a universal principle that a judge should live with moral values. The language should be very polite and parliamentary. It is also the part of personal discipline that a Judge should not browbeat lawyers and litigants. Browbeating lawyers and litigants may (usually) make the Judge controversial. Thus, a judge must be a person of exemplary character and good values. It is said that honour is always given to the deserving persons and with the individual discipline; a judge is the most deserving person in the society. In India a trial judge is one in ten lakhs people. On this count as well, a judge is a most deserving person.

**Family Discipline-** A Judge has to be a most disciplined person in the family. His behaviour with the father, mother, wife, brother, sister and children should be exemplary. An unrest family cannot be ideal in the society and a person living in unrest family cannot be a socially productive. For the proper judicial productivity, a Judge has to be just and a wise person in the family to keep the family at rest. He has to adopt certain ethical principles. The first principle is that he should make himself responsible for keeping family at rest. Meaning thereby, if the family of the judge is at unrest or there is no peace in the family, it is only the judge who is responsible for this situation. In every case, he must try to maintain peace in the family. Generally the atmosphere of the family moves around the Judge. His wife, children and other family members should always be guided with good personal conduct and behavior. He has to give due to every member of the family. If this balance, between the rights and obligations of the family members, is not maintained it will result in the family being at unrest. A Judge with the disturbed family cannot peacefully and calmly adjudicate the cases to reach to the destination of justice. In such a case he can simply dispose of the cases. He can also complete the

outturn fixed by Hon'ble High Court with or without ensuring the justice delivery system. The family discipline will also be guarantee of the fact that a judge has no ego which is the condition precedent for judgeship.

**Social Discipline-** It is a proverb that a Judge always leads the life of a widow. Meaning thereby, he has to live in seclusion and has not to mixed up in the society at a very large scale. An advocate, on the other hand, has to be very extrovert. He is supposed to maintain a wide range of relations. But when an advocate becomes a judge he has to be very introvert regarding maintaining the social relations. It is also the primary duty of the judge to serve parents and other family members. Serve the parents is different than the maintenance of parents. Maintenance is a legal or social terminology, whereas, serve parents is an ethical terminology. While serving or maintaining the family or social relations, a Judge should never compromise the fair and unbiased functioning of the court. A clear distinction has to be made in family functioning and the functioning of the Court. With the functioning of the Court, the family members or any close relations (social relations) should not have any concern.

**Professional discipline-** For the professional discipline, it is the responsibility of the judge to maintain such an atmosphere so that every litigant can address his grievances freely and without any fear in open court. The legal advisors i.e. lawyers of any party are just for arguing the law points. It is the duty of every judge to listen to both of the parties on facts. As earlier said, there should no browbeating of advocates or litigants. Let them argue in their way, but relevant to the case. Unwarranted comments on arguments should be avoided because it may leads to the friction and whenever there is any friction it always derail the judge from proper judicial functioning. So, in the interest of justice, it is necessary to maintain cordial and peaceful atmosphere in the Court and it is only possible when a judge is disciplined in professional issues.

**Ethical discipline-** It is the quality of a judge that he should be God fearing. It may be a question of debate whether the god exists or not. Without indulging in this controversy, I am of the view that there is an ultimate power running this universe. That power is the source of energy for all the activities of all persons. That power also regulates each and every activity of every human being including Judges. Ethically a Judge should lead a life of a saint. The saint is a person who is discipline in all

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the vocations of life. A person disciplined in eating habits and in day to day business of his life is a saint. The saint may be recognized by activities of mouth, what he speaks or eats. Eating habits are generally ignored by the Judge and unhealthy or a sick person cannot properly contribute to the judicial system. Ethically speaking, a judge should eat what God Almighty has made for him. He should not eat the converted food such as fried food and junk food.

In the end, I will pray to all my brothers and sisters who have opted to be the members of judicial fraternity, to lead a life wherein all acts and deeds are dedicated to the authority of God Almighty.

Thank you.

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