



सत्यमेव जयते

UTTARAKHAND COURT NEWS

(A Quarterly News letter)

Vol-IV Issue No-2 (April-June, 2013)



High Court of Uttarakhand, Nainital

EDITORIAL BOARD

Hon'ble Mr. Justice Prafulla C. Pant
Hon'ble Mr. Justice Sudhanshu Dhulia

In this issue: Article on "Tech. Advanced Judicial System of Singapore"

COMPILED BY

Ram Singh, Registrar General, High Court of Uttarakhand

A quarterly newsletter published by High Court of Uttarakhand, Nainital
Also available on our website : www.highcourtofuttarakhand.gov.in

**Group photograph of Hon'ble Judges of the Court with
Hon'ble the Chief Justice taken on 17-05-2013, after Full Court
Reference ceremony of Hon'ble Mr. Justice Kalyan Jyoti Sengupta on transfer
and elevation of His Lordship as Chief Justice of High Court of Andhra Pradesh.**



**L to R : Hon'ble Mr. Justice Alok Singh, Hon'ble Mr. Justice V.K. Bist, Hon'ble Mr. Justice Kalyan Jyoti Sengupta,
Hon'ble Mr. Justice Barin Ghosh (Chief Justice), Hon'ble Mr. Justice B.S. Verma,
Hon'ble Mr. Justice Sudhanshu Dhulia, Hon'ble Mr. Justice U.C. Dhyani.**

CONTENTS

❖	Hon'ble Judges of Uttarakhand High Court	4
❖	From the Desk of Chief Justice.	5
❖	Transfers, Promotions & Appointments of Judicial Officers.	6-8
❖	Institution, Disposal & Pendency of cases in High Court.	9
❖	Institution, Disposal & Pendency of cases in District Courts.	10
❖	Circular Letters/ Notifications (issued recently).	11-15
❖	“Tech. Advanced Judicial System of Singapore”: An Article by Hon'ble Mr. Justice Prafulla C. Pant After Attending Judicial Governance Programme (JGP) At Singapore.	16-20
❖	Some Recent Judgments of Uttarakhand High Court.	21-24
❖	Institution, Disposal & Pendency of cases in Family Courts.	25
❖	Major Events and Initiatives.	26
❖	Major Activities of UJALA.	27

* * * * *

UTTARAKHAND HIGH COURT**LIST OF JUDGES (As on 30th June, 2013)**

SL. No.	Name of the Hon'ble Judge	Date of Appointment (Assumed charge in Uttarakhand)
1.	Hon'ble Mr. Justice Barin Ghosh (Chief Justice)	12.08.2010
2.	Hon'ble Mr. Justice Prafulla C. Pant	29.06.2004
3.	Hon'ble Mr. Justice B. S. Verma	15.07.2004
4.	Hon'ble Mr. Justice V.K. Bist	01.11.2008
5.	Hon'ble Mr. Justice Sudhanshu Dhulia	01.11.2008
6.	Hon'ble Mr. Justice Alok Singh	26.02.2013
7.	Hon'ble Mr. Justice Servesh Kumar Gupta	21.04.2011
8.	Hon'ble Mr. Justice Umesh Chandra Dhyani	13.09.2011

* * * * *



Barin Ghosh



CHIEF JUSTICE
HIGH COURT OF UTTARAKHAND

Nainital – 263001
July 18, 2013

MESSAGE

As of now, in High Court we have disposed of all Division Bench matters, which were pending for more than five years and in other categories of cases also, we hope that by the end of this year we will be able to dispose of the cases, which are pending for more than five years. Not only this, in the instant June ending quarter, the pendency of main cases in High Court has come down to 20313 from 21395 cases, pending on 31st of March, 2013, despite institution of 3,779 new cases during this quarter.

Under the Third Mission Mode Drive to reduce pendency in District Courts and to achieve 'Five Plus Zero' target- 2013, we have taken several measures, including issuing a circular letter, containing therein several directions for compliance to subordinate judiciary.

Further, we have also requested the State Government to constitute a Reviewing and Screening Committee as per State Litigation Policy, 2011 to look into the cases, wherein State Government is a party from either side, which can be disposed of in terms of State Litigation Policy, in case the same has not been constituted so far.

As still we have half year's time with us and also in view of the various steps taken by us, as indicated above, we hope that by the end of this year, with the concerted efforts of all concerned, we will be able to achieve 'Five Plus Zero' target- 2013 as set up.

(Barin Ghosh)

TRANSFERS, PROMOTIONS & APPOINTMENTS OF JUDICIAL OFFICERS

SL. NO.	Name of the Judicial Officer	From	To	Date of Order
1.	Sri Ramesh Chandra Kukreti, Chairman, Commercial Tax Tribunal	Dehradun	District & Sessions Judge, Rudraprayag	11-04-2013
2.	Sri Gyanendra Kumar Sharma, Chairman, Transport Appellate Tribunal	Dehradun	Director, Uttarakhand Judicial & Legal Academy, Bhowali	11-04-2013
3.	Sri Bhupendra Singh Dugtal, Judge, Family Court	Dehradun	District & Sessions Judge, Champawat	11-04-2013
4.	Sri Rajendra Singh, District & Sessions Judge	Champawat	District & Sessions Judge, Uttarkashi	11-04-2013
5.	Sri R.D. Paliwal, Director, UJALA	Bhowali, Nainital	Chairman, Commercial Tax Tribunal, Dehradun	22-04-2013
6.	Sri R.C. Khulbe, District & Sessions Judge	Uttarkashi	Chairman, Transport Appellate Tribunal, Dehradun	30-04-2013
7.	Sri G.S. Dharmshaktu, District & Sessions Judge	Rudraprayag	Judge, Family Court, Dehradun	26-04-2013
8.	Sri Arvind Nath Tripathi, 1 st A.C.J.M.	Roorkee	1 st Additional Civil Judge (Sr. Div.), Udham Singh Nagar	11-04-2013
9.	Ms. Reena Negi, 1 st Additional Civil Judge (Sr. Div.)	Udham Singh Nagar	2 nd Additional Civil Judge (Sr. Div.)	11-04-2013
10.	Ms. Parul Gairola, Civil Judge (Sr. Div.)	Roorkee	3 rd Additional Civil Judge (Sr. Div.), Udham Singh Nagar	11-04-2013
11.	Sri Dharmendra Singh Adhikari, Joint Secretary (Law), Government of Uttarakhand	Dehradun	Civil Judge (Sr. Div.), Roorkee	11-04-2013
12.	Ms. Anuradha Garg, 1 st Additional Civil Judge (Sr. Div.)	Dehradun	A.C.J.M., Kashipur	11-04-2013

13.	Sri Laxman Singh, Civil Judge (Jr. Div.)	Purola	Civil Judge (Jr. Div.), Vikas Nagar	11-04-2013
14.	Sri Sandeep Kumar, Civil Judge (Jr. Div.)	Rishikesh	Judicial Magistrate-II, Roorkee	11-04-2013
15.	Sri Jayendra Singh, Civil Judge (Jr. Div.)	Haldwani	Judicial Magistrate-I	11-04-2013
16.	Sri Bhavdeep Ravtey, Civil Judge (Jr. Div.)	Vikas Nagar	Civil Judge (Jr. Div.), Purola, Uttarakashi	11-04-2013
17.	Sri Yogendra Kumar Sagar, 2 nd Additional Civil Judge (Jr. Div.)	Dehradun	Judicial Magistrate, Pauri Garhwal	11-04-2013
18.	Smt. Jyoti Bala, Judicial Magistrate-I	Dehradun	Civil Judge (Jr. Div.), Haldwani	11-04-2013
19.	Sri Rakesh Kumar Singh, Civil Judge (Sr. Div.)	Tehri Garhwal	Joint Secretary (Law), Government of Uttarakhand	13-04-2013
20.	Sri Varun Kumar, Chief Judicial Magistrate	Hardwar	Addl. Secretary (Law), Public Service Commission, Hardwar	23-05-2013
21.	Sri Sayan Singh, Chief Judicial Magistrate	Dehradun	Addl. Secretary, Law-cum- Addl. L.R., Government of Uttarakhand, Dehradun	23-05-2013
22.	Ms. Monika Mittal, Civil Judge (Sr. Div.)	Udham Singh Nagar	Registrar, State Consumer Disputes Redressal Commission, Uttarakhand, Dehradun	23-05-2013
23.	Smt. Neelam Ratra, Civil Judge (Sr. Div.)	Kotdwar	Additional District & Sessions Judge, Bageshwar	23-05-2013
24.	Sri Manoj Garbyal	----	2 nd Additional District & Sessions Judge, Rishikesh	23-05-2013
25.	Sri Vinod Kumar	----	Additional District & Sessions Judge, Rudraprayag	23-05-2013
26.	Ms. Manju Rani Gupta (retired H.J.S.)	----	Special Judicial Magistrate, Dehradun (for 138 N.I. cases)	23-05-2013

27.	Sri Yash Paul Sharma (retired H.J.S.)	----	Special Judicial Magistrate, Dehradun (for 138 N.I. cases)	23-05-2013
28.	Sri Ram Lal (retired H.J.S.)	----	Special Judicial Magistrate, Roorkee (for 138 N.I. cases)	23-05-2013
29.	Sri Jaipal Singh (retired H.J.S.)	----	Special Judicial Magistrate, Kashipur (for 138 N.I. cases)	23-05-2013
30.	Sri Hemant Chandra Seth (retired H.J.S.)	----	Special Judicial Magistrate, Hardwar (for 138 N.I. cases)	23-05-2013
31.	Sri Rajeev Kumar, Chief Judicial Magistrate	Uttarkashi	Chief Judicial Magistrate, Dehradun	28-05-2013
32.	Sri Sujeet Kumar, Chief Judicial Magistrate	Nainital	Chief Judicial Magistrate, Hardwar	28-05-2013
33.	Sri Abdul Qayyum, Civil Judge (Sr. Div.)	Nainital	Chief Judicial Magistrate, Nainital	28-05-2013
34.	Sri Arvind Nath Tripathi, 1 st Additional Civil Judge (Sr. Div.)	Udham Singh Nagar	Civil Judge (Sr. Div.), Udham Singh Nagar	28-05-2013
35.	Sri Rajoo Kumar Srivastava, Chief Judicial Magistrate	Champawat	Civil Judge (Sr. Div.), Kotdwar	28-05-2013
36.	Smt. Geeta Chauhan, Civil Judge (Sr. Div.)	Champawat	Chief Judicial Magistrate, Champawat	28-05-2013

INSTITUTION, DISPOSAL AND PENDENCY OF CASES

➤ HIGH COURT OF UTTARAKHAND (from 01.04.2013 to 30.06.2013)

Institution (01.04.2013 to 30.06.2013)						Disposal (01.04.2013 to 30.06.2013)			Pendency (At the end of 30.06.2013)		
Civil Cases	Criminal Cases	Total Institution	Civil Cases	Criminal Cases	Total Disposal	Civil Cases	Criminal Cases	Total Pendency at the end of 30.06.13			
2191	1588	3779	2446	2415	4861	14648	5665	20313			

Pendency (At the end of 31.03.2013)		
Civil Cases	Criminal Cases	Total Pendency
14903	6492	21395

INSTITUTIONS HISTORICAL AND PENDENCY OF CASES

District Courts (from 01.04.2013 to 30.06.2013)

SL. No	Name of the District	Civil Cases				Criminal Cases				Total Pendency at the end of 30.06.13
		Opening Balance as on 01.04.13	Institution from 01.04.13 to 30.06.13	Disposal from 01.04.13 to 30.06.13	Pendency at the end of 30.06.13	Opening Balance as on 01.04.13	Institution from 01.04.13 to 30.06.13	Disposal from 01.04.13 to 30.06.13	Pendency at the end of 30.06.13	
1.	Almora	660	164	205	619	1142	412	500	1054	1673
2.	Bageshwar	131	35	31	135	329	223	191	361	496
3.	Chamoli	455	85	107	433	975	338	381	932	1365
4.	Champawat	155	64	48	171	911	583	449	1045	1216
5.	Dehradun	12864	1779	2121	12522	69602	27609	26055	71156	83678
6.	Haridwar	8024	1046	970	8100	28214	11564	11059	28719	36819
7.	Nainital	2686	507	398	2795	8114	2170	2271	8013	10808
8.	Pauri Garhwal	1024	197	260	961	2134	1119	1049	2204	3165
9.	Pithoragarh	308	123	124	307	611	410	379	642	949
10.	Rudraprayag	178	38	49	167	430	331	336	425	592
11.	Tehri Garhwal	362	118	83	397	923	461	427	957	1354
12.	U.S.Nagar	4491	589	488	4592	21924	6068	7215	20777	25369
13.	Uttarkashi	344	77	96	325	632	375	317	690	1015
	Total	31682	4822	4980	31524	135941	51663	50629	136975	168499

Contd. on Page 25...

* * * * *

Circular Letters/ Notifications

(issued recently)

➤ **C.L. No. 05/ UHC/DR(I)- /2013**

Dated: April 3, 2013

Subject: Regarding communication of official correspondence between High Court and District Judges to Advocates or Clients by illegitimate methods.

Sir,

On the above noted subject, it is to inform you that it has come to the notice of the Court that the official correspondence by the High Court are being made available to the parties and their Advocates without following legitimate procedure. The Hon'ble Court has taken this as highly objectionable. Accordingly, it has been directed by Hon'ble Court that the official correspondence by the High Court to the District Judges should not be made available to any litigant or advocate or any other person without following legitimate procedure.

You are, therefore, requested to bring the aforesaid direction into the notice of all concerned and ensure compliance of the aforesaid direction.

Registrar General

➤ **C.L. No. 06/ UHC/DR(I)- X-a-1/2013**

Dated: May 03, 2013

Subject: Regarding compliance of inspection note recorded by the High Court or by the District Judge.

Sir,

On the above noted subject, I have been directed to inform you that the Court views with concern, a general tendency on the part of the District & Sessions Judges to overlook the instructions issued by it, from time to time, particularly in the matter of inspection of Subordinate Courts. An occasional lapse may be overlooked but a repeated breach of these instructions betrays a lack of appreciation of the object of such instructions.

All the District Judges are advised to keep handy at one place a complete list of the directions issued by the Court on the subject of inspection. A cursory glance at these instructions immediately

before an inspection is made would focus the attention of the Inspecting Officer on the points requiring his attention and would make the inspection much more methodical and useful than an average inspection is at present.

An inspection carried out in the spirit of a mere formal compliance of the instructions issued by the Court is bound to defeat the very object of such inspections and cannot lead to any useful results. The most common defect noted in the inspection note is indicated below:-

- (a) Inspections are not made regularly. To avoid these District Judges should maintain a statement showing the dates on which various Courts and offices were inspected by Presiding Officer or by the District Judges. This statement should be examined by the District Judge from time to time and necessary instruction issued to the Presiding Officer of the Court subordinate to him. It will also remind him about his own inspections.
- (b) Inspections are not done in the prescribed manner. If each officer adopts his own method, there can be no uniformity. This leads to confusion. The method indicated by the Court should be adhered to so far as practicable. Copies of inspection notes should, as a rule, be forwarded to this Court within a month from the date of inspection.
- (c) Full particulars of cases pending in this Court or any other court on account of which proceedings are held up in the subordinate court inspected are not always found in the inspection notes and this entails much avoidable correspondence. In future, full particulars of such cases should be given in the notes.

Confidential notes will be submitted by the District Judge along with the inspection note about such concerning presiding officers who have failed to comply with the directions issued in the inspection note of the Court or of the District Judge.

I am further directed to say that sometimes it occurs that the inspection notes of a Court made by a District Judge or Additional District Judge do not reach the Court concerned until the officer who was presiding at the time of the inspection has been transferred. District Judges should see that whenever this occurs, a copy of the note is sent to the officer concerned wherever he may be.

You are, therefore, requested to kindly bring the aforesaid direction into the notice of all concerned and ensure compliance of the aforesaid direction in letter and spirit.

Registrar General

➤ **C.L. No. 07/UHC/Admin. A/2013** **Dated: May 28, 2013**

Subject: Nomination of Administrative Judge(s).

Sir,

In supersession of earlier Circular Letters on the subject noted above, I am to inform that Hon'ble the Chief Justice is pleased to nominate the following Hon'ble Judges as the Administrative Judges Incharge of the District(s) shown against their names in the list given below with immediate effect.

1. Hon'ble Mr. Justice Prafulla C. Pant - Nainital.
2. Hon'ble Mr. Justice B. S. Verma - Dehradun.
3. Hon'ble Mr. Justice V.K. Bist - Hardwar.
4. Hon'ble Mr. Justice Sudhanshu Dhulia - Udham Singh Nagar.
5. Hon'ble Mr. Justice Alok Singh - Bageshwar, Rudraprayag & Tehri Garhwal.
6. Hon'ble Mr. Justice S.K. Gupta - Chamoli, Pauri Garhwal & Uttarkashi.
7. Hon'ble Mr. Justice U.C. Dhyani - Almora, Champawat & Pithoragarh.

You are therefore, informed accordingly.

Registrar General

➤ **C.L. No. 08/ X(d)-1-Misc./DR(I)/2013** **Dated: July 2, 2013**

Subject: Mission Mode Drive to reduce pendency in Courts

Madam/Sir,

On the above noted subject, I have been directed by the Hon'ble Chief Justice to convey you the following directions for compliance at your end:

- (1) That the ineffective and infructuous cases, which can be disposed of be identified and such cases be decided in accordance with law.

- (2) That a large number of pending cases pertains to Motor Vehicle Act and many such cases may be of such a nature, where address is incomplete and no document is annexed and the offence is petty one, in which fine of a meagre amount can be imposed. In many cases, accused/vehicle belongs to a far-away place and he will not turn up only to deposit a fine of Rs. 100 or so. Therefore, these cases be scrutinized and summons may be issued in such cases mentioning therein amount of fine imposed and if the report comes that the address is incomplete or wrong and if the Court thinks that presence of accused cannot be procured and the fine which can be imposed is a petty one, such cases may be consigned in accordance with law.
- (3) That cases under Section 138 Negotiable Instruments Act also contribute a lot in increasing the pendency and it is generally observed that a bunch of cases is filed by a single party with almost identical facts and in course of time, these cases segregated in different courts due to distribution of work. Therefore, it is required that such cases be identified and be transferred in one court and after clubbing, all such cases may be tried together, if possible.
- (4) At the time of annual inspection of subordinate courts by the Hon'ble Administrative Judges, it is generally directed that in all matters where proceedings have been stayed by an order of the Allahabad High Court, prior to the creation of the Uttarakhand High Court in 2000, the Presiding Officer would ask the advocates to file a fresh certified copy or by an affidavit that the said case is still pending before the High Court. In such cases, if no advocate or party appears even after issuance of notice or declines to file a fresh certified copy or affidavit as aforesaid, the Presiding officer should proceed in such cases in accordance with law.

You are therefore requested to kindly bring the above directions to the notice of all concerned for strict compliance.

Registrar General

NOTIFICATION

➤ **No. 113/ UHC/Admn.-B/XI-C/2005**

Dated: May 30, 2013

Alternative Dispute Resolution (Amendment) Rules –2013

(To amend the Civil Procedure Mediation Rules, 2007)

- 1:- (a) These Rules may be called the Civil Procedure Mediation (Amendment) Rules, 2013.
- (b) These Rules shall come into force with immediate effect.
- 2:- Rule 3 (b) of the Civil Procedure Mediation Rules, 2007 (original Rules) shall be substituted as under -

Existing Rule	Substituted Rule
Rule 3 (b): Legal practitioners with at least fifteen years standing at the Bar at the level of Supreme Court, High Court, District Courts or Courts of equivalent status, or	Rule 3 (b): Legal Practitioners with at least five years standing at the Bar at the level of the Supreme Court, High Court, District Courts or Courts of equivalent status, or

By order of Court,

Sd/-
Registrar General

* * * * *

TECH. ADVANCED JUDICIAL SYSTEM OF SINGAPORE

Justice Prafulla C. Pant*

A former British colony, Singapore inherited an English legal system. Over the years, Singapore successfully developed an indigenous legal system in accordance with its status as an independent city state. Today, Singapore has one of the most respected and responsive court systems in the Asia-Pacific region. Public confidence in the administration of justice in Singapore ranks among the highest in the world.

Constitution and Jurisdiction

The Judiciary is one of the three branches of government in Singapore. The other two branches are the Executive and the Legislature. Under Article 93 of the Constitution of the Republic of Singapore, judicial power in Singapore is vested in the Supreme Court and in such subordinate courts as may be provided for by any written law for the time being in force. The Chief Justice is head of the Judiciary.

Structure of the Supreme Court*

The Supreme Court consists of the Court of Appeal and the High Court, and hears both civil and criminal matters. The Supreme Court Benches consists of the Chief Justice, the Judges of Appeal, Judges and Judicial Commissioners (Additional Judges). The Court of Appeal hears appeals against the decisions of High Court Judges in both civil and criminal matters. It became Singapore's final appellate court on 8 April 1994, when appeals to the Judicial Committee of the Privy Council were abolished. The Chief Justice sits in the Court of Appeal together with the Judges of Appeal. A judge of the High Court may, on the request of the Chief Justice, sit in the Court of Appeal. The Court of Appeal is presided over by the Chief Justice, and in his absence, a Judge of Appeal or a Judge of the High Court.

The Court of Appeal is usually made up of three Judges. However, certain appeals, such as those against interlocutory orders, may be heard by only two Judges. A Judge of Appeal may also sit in the High Court as a Judge. Proceedings in the High Court are heard before a single Judge, unless otherwise provided by any written law. The High Court may also appoint one or more persons with expertise in the subject matter of the proceedings to assist the court.

* The Editor attended the Judicial Governance Programme held from 08.07.2012 to 12.07.2012 in Singapore.

* Source : Benchmark and Annual Report (2011) published by Supreme Court, Republic of Singapore

The High Court hears both civil and criminal cases as a court of first instance. The High Court also hears appeals from the decisions of District Courts and Magistrates' Court. In addition, the High Court has general supervisory and revisionary jurisdiction over all subordinate courts in any civil or criminal matter. A civil case must be commenced in the High Court if the value of the claim exceeds \$250,000. Probate matters are commenced in the High Court only if the value of the deceased's estate exceeds \$3 million or if the estate involves foreign assets. In addition, ancillary matters in family proceedings involving assets of \$1.5 million or more are heard in the High Court. The following matters are also exclusively heard by the High Court:

- Admiralty matters
- Company winding-up proceedings
- Bankruptcy proceedings
- Applications for the admission of advocates and Solicitors

In criminal cases, the High Court generally tries cases where the offences are punishable by 10 years' imprisonment or more per charge, and offences carrying the capital punishment. The Supreme Court Registrars perform both judicial and administrative functions. They preside over hearings of various pre-trial and post-trial matters in chambers.

Vision of the Judiciary of Singapore is to establish and maintain world class Judiciary. Its mission is to superintend the administration of Justice. The Values for which it stands are Integrity, Independence, Quality of Public Service, Learning and Innovation. In the words of Mr. W. H. Malik "*Singapore's judiciary is known today for its efficiency, its technological sophistication, its accessibility, and the confidence of Singapore's citizens and businesses in the system*".

Online Functioning of Supreme Court

In 2002, the Supreme Court began using Justice Online for bankruptcy hearing and criminal pre-trial conferences. Justice Online is an innovative web-conferencing platform offered by an external vendor for use by courts and lawyers. Although video-conferencing had been introduced as far as back 1995, the secure growth by rapid multiplication of reliable broadband Internet services in Singapore and the region served as a catalyst for the successful implementation of Justice Online, and its quick adoption by users.

By taking advantage of the increasingly universally present broadband and wireless 3G connectivity, Justice Online brings court services directly to wherever the user is. With a suitably equipped and connected computer, laptop or even a 3G mobile phone, lawyers can conduct hearings through video- conferencing without having to be physically present in court.

Justice Online provided lawyers and litigants with greater flexibility and saves time that would otherwise be spent on travelling to court and waiting for their turn to be heard. It also dispenses with the need for them to bring heavy case files to court. With the flexibility offered by the Justice Online system, it has become an indispensable tool to the Courts, the Attorney- General's Chambers, the Legal Aid Bureau and law firms in Singapore.

How It Works

1. A registered user logs on to the system and makes a request for a Court Hearing or Online Meeting.
2. The Court Administrator schedules the session and informs the user of the scheduled date and time.
3. At the appointed time, the user joins the hearing or meeting via a suitably equipped PC, laptop or video conferencing - enabled 3 G mobile phone.
4. Multi-party conferences can be conducted as long as there is available bandwidth to support the number of connections.

(Normally, Supreme Court takes hardly few weeks in deciding a case before it.)

Subordinate Courts

More than two decades ago, the Subordinate Courts had to struggle with the constant challenges faced by developing judiciaries such as increasing backlog, inefficiencies, bureaucracy, lack of mission and vision, among others. Comprehensive and rapid changes were necessary to transform the Subordinate Courts. But they adopted good business practices and dealt with the inadequacies of yesteryears head-on as we strived to be a leading subordinate judiciary.

The Subordinate Courts are highly regarded both locally and globally. Courts excellence journey has increased country's international commitments. Singapore Judiciary has been asked by our foreign counterparts to share their insights and success story on numerous occasions. Many parties working in

other countries have started adding in their arbitration clause of the agreement that any dispute between them would be subject to the jurisdiction of Singapore Courts. Even the hotly contested cases get decided within few months, in Singapore.

There are four divisions of Subordinate Court of Singapore:

- (i) Civil Division;
- (ii) Criminal Division;
- (iii) Juvenile and Family Court Division;
- (iv) Coronate Division

The approach of all the Subordinate Courts is of better customer (litigant) service. Public (litigant) is more educated. In minor offences parties come without engaging lawyer. At times litigant comes directly to the Kiosk to pay fine and seek adjournments etc.

They (Subordinate Courts) have electronic filing system. Night Courts function on certain days in a week, for which night shifts duties are assigned, normally by rotation. There are lesser number of opportunity of filing appeals under Singaporean Law. Prosecution agencies are also equipped with electronic system in the court room. Litigants and witnesses are not treated with contempt. Chair is provided to the witness in the witness box. Gadgets (Tablets) are used in recording evidence of a witness in the Hospital or such a place from where he cannot appear. In fact service oriented culture is backbone of the Subordinate Courts of Singapore. Prisons and Prosecution offices are video linked with courts. Code of Criminal Procedure of Singapore was amended in 1995 for video link recording of evidence. For translation of language in which witness answers, gadgets are used by the Court, and simultaneous recording of evidence is not a problem.

Lawyers

After doing graduation in law, one desirous to practice in courts, is required to clear examination held by Singapore Academy of Law, a body created under enactment of 1988. Thereafter only licence to practice is granted by Law Society of Singapore (a body like Bar Council of India) created under Legal Profession Act. Pro Bono Services (volunteer service) is rendered by lawyers under the Law Society of Singapore. Members of Bar also work in Community Legal Clinics. A lawyer can represent a party in Mediation proceedings. But if a party is unable to come for mediation, his lawyer can enter into settlement. In case of unsuccessful mediation, the same lawyer cannot represent his client in Court

during trial. Before Small Cause Tribunals, lawyers are not allowed to represent parties unless such party is abroad or cannot come to court for any similar serious reason. Strike by lawyers is unheard of in Singapore.

Key Features of e-Litigation

1. e-litigation makes use of new technology to capture information at the front end, which can be used subsequently in the automated approval of routine documents throughout litigation process. This frees up the time of registrars and registry staff otherwise spent on routine checks.
2. Prayers in an application are replicated in online minute sheets as draft orders, which can be edited by the Judge or registrar. Edited orders are then used to generate formal part of draft orders of court which can be automatically engrossed.
3. Documents in the electronic case files can be re-used to generate bundles of pleadings, affidavits or other documents in PDF format. The generated bundles are stamped with unique identifier on each page, which can be used during hearings. The PDF files are also be accessible from the electronic case file and are projected on computer screens in court or chambers during hearings.

Undoubtedly, Singapore is a small city country, and in short time it has successfully established Technology Courts. In India, it might take longer time to change the system but nothing is impossible if we have strong commitment to do it.

* * * * *

Some Recent Judgments of Uttarakhand High Court

DIVISION BENCH JUDGMENTS:

1. On 4th April, 2013, a Division Bench in **Commissioner, Trade Tax/Commercial Tax, Uttarakhand vs. M/s Tehri Hydro Development Corporation Ltd., Pragatipuram** (Trade Tax Revision No. 40 of 2008), while dismissing the revision and argument of revisionist, held that all the items which were directly and substantially connected with the generation of the electricity and indispensable in construction of a new unit or plant, which goes into production after the date and without which, the generation of the power is not possible, are entitled to tax exemption under Section 4-B(2) of U.P. Trade Tax Act, 1948.
2. On 28th June, 2013, a Division Bench in **State of Uttarakhand vs. Smt. Rita Devi & Another** (Government Appeal No. 1982 of 2001), while dismissing the appeal of Government against the judgment of trial court for acquitting the accused from the charge of Section 302 of I.P.C., set-aside the contention of ld. Government Advocate that testimony of two minor daughters should be believed and observed that these two minor daughters, said to be present in the same room at the time of incident, but their testimony is not believable for the reason that they were living under the influence of informant and other family members at least for the six years before they could depose in the witness box. They were of tender age at the time of alleged incident and also on the date of their deposition, and to place reliance upon the testimony of such type of child witnesses is not at all safe to hold the conviction against the accused persons.
3. On 28th June, 2013, a Division Bench in **Raju Vs. State of Uttarakhand** (Criminal Appeal No. 41 of 2010), while dismissing the appeal against the conviction under Section 498-A I.P.C. r/w Section 4 of the Dowry Prohibition Act & Section 304-B of I.P.C., observed that although the presumption under Section 113-B of the Evidence Act is rebuttable one, but mere narration by defense witnesses, who are simply the tenants in the house of accused, that accused had good relations with his wife, is not enough to rule out the possibility of negation of demand of dowry soon before the death of victim at her matrimonial house. The Bench also observed that the victim died in the house of her husband, and as per the provision of Section 106 of the Evidence Act, it was incumbent upon the accused to speak as to what was the cause of death of his wife in his house under abnormal circumstances, but he has utterly failed to offer any explanation.

SINGLE BENCH JUDGMENTS:

4. A Single Judge Bench in *Naeem Ahmad vs. State of Uttarakhand* (Criminal Appeal No. 1757 of 2001), while dismissing the appeal of accused against the conviction awarded by the trial court under section 377 of I.P.C., observed that the criminal act of which the present accused was charged and convicted by the trial court, is an act not unknown to mankind. Even in cases of willing partners or adult consensual partners such an intercourse is a deviate sexual intercourse, also known as "coitus per os". Legally speaking such an act is sodomy. The Bench further observed that though "sodomy" is not specifically defined in the Indian Penal Code, but Section 377 I.P.C. is quite wide to encompass the act of sodomy. What is relevant is that the carnal intercourse should be "against the order of nature".
5. On 2nd April, 2013, a Single Judge Bench in *Pooran Singh Adhikari vs. State of Uttarakhand* (Criminal Revision No. 48 of 2013), while allowing the revision for releasing the vehicle, placed reliance on the judgment rendered by Hon'ble Supreme Court and Hon'ble Allahabad High Court in cases *Sundarbhai Ambalal Desai vs. State of Gujarat [2003 (1) JIC 615]* and *Narendra Kumar vs. State of U.P., 1997 J.Cr.C. 746* and observed that whatever be the situation it is of no use keeping seized vehicle at the police stations for a long period so it is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time.
6. A Single Judge Bench in *Rakesh Kumar Tripathi & 63 others vs. The Hon'ble High Court of Uttarakhand & others* (Writ Petition No. 1127 of 2011 (S/S)) settled a dispute with regard to inter-se seniority amongst class-III cadre in a judgeship. In the instant writ petition, petitioners had challenged the placement of private respondents, who are also class-III employees of same judgeship, above them on the ground that the private respondents were not initially appointed in that judgeship, but their initial appointments were made in other different judgeships and they were subsequently transferred to that judgeship by orders of the Hon'ble High Court. The Bench while discussing the matter at length observed that normally an employee after his transfer carries the length of his service to the new place where he is transferred, yet in the present case, the private respondents have not been transferred on the complaint or in the public interest, but they have been transferred at their own request and it would cause a hardship as well as heart burning to the employees who are already working in that judgeship. The Bench observed therefore that the transferred employee has to be placed at the bottom of the "cadre" and not just at the bottom of "pay scale". The Bench accordingly directed the District Judge to prepare a fresh seniority list.

7. On 22nd April, 2013, a Single Judge Bench in *Sandeep Kumar vs. State of Uttarakhand* (1st Bail Application No. 556 of 2013), while placing reliance on the judgment of Hon'ble Supreme Court rendered in the case of **Uday Mohanlal Acharya vs. State of Maharashtra, reported in 2001 (5) SCC 453**, observed that if prosecution fails to file charge-sheet within the statutory period of 90 days or 60 days, as the case may be, accused acquires indefeasible right of bail in default. If application is moved by the accused seeking bail, in default under Section 167(2)(a) of the Code of Criminal Procedure prior to filing of charge-sheet and thereafter charge-sheet is filed by the prosecution agency, then indefeasible right accrued in favour of the accused shall not be extinguished. However, if accused does not move the application seeking bail in default and meanwhile charge-sheet is filed, right of the accused to be enlarged on bail in default shall stand frustrated.
8. On 25th April, 2013, a Single Judge Bench in *Daleep Arya vs. State of Uttarakhand* (Criminal Appeal No. 354 of 2004), while affirming the conviction and sentence awarded to accused for the offences punishable under section 363, 366 & 376 of IPC, rejected the contention of accused that radiologist has opined the age of girl about 18 years and observed that evidence adduced by the father of victim as well as the school leaving certificate out weight the evidence of radiologist, as ascertainment of age by undertaking ossification test by the doctor is always approximate and cannot be said to be accurate. The Bench further observed that father of the victim is one of the best persons who can prove the age of his daughter. Moreover, at the time of admission to the school, date of birth must be told by the father of the victim and school authority recorded as such and such school certificate has been prepared in usual course of business, not in anticipation of any case being instituted.
9. On 27th April, 2013, a Single Judge Bench in *Pawan Kumar Saini vs. Jogendra Kumar* (Criminal Appeal No. 43 of 2010), allowing the appeal, observed that if cheque is dishonoured due to 'close of Account', complaint under Section 138 of Negotiable Instruments Act, 1881 is maintainable. The Bench placed reliance on the judgment rendered by Hon'ble the Supreme Court in the case of **Laxmi Dyechem vs. State of Gujrat, reported in 2012 (11) SCALE 365** and observed that the amount of money is insufficient to honour the cheque is a genus of which the expression "account being closed" is specie, therefore, complaint is maintainable under Section 138 of the NI Act, even if cheque is dishonoured on the ground "ACCOUNT IS CLOSED".
10. On 1st of May, 2013, a Single Judge Bench in *Shoorveer Singh vs. Heera Singh* (Civil Revision No. 89 of 2012), rejected the contention made by learned counsel for the revisionist that all the

legal representatives should have been made liable to pay the decretal amount in the proportion they received the property of the deceased judgment debtor and observed that it is settled principle of law that the decree holder cannot be made to chase all the legal representatives to recover the decretal amount. What is required under law is that whosoever has inherited the property (of the deceased judgment debtor), which can satisfy the decree can be made liable to pay the decretal amount in execution. The Bench also observed that of course, a person cannot be made to pay entire decretal sum if it exceeds, the value of the property inherited by such legal representative of the deceased judgment debtor, as the legal representative is not liable to pay any amount more than what he has received in inheritance.

11. On 2nd May, 2013, a Single Judge Bench in *Hukam Chand (deceased) by L.Rs. Vs. Harnam Singh (deceased) by L.Rs.* (Second Appeal No. 949 of 2001), dismissed the appeal and contention of tenant that he was entitled for benefit of Section 29-A of U.P. Urban Buildings (Regulation of Letting Rent and Eviction) Act, 1972 and observed that neither permission was given to the tenant to raise permanent structure nor the tin shed could be said to be permanent structure. With the above observation, the Bench directed the tenant to handover peaceful and vacant possession to the landlord within a period of three months.
12. On 2nd May, 2013, a Single Judge Bench in *Kuldeep Goyal vs. State of Uttarakhand* (1st Bail application No. 49 of 2013), while placing reliance on the judgment rendered by Hon'ble Supreme Court in the case of Manubhai Ratilal Patel vs. State of Gujrat, reported in 2013 (1) SCC 314, observed that while passing the order of remand or taking cognizance on the police report, the Magistrate does not act in executive capacity, rather he acts in judicial capacity and in that capacity, he is duty bound to examine the entire material placed before him and to satisfy himself as to whether case warrants cognizance, judicial remand or police remand, as the case may be. The Bench further observed that at the time of framing of charge, trial court must consider probative value of material on record and must apply judicial mind whether on the material placed on record, framing of charge would be justified. The Bench directed that Judicial Officers must exercise his jurisdiction and power judiciously and directed to forward the copy of judgment to all the Judicial Officers of Uttarakhand.

* * * * *

Contd. from page 10:**➤ Family Courts (from 01.04.2013 to 30.06.2013)**

SL. No	Name of the Family Court	Civil Cases				Criminal Cases				Total Pendency at the end of 30.06.13
		Opening Balance as on 01.04.13	Institution from 01.04.13 to 30.06.13	Disposal from 01.04.13 to 30.06.13	Pendency at the end of 30.06.13	Opening Balance as on 01.04.13	Institution from 01.04.13 to 30.06.13	Disposal from 01.04.13 to 30.06.13	Pendency at the end of 30.06.13	
1.	Dehradun	1272	292	289	1275	815	132	132	815	2090
2.	Rishikesh	129	39	51	117	113	36	31	118	235
3.	Nainital	396	94	112	378	388	82	69	401	779
4.	Hardwar	503	189	140	552	368	107	98	377	929
5.	Roorkee	343	139	140	342	325	88	134	279	621
6.	Pauri	230	62	47	245	194	53	67	180	425
7.	Udham Singh Nagar	503	170	138	535	500	111	88	523	1058
	TOTAL	3376	985	917	3444	2703	609	619	2693	6137

* * * * *

MAJOR EVENTS AND INITIATIVES

- ❖ **Transfer of Hon'ble Mr. Justice Kalyan Jyoti Sengupta:** Hon'ble Mr. Justice Kalyan Jyoti Sengupta, Senior Judge of High Court of Uttarakhand has been transferred and appointed as Chief Justice of High Court of Andhra Pradesh. On transfer of His Lordship, a Full Court Reference was organized in the Chief Justice's Court on 17.05.2013.
- ❖ **Visit of Hon'ble Mr. Justice Prafulla C. Pant to Singapore:** Subordinates Courts of Singapore organized a Judicial Governance Programme (JGP) from 08.7.2013 to 12.7.2013 at Singapore. Hon'ble the Chief Justice of India recommended the name of Hon'ble Mr. Justice Prafulla C. Pant of this High Court to be a part of delegation for participation in the aforesaid programme.
- ❖ **Visit of Hon'ble Judges to NJA:** National Judicial Academy, Bhopal organized a two days National Conference of High Court Judges on Criminal Law & Human Rights from 20.04.2013 to 21.04.2013. Hon'ble Mr. Justice Servesh Kumar Gupta and Hon'ble Mr. Justice U.C. Dhyani of this Court participated in the said conference. Besides the said conference, Hon'ble Mr. Justice Prafulla C. Pant had participated in the Annual Calendar Meeting to develop NJA's calendar for 2013-14 on 16.05.2013 and Hon'ble Mr. Justice Sudhanshu Dhulia was a resource person in the regional judicial conference on "Administration of Criminal Justice: Issues & Challenges" North Zone, organized by NJA at Shimla from 31.05.2013 to 02.06.2013.
- ❖ **Recruitment in H.J.S cadre under Direct recruitment & promotional quota:** Complying the mandate of Hon'ble Supreme Court regarding expeditious filling-up of vacancies in all the cadres of subordinate judiciary, process of recruitment in H.J.S. Cadre under direct recruitment quota from Bar has been completed and 02 candidate has been finally selected and appointed in this quarter. Besides, direct recruitment quota, 04 officers of Civil Judge (Senior Division) cadre has also been promoted to H.J.S. Cadre against promotional quota.

* * * * *

MAJOR ACTIVITIES OF UJALA

- ❖ **2nd Phase of Foundation Training Programme for Newly Appointed Civil Judges (Junior Division):** 32 judicial officers of Civil Judge (Junior Division) batch-2011 were appointed last year and after their joining at their respective districts, 18 months institutional as well as Court training under Foundation Training Programme is going on. After conclusion of Ist phase of institutional training and two months of court training, 2nd phase of institutional training is going on, which will complete on 12.07.2013.
- ❖ **Training on Ubuntu-Linux Operating System:** As a part of Change Management Process under the e-Court project, to impart training to all the judicial officers of State of Uttarakhand, 05 Master Trainers were identified in February, 2013. These Master Trainers were given intensive training in the Academy itself and thereafter, they are imparting awareness-cum-training on Ubuntu Operating System to all the judicial officers of the State. In this process, an awareness-cum-training programme was organized from 25.05.2013 to 26.05.2013 at the Academy for the judicial officers posted at High Court, Judicial officers posted at UJALA and newly appointed officers of Civil Judge (Junior Division) cadre.
- ❖ **Meeting of Governing Council:** On 29th of June, 2013, meeting of Governing Council was held in Uttarakhand Judicial & Legal Academy. The meeting was chaired by Hon'ble Mr. Justice Barin Ghosh, Chief Justice of High Court of Uttarakhand and Patron-in-Chief. Various decisions with regard to preparation of Action Plan for the financial year 2013-14, training, Research work, infrastructure, etc. were taken in the meeting. Besides this it has also been decided to publish a Legal Journal of the Academy.

* * * * *

UTTARAKHAND JUDICIAL AND LEGAL ACADEMY, BHOWALI, NAINITAL
FOUNDATION TRAINING PROGRAMME FOR CIVIL JUDGES (J.D.) 2011 Batch
IIND PHASE

DURATION: MARCH 13- JULY 12, 2013



Hon'ble Mr. Justice Kalyan Jyoti Sengupta (Senior Judge, High Court of Uttarakhand) (as he then was), now Chief Justice, Hon'ble High Court of Andhra Pradesh along with Director, Faculty Members of UJALA and Participants of foundation training programme.