



IN THE HIGH COURT OF ORISSA, CUTTACK

W.P.(C) No.28873 of 2023

An application under Articles 226 and 227 of the Constitution of India.

Malaya Ranjan Dash Petitioner

-Versus-

Registrar General of the
Hon'ble High Court of Orissa,
Cuttack and others Opp. Parties

For Petitioner: - Mr. Asok Mohanty
Senior Advocate
Mr. Prafulla Kumar Rath
Senior Advocate

For Opp. Parties: - Mr. Pitambar Acharya
Advocate General
Mr. Aurobinda Mohanty
Addl. Standing Counsel

P R E S E N T :

THE HONOURABLE MR. JUSTICE S.K. SAHOO

AND

THE HONOURABLE MR. JUSTICE S.S. MISHRA

Date of Hearing: 04.04.2025 Date of Judgment: 02.05.2025

S.K. SAHOO, J. English author and humorist Douglas Adams said,
"To give real service, you must add something which cannot be



brought or measured with money, and that is sincerity and integrity". "If you have integrity, nothing else matters. If you don't have integrity, nothing else matters", said Alan K. Simpson, an American politician.

Judiciary is an institution whose foundations are based on honesty, integrity and public trust. Integrity is the hallmark of judicial discipline. Dispensation of justice is akin to discharge of a pious duty. A Judge, like Caesar's wife, must be above suspicion. Judicial service cannot afford to suffer in the hands of a person of doubtful integrity. A Judge must be a person of high standards, impeccable integrity and unimpeachable independence, honest to the core with high moral values, must adhere to a higher standard of probity and ethically firm. Judicial conduct must not be beyond the pale. A slightest dishonesty, whether it is monetary, intellectual or institutional by a Judicial Officer may have disastrous effect. Democracy to thrive and the Rule of law to survive require every Judge to discharge his judicial functions with integrity, impartiality and intellectual honesty.

Recording of adverse remarks in the Confidential Character Roll (hereinafter 'C.C.R.') along with C.C.R. Grading as 'average' for the period from 01.01.2021 to 31.12.2021 is the subject matter of challenge in this writ petition filed by the



petitioner Malaya Ranjan Dash, who is an officer in the rank of Orissa Superior Judicial Service and prayer has been made to quash the adverse entry made in his C.C.R. which was communicated to him vide impugned letter no.15738 dated 15th October 2022 under Annexure-7 as well as the letter dated 21st December 2022 under Annexure-10 rejecting his prayer to expunge the adverse remark in his C.C.R.

2. The factual matrix of the case, as appears from the record, is that the petitioner got selected in the written test for the post of District Judge directly from the Bar in the year 2010, attended the interview on 4th September 2010 and came out successful and became topper among four candidates selected for the post of District Judge through direct recruitment from the Bar in that year.

It is the case of the petitioner that during his entire service career, the petitioner had remained sincere, committed to his work and had performed his job to the utmost satisfaction of higher authorities and till initiation of disciplinary proceeding, he had never received any adverse comment/remark from the High Court. It is the further case of the petitioner that after successful completion of five years in the cadre of District Judge, he was granted Selection Grade Scale of pay with effect from 15th December 2015 and on satisfactory performance in the said



cadre, he was further granted Super Time Scale of pay with effect from 3rd August 2017 by this Court. During his tenure as Addl. District & Sessions Judge in four different stations and as Principal District & Sessions Judge at four districts of Odisha consecutively for around seven years, the petitioner was appreciated by the Administrative Judges of those stations/districts and he truly believed that he must have received CCR grading of high rank from them and even during his stint in Orissa High Court as Registrar General, the performance of the petitioner was appreciated by the then Hon'ble Chief Justice and other puisne Judges of the Court.

A disciplinary proceeding was initiated against the petitioner and two other officers vide D.P. No.3/2021 on the charges of committing (a) Gross misconduct (b) Dereliction in duty (c) Administrative indiscipline while dealing with judicial records and (d) Failure to maintain absolute integrity and honesty, under Rule 3 of the Odisha Government Servants' Conduct Rules, 1959 on the allegation/imputations that while working as Registrar General, High Court of Orissa on 26th February 2021, without making the Chief Justice informed, he approved a note sheet of the then Deputy Registrar (Judicial) and thereby instructed for registration of a Suo Motu proceeding on the basis of an unsigned order bearing the date 24th February



2021 purported to be of the Division Bench of this Court and accordingly, Registry of the High Court registered Suo Motu Writ Petition (Civil) No.7943 of 2021 "Registrar (Administration), Orissa High Court -versus- Chief Secretary, Govt. of Odisha and others" and sent notices to the opposite parties enclosing copies of the above unsigned order. The Office of the Advocate General, Odisha received the notice and copy of such notice was also received by the office of one of the Amicus Curiae Mr. Manoranjan Mohanty, which act/omission of the petitioner lowered the majesty of the High Court and it amounts to gross misconduct, dereliction of duty and administrative indiscipline and thereby he failed to maintain absolute integrity and honesty.

It is the case of the petitioner that pursuant to the note sheet leading to the registration of the above mentioned Suo Motu writ petition, he submitted his explanation as to under which circumstances, it was approved and stated that the same was an inadvertent mistake on his part as he was neither vetted by the then Deputy Registrar (Judicial) nor could focus that he was acting upon a copy of the order without signature. Even he could not sense that there was dissenting opinion of one of the Hon'ble Judges of the Bench, as the note sheet was placed before him after two days of the date of the order unaccompanied with that part of the dissenting order.



It is the further case of the petitioner that being not satisfied with the written note of defence as filed by the petitioner, an enquiry committee was constituted and the Enquiring Authority after inquiry submitted the enquiry report holding the petitioner and co-delinquent Shri Janmejy Das guilty of three charges i.e. (a) Gross Misconduct (b) Dereliction of Duty and (c) Administrative indiscipline while dealing with judicial records, but at the same time, he was exonerated from the charge of "failure to maintain absolute integrity and honesty". The Enquiring Authority was also pleased to recommend the punishment of reduction to the lower grade in the pay and vide notification no.2100 dated 21st December 2022, the petitioner was awarded with major penalty of reduction to a lower grade i.e. Selection Grade (SG) in the rank of District Judge as envisaged in sub-rule (vi) of Rule 13 of the OCS (CCA) Rules, 1962 and further clarified that upon reduction to the lower grade of Selection Grade, the pay of the petitioner will be fixed at the initial scale of Selection Grade with entitlement of annual increments in the Selection Grade with further stipulation that his up-gradation to the next higher grade in the Super Time Scale would be considered after five years.

Pursuant to the Notification No.2100 dated 21st December 2022, the State Govt. in the Department of Home in



its order No.6950 dated 16th February, 2023 re-fixed the revised judicial scale of 2022 at Rs.1,63,030/- in Cell No.1 of Level J-6 (Selection Grade) of the pay matrix w.e.f. 21st December, 2022 with further stipulation that the upgradation to the next higher grade in the Super Time Scale would be considered after five years from the date 21st December 2022.

It is the further case of the petitioner that while he was functioning as Presiding Officer, Industrial Tribunal, Rourkela, he was served with a confidential letter no.15738 dated 15.10.2022 vide Annexure-7 from the opp. party no.3 communicating extracts from the remarks recorded in his C.C.R. with C.C.R. grading for the period from 1st January 2021 to 31st December 2021 by this Court which reads as follows:

1.	Personal relation, quality of relationship with superior officers, colleagues, subordinates, learned members of the Bar and Public	Calculative
2.	Integrity	Doubtful. Does not inspire confidence
3.	Grading	Average



It is the further case of the petitioner that G.R.C.O. (Civil) prescribes the procedure for recording of C.C.R. of the Judicial Officers. Before filling of the column no.7 which says about integrity, note in the instruction and guidelines appended therein are to be followed, but without following the procedure in the G.R.C.O. (Civil), adverse remark in the C.C.R. of the petitioner was recorded, which is ex-facie illegal and not sustainable in the eyes of law.

It is the further case of the petitioner that he filed a representation on 01.11.2022 before this Court seeking to expunge the adverse remark against him and also to upgrade the C.C.R. grading to any higher grade taking into account his sincerity, honesty, probity, commitment and devotion to duty among similar other factors as deem fit and proper, otherwise, it will not only put a stigma in his career but also subject him to great hardship and put a scar on his soul forever, even without doing anything blemished. The representation filed by the petitioner was rejected by this Court without assigning any reason whatsoever and the said fact was communicated to the petitioner vide letter no.19921 dated 21st December 2022 (Annexure-10).

It is the further case of the petitioner that the entry made in the CCR for the year 2021 cannot be said to be justified



as the prior to such entry, the petitioner had served ten years in judicial service and never received any such adverse entry in C.C.R. Pursuant to the incident of approval of the note sheet regarding registration of a Suo Motu Case No.7943 of 2021 without intimation of the Hon'ble the Chief Justice, the petitioner was transferred as District Judge, Rayagada where the petitioner hardly worked for five months that too during COVID-19 period in restrictive functioning of the Court and then his service was placed under the State Government, in the Labour and ESI Departments as Presiding Officer, Industrial Tribunal. Nothing had been brought to the notice of the petitioner over such year or thereafter regarding any material which could cast doubt on the integrity of the petitioner. As regards to the charge in D.P. No.03 of 2021 that the petitioner had failed to maintain absolute integrity and honesty in performance of his job, was found to be not proved by the Enquiring Authority.

It is the further case of the petitioner that prior to the recording of such C.C.R., the petitioner was not granted with sufficient opportunity in writing or by informing him of the deficiency, if any, noticed for improvement thereby causing serious prejudice to the petitioner and hence, the action of the opposite parties in labeling him as an officer of 'doubtful integrity' and other remarks are not sustainable in law.



It is the further case of the petitioner that even though the impugned orders were passed on 15th October 2022 and 21st December 2022 respectively and the re-fixation of salary was made on 16.02.2023, but sometimes thereafter, the petitioner was transferred from Rourkela to Bolangir and after collecting all the relevant materials for the preparation of the writ petition which took some time, because of which there was some delay in preferring the writ petition and further because the petitioner is a judicial officer in the cadre of District Judge, due to his hectic schedule, he could not prefer the writ petition in promptitude and accordingly, after sometime, the writ application was filed.

3. In response to the notice, all the opp. parties being represented by the Special Officer (Administration), High Court of Orissa has filed their counter affidavit in the writ petition wherein it is stated that the petitioner was not sincere nor committed in his work nor performed his job to the utmost satisfaction of higher authorities. It is stated that the opp. parties have no knowledge if the petitioner was appreciated by the Hon'ble Administrative Judges while he was functioning as Addl. District & Sessions Judge or Principal District Judge in different stations, but the performance of the petitioner as the Registrar General of this Court was never appreciated by the



then Hon'ble Chief Justice. It is not known if the petitioner was appreciated by the other Hon'ble Judges of this Court. It is stated that the petitioner had submitted his initial reply to the show cause and subsequent to the initiation of D.P. No.3 of 2021, the petitioner submitted his written statement of defence. Thereafter, Enquiring Authority was appointed to enquire into the charges levelled against the petitioner and two other co-delinquents. There was, however, no constitution of any inquiry committee. It is further stated that the Enquiring Authority after due inquiry submitted the report and the Disciplinary Authority considering the findings therein and the various statutory provisions under Rules 15(10)(i)(a) and 15(10)(i)(b) of OCS (CCA) Rules, 1962, submitted by the petitioner and taking into account all other relevant aspects has awarded penalty as stated above. It is stated that the penalty was imposed on the petitioner taking into consideration the gravity of misconduct which is neither disproportionate nor illegal as alleged and the penalty as inflicted was lawful and keeping in view the magnitude of the guilt. It is stated that the adverse remarks were made by the Reporting Authority -cum- Chief Justice of the High Court in the C.C.R. of the petitioner by following due procedure after taking all the aspects into consideration and the same was neither illegal nor does it require any interference by



this Court. It is stated that the representation dated 21.11.2022 of the petitioner was duly considered and was rejected and the factum of rejection was communicated to the petitioner. It is further stated that due procedure has been followed by the Reporting Authority while recording the CCR of the petitioner for the year 2021 and therefore, it cannot be said that the recording has been made without any reason or it suffers from non-application of mind. It is stated that the case of the petitioner that the entries made in the CCR of the petitioner for the year 2021 are not justified because he had never received any adverse entry in his last ten years in the Judicial Service, is erroneous. Entry in CCR is made after taking all the relevant aspects of the officer concerned into consideration. It is further stated that the incident of approval of the note sheet was a misconduct as has been concluded by the Hon'ble Enquiring Authority in D.P. No.3 of 2021 wherein the magnitude of guilt of the petitioner has been discussed with due elaboration and merely because the department was unsuccessful in bringing home the charge that the petitioner had failed to maintain absolute integrity and honesty, the same cannot be a circumstance not to make an adverse entry in the CCRs. It is stated that the case of the petitioner that merely because an officer was good in past, he is good for all times to come, is not



acceptable. The past conduct of an officer is no guarantee that he would not commit any misconduct and from such angle, the past reputation and assessments were of no concern for the present or future grading/assessment. It is further stated that the grounds taken by the petitioner seems to be more frictional than real and therefore, the petitioner is not entitled for the reliefs claimed.

4. When the matter was taken up for hearing on 21.03.2025 and Mr. Asok Mohanty, learned Senior Advocate appearing for the petitioner placed GRCO (Civil) Volume-II under the heading of 'Notes on Procedure for Recording Annual Confidential Character Roll of Judicial Officers' which is a part of Form No.(S)-33 wherein procedure has been laid down regarding the guidelines to be followed in filling up the column relating to 'integrity' and submitted that such procedure has not been followed in the case of the petitioner, we directed the Special Officer (Administration) of this Court who has filed the counter affidavit, to file an affidavit specifically stating therein as to whether the guidelines as laid down in such notes have been followed or not and if so, all the relevant documents to that effect be placed along with the affidavit. Since, the impugned letter under Annexure-7 relates to recording of remarks in the Confidential Character Roll along with C.C.R. grading for the



period from 01.01.2021 to 31.12.2021 and in that period, the petitioner acted as Registrar General of this Court, District and Sessions Judge, Rayagada so also as the Presiding Officer, Industrial Tribunal, Rourkela, we also directed the Special Officer (Administration) to produce before us the copies of the C.C.R. of the petitioner of the concerned authority/Administrative Judges for the period from 01.03.2021 to 09.03.2021, 15.03.2021 to 06.08.2021 and 11.08.2021 to 31.12.2021. We also asked the Special Officer (Administration) to produce the records of grading in the C.C.R. of the petitioner for the year 2019 and 2020.

The learned counsel for the petitioner filed a memo on 21.03.2025 with the intimation regarding grading of C.C.R. for the year 2022 and 2023 communicated to him by Special Officer (Administration) dated 03.09.2024 which shows the grading of the petitioner for the year 2022 was 'very good' and for the year 2023 was also 'very good'.

In pursuance of such order dated 21.03.2025, an affidavit has been filed by the Special Officer (Administration) along with the records of C.C.R. in grading of the petitioner for the year 2019 and 2020 so also the C.C.R. of the petitioner for the period from 03.01.2021 to 08.03.2021, 15.03.2021 to 06.08.2021 and 11.08.2021 to 31.12.2021. The remarks of the Full Court in the C.C.R. of the petitioner for the year 2019 (I) is



'very good' and for the year 2019 (II) is 'very good'. The remarks of the Full Court in the C.C.R. of the petitioner for the year 2020 (I) is 'very good' and the grading given by the Hon'ble Chief Justice in the C.C.R. of the petitioner from 05.06.2020 to 02.01.2021 is 'outstanding'.

In the C.C.R. of the petitioner from 04.01.21 to 08.03.2021, the Hon'ble Chief Justice in column no.(i) which relates to 'state of health and special personality', column no.(ii) which relates to 'report on the officer's qualities', column no.(iii) which relates to 'report on officers abilities', column no.(iv) which relates to 'report on knowledge and performance' and column no.(vii) which relates to 'attitude and potential', has given his remarks as 'Good'. In column no.(v) which relates to 'Defect, if any, noticed', the remark has been as 'None'. However, under the heading of 'integrity' in column no.(viii), the remark has been given as 'Doubtful. Does not inspire confidence' and under the heading of 'Grading' in column no.(ix), the remark has been given as 'Average'.

In the C.C.R. of the petitioner for the period from 15.03.21 to 12.07.2021, the Judge-in-Charge of the district, who is also the Enquiring Authority has given his remarks on dated 21.03.2022 in column no.1(a) which relates to 'Conduct of business in Court and Office' as 'satisfactory', in column no.1(b)



which relates to 'quality of judgment etc.' as 'good', in column no.2 which relates to 'quantity of work' as 'sufficient', in column no.8(II) which relates to 'overall assessment of officers with reference to his/her judicial administrative work and ability, reputation and character, strength and shortcomings and also by drawing to the qualities etc.' as 'capable and efficient' and even in column no.9 which relates to 'grading' as 'good'. However, in column no.4 which relates to 'personal relation, quality of relationship with superior officers, colleagues, subordinates, learned members of Bar and Public', remark has been given as 'calculative' and in column no.7 which relates to 'integrity', remark has been given as 'doubtful'.

In the C.C.R. of the petitioner from 11.08.2021 to 31.12.2021, the grading has been given as 'very good'.

In affidavit dated 03.04.2025 filed by the Special Officer (Administration) pursuant to the order dated 21.03.2025, which was filed on 04.04.2025, it is stated that the guidelines that has been enumerated in the GRCO (Civil) Volume-II, Part-VI under the heading of 'Notes on Procedure for Recording Annual Confidential Character Roll of Judicial Officers' provides for maintaining secret record/register of the concerned Judicial Officer, whose activities give rise to suspicion of integrity and further provide for making a note as to the fact and circumstance



touching the integrity of the concerned officer. The secret record/register is to be submitted by the Hon'ble Administrative Judge of the District to the Hon'ble Chief Justice in case of officers belonging to the cadre of O.S.J.S. (Sr. Branch) without delay. It is further stated that the deponent had no scope to access to nor he had the custody of any such secret record/register at any point of time. It is further stated that since during the period from 03.01.2021 to 08.03.2021, the petitioner was working as Registrar General of this Court, the remarks regarding his integrity in the relevant columns has been recorded by the then Hon'ble Chief Justice. Similarly, during the period from 15.03.2021 to 06.08.2021, the petitioner was working as District and Sessions Judge, Rayagada and the remarks regarding his integrity has been recorded by the then Hon'ble Administrative Judge of Rayagada and both the C.C.Rs. along with the C.C.R. for the period from 11.08.2021 to 31.12.2021 were placed before the Hon'ble Full Court for consideration and has been duly considered.

5. Mr. Asok Mohanty and Mr. Prafulla Kumar Rath, learned Senior Advocates appearing for the petitioner contended that the GRCO (Civil) Volume-II prescribed the procedure for recording of Annual C.C.R. of the Judicial Officers. The column no.(viii) in Part-III of the form which is to be filled up by Hon'ble



the Chief Justice and column no.7 in Part-IV of the form which is to be filled up by the Judge-in-Charge of the district, which relates to 'integrity' of the Judicial Officer, it is mentioned therein 'please see note in the instruction and guidelines appended'. In the notes on procedure for recording C.C.R., it is specifically mentioned as to what are the guidelines to be followed in filling up the column relating to 'integrity', but without following such procedure, adverse remarks has been recorded in the CCR of the petitioner, which is ex-facie illegal and not sustainable in law. The representation of the petitioner dated 1st November, 2022, which was filed vide Annexure-9 before this Court seeking to expunge the adverse remarks against him and also to upgrade the C.C.R. grading to any higher grade was rejected on 21st November, 2022 without assigning any reason whatsoever and the same was communicated to the petitioner on 21st December, 2022. It is strenuously argued that by assigning reasons while taking a decision on the representation, it would show how the authority concerned has applied its mind and there must be a rational nexus between the facts considered and conclusion reached. Non-recording of the reasons for the rejection of the representation to expunge the adverse remarks cannot be sustained in the eyes of law. It is further argued that there was no material before this Court in making the adverse entry



regarding the integrity of the petitioner and prior to recording of such C.C.R., the petitioner was not granted opportunity in writing by informing him of the deficiency, if any, noticed for improvement and thus, the action of the opposite parties in leveling him as an Officer of doubtful integrity and other adverse remarks are not sustainable in the eyes of law. While recording an entry on the integrity of the petitioner, the past reputation of the petitioner and assessments made over the past years has not been taken into account and thus, the impugned letter dated 15.10.2022 under Annexure-7 and impugned order dated 21.12.2022 under Annexure-10 are liable to be quashed. Reliance has been placed in the cases of **Nazir Ahmed -Vrs.- Emperor reported in A.I.R. 1936 PC 253, Bishwanath Prasad Singh -Vrs.- State of Bihar and Others reported in (2001) 2 Supreme Court Cases 305, Dev Dutt -Vrs.- Union of India and Others reported in (2008) 8 Supreme Court Cases 725, M.S. Bindra -Vrs.- Union of India and Others reported in (1998) 7 Supreme Court Cases 310 and State of U.P. -Vrs.- Yamuna Shankar Misra and Another reported in (1997) 4 Supreme Court Cases 7.**

6. Mr. Pitambar Acharya, learned Advocate General in his inimitable style, being ably supported by Mr. Aurobinda Mohanty, learned Additional Standing Counsel argued that there



is no dispute that the C.C.R. should accurately reflect on the performance, conduct, behaviour and potential of the judicial officer for the period under report. Remark under integrity column cannot be made in a casual or mechanical manner. Since the forms prescribed under Part-III and Part-IV in recording the C.C.R. clearly states that while filling up the column 'integrity', note in the instruction and guidelines appended are to be seen and the guidelines indicate the detail procedure to be followed in filling up such column, if this Court comes to the conclusion that such guidelines have not been followed before making the adverse entry in such column, then the petitioner is entitled to get the relief as sought for.

7. Adverting to the contentions raised by the learned counsel for the both the parties, before proceeding further, since the adverse entry in C.C.R. is in issue, it would be apt and appropriate to extract the relevant provision of G.R.C.O (Civil) Vol.-II which deals with the recording of C.C.R. of the Judicial Officers.

Form No. (S)-33 has got six parts. Part-III and Part-IV of the forms are relevant in this case. Part-III of the form as per note is to be filled up by Hon'ble the Chief Justice in case of Registrars of High Court, inter alia, by the Registrars in case of officers working in the Registry of the High Court and



Government and head of institution in case of officers on deputation to them. Part-IV of the form is to be filled up by the Judge-in-charge of the district in case of officers belonging to the cadre of O.S.J.S. (Sr. Branch) except the officers of the Registry of the High Court. Part-IV of the form is also to be filled up by the District Judges and officers of the rank of O.S.J.S. (Sr. Branch) in case of certain category of Judicial Officers. Column no.(viii) of Part-III of the form so also column no.7 of Part-IV of the form deals with remark on 'integrity' to be given by Hon'ble the Chief Justice and Judge-in-charge of the district respectively. In both the forms, in the said two columns, within bracket, it is mentioned, 'Please see note in the instruction and guidelines appended'. In the 'Notes on procedure for recording Annual C.C.R roll of Judicial Officers', it is stated under the heading 'Note' under Column no.4 that the following guidelines should be followed in filing up column relating to 'integrity':-

(a) The Judge-in-charge of the district/Reporting Authority/District Judge should maintain secret records/registers of all the concerned judicial officers whose activities give rise to suspicion of integrity making a note as to the fact and circumstance which come to his knowledge touching the integrity of the concerned officer.



(b) Whenever the Judge-in-charge of the district/Reporting Authority/District Judge receives such information, he shall indicate in the record whether the information reveals a definite fact susceptible of formal proof, or a mere vague allegation not susceptible of formal proof, but a suspicion or doubt exists. Where a fact is capable of formal proof, the officer will make a proper inquiry. If the officer concerned clears up his position, the matter will not be further pursued and a note will be made in the secret record that the concerned officer is able to clear up the position. If, however nothing is proved against the officer concerned, the Reporting Authority/District Judge will take such action against him as may be called for having regard the gravity of the proved fact and the Judge-in-charge of the district will place the matter before the Full Court recommending for necessary action. Where, however, the allegations are vague, the Judge-in-charge of the District/Reporting Authority/District Judge shall indicate to the concerned officer the allegations and circumstances which have come to his knowledge and require the concerned officer to furnish an explanation. If the Judge-in-charge of the District/Reporting Authority/District Judge is satisfied with the explanation, he will make a note of the fact in the secret record. If the explanation is not considered satisfactory and proof may be available, he will utilize that as fact or circumstance which



come to his knowledge as a circumstance which creates a doubt about the integrity of the officer.

(c) The Judge-in-charge of the District/Reporting Authority/District Judge shall indicate to the concerned officer as to what are his general reputation about the standard of living of the concerned officer. If the concerned officer fails to explain the circumstance, that can form the basis for an observation that the integrity of the concerned officer is doubtful.

(d) The column in which the integrity certificate is required to be recorded, the Judge-in-charge of the District/Reporting Authority/District Judge shall give a certificate indicated below –

“Nothing has come to my knowledge which casts any reflection on the integrity of.....His general reputation and honesty are good and I certify his integrity.”

(e) There should be no disposition to deal with ground of integrity certificate as above in casual or mechanical fashion.

(f) Where any adverse report regarding the reputation of an officer touching his integrity or honesty is received, the concerned superior officer should keep a general watch over the standard of living and in case there is evidence that the concerned officer lives beyond his means for which there is no apparent satisfactory explanation and evidence is forthcoming, he should be asked to



explain how he is in a position to do so. Unless the superior officer is satisfied with the explanation, he should report the question of integrity to the concerned authority.

(g) If adverse integrity certificate is given, the connected records questioning the integrity should be sent for consideration to the Judge-in-charge of the District in case of officers subordinate to the District Judges/by the Accepting Authority in case of officers on deputation to Government or other institutions to the Chief Justice/by the Judges-in-charge of the districts in case of officers belonging to the cadre of O.S.J.S. (Sr. Branch) and in case of officers below the cadre of O.S.J.S. (Sr. Branch) with the remarks to the Hon'ble the Chief Justice without delay.

(h) The Judge-in-charge of the District/Reporting Authority/District Judge shall indicate on record the source and gist of information reason for his an opinion of the officer having evil reputation.

(i) If as a result of follow-up action, doubt of suspicion are neither cleared nor confirmed, the officer's conduct should be watched for a period of six months and thereafter action be taken as indicated above.

Role of Judge-in-charge of the District in filling up column relating to 'integrity':

8. In view of the above guidelines, the maintenance of secret records by the Judge-in-charge of the district making a



note as to the fact and circumstance which comes to his knowledge touching the integrity of the concerned Judicial Officer is necessary. The secret record shall indicate whether the information reveals a definite fact susceptible of formal proof, or a mere vague allegation not susceptible of formal proof, but a suspicion or doubt exists. The Judge-in-charge of the district will make a proper inquiry where a fact is capable of formal proof. In the inquiry, if the Judicial Officer concerned clears up his position, the matter will not be further pursued and a note will be made in the secret record that the concerned officer is able to clear up the position. If in the inquiry, nothing is proved against the Judicial Officer concerned, having regard to the gravity of the charge, the Judge-in-charge of the district will place the matter before the Full Court recommending for necessary action. The Judge-in-charge of the district shall indicate to the concerned Judicial Officer where the allegations are vague, the allegations and circumstances which have come to his knowledge and require the concerned Judicial Officer to furnish an explanation. The Judge-in-charge of the district, if satisfied with the explanation, will make a note of the fact in the secret record. If the explanation furnished by the Judicial Officer is not considered satisfactory and proof may be available, the Judge-in-charge of the district will utilize that as fact or circumstance which come to



his knowledge as a circumstance which creates a doubt about the integrity of the officer. The Judge-in-charge of the district shall indicate to the concerned Judicial Officer as to what are his general reputations about the standard of living. If the concerned officer fails to explain the circumstance, the same can form the basis for an observation that the integrity of the concerned officer is doubtful. Where any adverse report regarding the reputation of a Judicial Officer touching his integrity or honesty is received, the Judge-in-charge should keep a general watch over the standard of living of the concerned Judicial Officer. In case there is evidence that the concerned Judicial Officer lives beyond his means for which there is no apparent satisfactory explanation and evidence is forthcoming, he should be asked by the Judge-in-charge to explain how he is in a position to do so. Unless the Judge-in-charge is satisfied with the explanation, he should report the question of integrity to the concerned authority. If adverse integrity certificate is given, the connected records questioning the integrity should be sent by the Judges-in-charge of the districts in case of officer belonging to the cadre of O.S.J.S. (Sr. Branch) and in case of officer below the cadre of O.S.J.S. (Sr. Branch) with the remarks for consideration to the Hon'ble the Chief Justice without delay. The Judge-in-charge of the district shall indicate on record, the source and gist of



information, reason for his opinion of the Judicial Officer having evil reputation. If as a result of follow-up action, doubt or suspicion are neither cleared nor confirmed, the conduct of the Judicial Officer shall be watched for a period of six months and thereafter action be taken as indicated above.

Whether the guidelines mentioned in the 'Note' in filling up the column relating to 'integrity' are mandatory or directory?:

9. In 'Principles of Statutory Interpretation', 15th Edition, 2023, Justice G.P. Singh, at page 304 states as follows:

"As approved by the Supreme Court: "The question as to whether a statute is mandatory or directory depends upon the intent of the Legislature and not upon the language in which the intent is clothed. The meaning and intention of the Legislature must govern, and these are to be ascertained not only from the phraseology of the provision, but also by considering its nature, its design, and the consequences which would follow from construing it the one way or the other". "For ascertaining the real intention of the Legislature", points out Subbarao, J, "the court may consider inter alia, the nature and design of the statute, and the consequences which would follow from construing it the one way or the other; the impact of the other provisions



whereby the necessity of complying with the provisions in question is avoided; the circumstances, namely, that the statute provides for a contingency of the non-compliance with the provisions; the fact that the non-compliance with the provisions is or is not visited by some penalty; the serious or the trivial consequences, that flow therefrom; and above all, whether the object of the legislation will be defeated or furthered". If object of the enactment will be defeated by holding the same directory, it will be construed as mandatory, whereas if by holding it mandatory, serious general inconvenience will be created to innocent persons without very much furthering the object of enactment, the same will be construed as directory. But all this does not mean that the language used is to be ignored, but only that the prima facie inference of the intention of the legislature arising from the words used may be displaced by considering the nature of the enactment, its design and the consequences flowing from alternative constructions. Thus, the use of the words 'as nearly as may be' in contrast to the words 'at least' will prima facie indicate a directory requirement, negative words a mandatory requirement 'may' a directory requirement and 'shall' a mandatory requirement."



Justice G.P. Singh in the same edition of the abovementioned book, at page 320, stated that the use of the word 'shall' with respect to one matter and use of word 'may' with respect to another matter in the same section of a statute, will normally lead to the conclusion that the word 'shall' imposes an obligation, whereas the word 'may' confers a discretionary power. But that by itself is not decisive and the Court may, having regard to the context and consequences, come to the conclusion that the part of the statute using 'shall' is also directory. The use of word 'must' in place of 'shall' will itself be sufficient to hold the provision to be mandatory and it will not be necessary to pursue the enquiry any further. The use of word 'should' instead of 'must' may not justify the inference that the provision is directory if the context shows otherwise.

In the case of **State of Haryana and Anr. -Vrs.- Raghbir Dayal reported in (1995) 1 Supreme Court Cases 133**, the Hon'ble Supreme Court has observed as follows:

"5. The use of the word 'shall' is ordinarily mandatory but it is sometimes not so interpreted if the scope of the enactment, or consequences to flow from such construction would not so demand. Normally, the word 'shall' prima facie ought to be considered mandatory but it is the function of the Court to ascertain



the real intention of the legislature by a careful examination of the whole scope of the statute, the purpose it seeks to serve and the consequences that would flow from the construction to be placed thereon. The word 'shall', therefore, ought to be construed not according to the language with which it is clothed but in the context in which it is used and the purpose it seeks to serve. The meaning has to be described to the word 'shall; as mandatory or as directory accordingly. Equally, it is settled law that when a statute is passed for the purpose of enabling the doing of something and prescribes the formalities which are to be attended for the purpose, those prescribed formalities which are essential to the validity of such thing, would be mandatory. However, if by holding them to be mandatory, serious general inconvenience is caused to innocent persons or general public, without very much furthering the object of the Act, the same would be construed as directory."

In the case of **May George -Vrs.- Special Tehsildar and Ors. reported in (2010) 13 Supreme Court Cases 98**, the Hon'ble Supreme Court held as follows:

"15. While determining whether a provision is mandatory or directory, in addition to the language used therein, the Court has to examine the context in which the provision is used and



the purpose it seeks to achieve. It may also be necessary to find out the intent of the legislature for enacting it and the serious and general inconveniences or injustice to persons relating thereto from its application. The provision is mandatory if it is passed for the enabling the doing of something and prescribes the formalities for doing certain things.

xx xx xx xx xx

25. The law on this issue can be summarised to the effect that in order to declare a provision mandatory, the test to be applied is as to whether non-compliance of the provision could render entire proceedings invalid or not. Whether the provision is mandatory or directory, depends upon the intent of legislature and not upon the language for which the intent is clothed. The issue is to be examined having regard to the context, subject matter and object of the statutory provisions in question. The Court may find out as to what would be the consequence which would flow from construing it in one way or the other and as to whether the statute provides for a contingency of the non-compliance of the provisions and as to whether the non-compliance is visited by small penalty or serious consequence would flow therefrom and as to whether a particular interpretation would defeat or frustrate the legislation and if the



provision is mandatory, the act done in breach thereof will be invalid.”

In the case of **Delhi Airtech Services Pvt. Ltd. and Another -Vrs.- State of U.P. and Another reported in (2011) 9 Supreme Court Cases 354**, the Hon’ble Supreme Court held as follows:

“122. The distinction between mandatory and directory provisions is a well accepted norm of interpretation. The general rule of interpretation would require the word to be given its own meaning and the word 'shall' would be read as 'must' unless it was essential to read it as 'may' to achieve the ends of legislative intent and understand the language of the provisions. It is difficult to lay down any universal rule, but wherever the word 'shall' is used in a substantive statute, it normally would indicate mandatory intent of the legislature.

123. Crawford on 'Statutory Construction' has specifically stated that language of the provision is not the sole criteria; but the Courts should consider its nature, design and the consequences which could flow from construing it one way or the other.

124. Thus, the word 'shall' would normally be mandatory while the word 'may' would be directory. Consequences of non-compliance would also be a relevant consideration. The word 'shall' raises a presumption that the particular



provision is imperative but this *prima facie* inference may be rebutted by other considerations such as object and scope of the enactment and the consequences flowing from such construction.

xx xx xx xx xx

131....it is clear that it may not be possible to lay down any straitjacket formula, which could unanimously be applied to all cases, irrespective of considering the facts, legislation in question, object of such legislation, intendment of the legislature and substance of the enactment. In my view, it will always depend upon all these factors as stated by me above. Still, these precepts are not exhaustive and are merely indicative. There could be cases where the word 'shall' has been used to indicate the legislative intent that the provisions should be mandatory, but when examined in light of the scheme of the Act, language of the provisions, legislative intendment and the objects sought to be achieved, such an interpretation may defeat the very purpose of the Act and, thus, such interpretation may not be acceptable in law and in public interest. Keeping in mind the language of the provision, the Court has to examine whether the provision is intended to regulate certain procedure or whether it vests private individuals with certain rights and levies a corresponding duty on the officers concerned.



The Court will still have to examine another aspect, even after holding that a particular provision is mandatory or directory, as the case may be, i.e., whether the effect or impact of such non-compliance would invalidate or render the proceedings void ab initio or it would result in imposition of smaller penalties or in issuance of directions to further protect and safeguard the interests of the individual against the power of the State. The language of the statute, intention of the legislature and other factors stated above decide the results and impacts of non-compliance in the facts and circumstances of a given case, before the Court can declare a provision capable of such strict construction, to term it as absolutely mandatory or directory.”

In the light of the aforesaid discussions, we are of the humble view that since it is mentioned in the note that while filling up the column relating to ‘integrity’, the guidelines should be followed, the legislative intent in framing such guidelines to give remark on integrity of a Judicial Officer which is the bedrock of the judicial institution essential for compliance with democracy and the Rule of law, the consequence that is likely to follow if the prescribed formalities of guidelines are not followed while mentioning ‘doubtful integrity’ in the C.C.R. in a casual or mechanical manner, in our humble view, such guidelines are to



be considered in the nature of a condition precedent in filling up the column relating to integrity and thus mandatory.

Whether the procedural guidelines have been followed while filling up the integrity column of C.C.R.:

10. Specific ground has been taken in the writ petition that before filling up the column no.7 of the prescribed form and recording the adverse remark in the C.C.R. of the petitioner which says about integrity, note in the instruction and guidelines appended therein were not followed and thus, such entry is ex-facie illegal and not sustainable in the eyes of law.

In the counter affidavit filed by the opposite parties, it is stated that the adverse remarks were made by the Reporting Authority -cum- Chief Justice of the High Court in the C.C.R. of the petitioner by following due procedure after taking all the aspects into consideration and the same was neither illegal nor does it require any interference by this Court. It is further stated that due procedure has been followed by the Reporting Authority while recording the C.C.R. of the petitioner for the year 2021. Nothing has been stated about the adverse entry made by the Judge-in-charge of the district.

Basing on the submission of Mr. Asok Mohanty, learned Senior Advocate that procedure as has been laid down



regarding the guidelines to be followed in filling up the column relating to 'integrity' has not been followed in the case of the petitioner, vide order dated 21.03.2025, we directed the Special Officer (Administration) of this Court who has filed the counter affidavit, to file an affidavit specifically stating therein as to whether such guidelines have been followed and if so, all the relevant documents to that effect be placed along with the affidavit.

The Special Officer (Administration) pursuant to the order dated 21.03.2025, in affidavit dated 03.04.2025 which was filed on 04.04.2025, stated that the guidelines that has been enumerated in the G.R.C.O. (Civil) Volume-II provides for maintaining secret record/register of the concerned Judicial Officer, whose activities give rise to suspicion of integrity and further provide for making a note as to the fact and circumstance touching the integrity of the concerned officer. The secret record/register is to be submitted by the Hon'ble Administrative Judge of the District to the Hon'ble Chief Justice in case of officers belonging to the cadre of O.S.J.S. (Sr. Branch) without delay and thus, the deponent had no scope to access to or had the custody of any such secret record/register at any point of time. The affidavit did not specifically state whether the guidelines have been followed or not while filling up the column



relating to integrity and the relevant documents to that effect were also not placed along with the affidavit.

From the aforesaid reply in the form of affidavit given by the Special Officer (Administration), it is clear that there is no specific denial of the averments taken in the writ petition regarding non-following of the notes on procedure and guidelines appended therein while filling up the column relating to integrity, rather the reply appears to be vague. Order VIII Rule 5 of the Code of Civil Procedure provides that every allegation of fact in the plaint, if not denied specifically or by necessary implication or stated to be not admitted in the pleading of the defendant, shall be taken to be admitted except against a person under disability. In view of such provision, in absence of a specific denial in the counter affidavit to the assertions made in the writ petition, it can safely be concluded that there is no denial of the facts stated in the writ petition. We are aware that the explanation to section 141 of the Code of Civil Procedure provides that the provisions of Code of Civil Procedure shall not be applicable to the writ petition. However, the principles as stated in the Code of Civil Procedure are also applicable to the writ proceedings. (Ref: **(2014) 15 Supreme Court Cases 215, Union of India (UOI) Vs. Agarwal Iron Industries**). In the case of **Badat and Co. -Vrs.- East India Trading Co. reported in A.I.R. 1964 S.C.**



538, it is held that the written-statement must deal specifically with each allegation of fact in the plaint and when a defendant denies any such fact, he must not do so evasively, but answer the point of substance. If his denial of a fact is not specific but evasive, the said fact shall be taken to be admitted. In such an event, the admission itself being proof, no other proof is necessary. In the case of **Thangam and Ors. -Vrs.- Navamani Ammal reported in (2024) 4 Supreme Court Cases 247**, it is held that Order VIII Rules 3 and 5 Code of Civil Procedure clearly provides for specific admission and denial of the pleadings in the plaint. A general or evasive denial is not treated as sufficient. Proviso to Order VIII Rule 5 Code of Civil Procedure provides that even the admitted facts may not be treated to be admitted, still in its discretion the Court may require those facts to be proved. This is an exception to the general rule. General Rule is that the facts admitted, are not required to be proved. The requirements of Order VIII Rules 3 and 5 Code of Civil Procedure are specific admission and denial of the pleadings in the plaint. The same would necessarily mean dealing with the allegations in the plaint para-wise. In the absence thereof, the Respondent can always try to read one line from one paragraph and another from different paragraph in the written statement to



make out his case of denial of the allegations in the plaint resulting in utter confusion.

In the case of **Nazir Ahmad** (supra), it is held that where a power is given to do a certain thing in a certain way, things must be done in that way or not at all and that other methods of performance are necessarily forbidden. In the case of **Cherukuri Mani -Vrs.- Chief Secretary, Government of Andhra Pradesh and Ors. reported in (2015) 13 Supreme Court Cases 722**, the Hon'ble Supreme Court held that where the law prescribes a thing to be done in a particular manner following a particular procedure, it shall be done in the same manner following the provisions of law, without deviating from the prescribed procedure.

In the case of **Syed T.A. Naqshbandi and Ors. -Vrs.- State of Jammu & Kashmir and Ors. reported in (2003) 9 Supreme Court Cases 592**, considering the scope of judicial review of an assessment of the conduct of a Judicial Officer approved by a Full Court, the Hon'ble Supreme Court observed that judicial review is permissible only to the extent of finding whether the process in reaching the decision has been observed correctly and not the decision itself, as such. Critical or independent analysis or appraisal of the materials by the courts exercising powers of judicial review unlike the case of an



appellate court, would neither be permissible nor conducive to the interests of either the officers concerned or the system.

In the case of **Bishwanath Prasad Singh** (supra), it is held as follows:-

"33....Suffice it to observe that the well-recognized and accepted practice of making annual entries in the confidential records of subordinate official by superiors has a public policy and purposive requirement. It is one of the recognised and time-tested modes of exercising administrative and disciplinary control by a superior authority over its subordinates. The very power to make such entries as have potential for shaping the future career of a subordinate officer casts an obligation on the High Courts to keep a watch and vigil over the performance of the members of subordinate judiciary. An assessment of quality and quantity of performance and progress of the judicial officers should be an ongoing process continued round the year and then to make a record in an objective manner of the impressions formulated by such assessment. An annual entry is not an instrument to be wielded like a teacher's cane or to be cracked like a whip. The High Court has to act and guide the subordinate officers like a guardian or elder in the judicial family. The entry in the confidential rolls should not be a reflection of personal whims, fancies or



prejudices, likes or dislikes of a superior. The entry must reflect the result of an objective assessment coupled with an effort at guiding the judicial officers to secure an improvement in his performance where need be; to admonish him with the object of removing for future, the shortcoming found; and expressing appreciation with an idea of toning up and maintaining the imitable qualities by affectionately patting on the back of meritorious and deserving. An entry consisting of a few words, or a sentence or two, is supposed to reflect the sum total of the impressions formulated by the inspecting Judge who had the opportunity of forming those impressions in his mind by having an opportunity of watching the judicial officer round the period under review. In the very nature of things, the process is complex and the formulation of impressions is a result of multiple factors simultaneously playing in the mind. The perceptions may differ. In the very nature of things there is a difficulty nearing an impossibility in subjecting the entries in confidential rolls to judicial review. Entries either way have serious implications on the service career. Hence the need for fairness, justness and objectivity in performing the inspections and making the entries in the confidential rolls."



Keeping in view the aforesaid principles, we find that the process/procedure as enumerated in the guidelines have not been followed in reaching at the decision that the petitioner is of doubtful integrity and thereby filling up the column in the C.C.R. relating to integrity either in Part-III of the form by Hon'ble the Chief Justice or in Part-IV of the form by the Judge-in-charge of the district. We are further of the view that since the guidelines are required to be followed and it is mandatory, Hon'ble the Chief Justice or the Judge-in-charge of the district could not have made the adverse entry in the column relating to integrity without following such guidelines.

In the case of **Yamuna Shankar Misra** (supra), it is held as follows:-

"7. It would, thus, be clear that the object of writing the confidential reports and making entries in the character rolls is to give an opportunity to a public servant to improve excellence. Article 51-A(j) enjoins upon every citizen the primary duty to constantly endeavour to prove excellence, individually and collectively, as a member of the group. Given an opportunity, the individual employee strives to improve excellence and thereby efficiency of administration would be augmented. The officer entrusted with the duty to write confidential reports, has a public responsibility and trust to



write the confidential reports objectively, fairly and dispassionately while giving, as accurately as possible, the statement of facts on an overall assessment of the performance of the subordinate officer. It should be founded upon facts or circumstances. Though sometimes, it may not be part of the record, but the conduct, reputation and character acquire public knowledge or notoriety and may be within his knowledge. Before forming an opinion to be adverse, the reporting officers writing confidentials should share the information which is not a part of the record with the officer concerned, have the information confronted by the officer and then make it part of the record. This amounts to an opportunity given to the erring/corrupt officer to correct the errors of the judgment, conduct, behaviour, integrity or conduct/corrupt proclivity. If, despite being given such an opportunity, the officer fails to perform the duty, correct his conduct or improve himself, necessarily the same may be recorded in the confidential reports and a copy thereof supplied to the affected officer so that he will have an opportunity to know the remarks made against him. If he feels aggrieved, it would be open to him to have it corrected by appropriate representation to the higher authorities or any appropriate judicial forum for redressal. Thereby, honesty, integrity, good conduct and



efficiency get improved in the performance of public duties and standard of excellence in services constantly rises to higher levels and it becomes a successful tool to manage the services with officers of integrity, honesty, efficiency and devotion.”

Prior to the recording of such adverse C.C.R., the petitioner was not granted opportunity in writing or by informing him of the deficiency, if any, noticed for improvement. The Superior Authority should ordinarily refrain from passing strictures, derogatory remarks and scathing criticism. Passing of such remarks/comments without affording a hearing to the subordinate officer is clearly violative of the principle of natural justice and thus, we are of the view that serious prejudice has been caused to the petitioner.

Clause 5(a) of the notes on procedure for recording Annual C.C.R. of Judicial Officers of G.R.C.O. (Civil) (Vol.II) states that, the Reporting Authority/District Judge under whom a Judicial Officer is working for more than four months must record C.C.R. of the officer. The fixation of the period for more than four months to record the C.C.R. has got a purpose as such period was thought sufficient to evaluate the overall performance and efficiency of a Judicial Officer as a whole. In the case of the petitioner, the Hon’ble Chief Justice under whom the petitioner



was working as Registrar General of this Court from 04.01.21 to 08.03.2021 which was barely for two months and few days has recorded the C.C.R. of the petitioner but the date on which such C.C.R. was recorded is not there as no date has been given below the signature of the Hon'ble Chief Justice or anywhere in the Part-III of the form. Similarly, the Judge-in-charge of district Raygada under whom the petitioner was working as District and Sessions Judge, Rayagada for the period of from 15.03.2021 to 12.07.2021, which is less than four months has recorded the C.C.R. of the petitioner and given his remarks in Part-IV of the form on 21.03.2022.

Rejection of representation:

11. The petitioner filed a representation on 01.11.2022 vide Annexure-9 before this Court seeking to expunge the adverse remark made in his C.C.R. and also to upgrade the C.C.R. grading for the period from 01.01.2021 to 31.12.2021 taking into account his sincerity, honesty, probity, commitment and devotion to duty among similar other factors as deem fit and proper, otherwise, it will not only put a stigma in his career but also subject him to great hardship and put a scar on his soul forever, even without doing anything blemished.

The representation filed by the petitioner was rejected by this Court without assigning any reason whatsoever



and the said fact was communicated to the petitioner vide letter under Annexure-10.

In the case of **Dev Dutta** (supra), the Hon'ble Supreme Court held as follows:

"37. We further hold that when the entry is communicated to him, the public servant should have a right to make a representation against the entry to the authority concerned, and the authority concerned must decide the representation in a fair manner and within a reasonable period. We also hold that the representation must be decided by an authority higher than the one who gave the entry, otherwise the likelihood is that the representation will be summarily rejected without adequate consideration as it would be an appeal from Caesar to Caesar. All this would be conducive to fairness and transparency in public administration, and would result in fairness to public servants. The State must be a model employer, and must act fairly towards its employees. Only then would good governance be possible."

The Hon'ble Supreme Court in the case of **State of Punjab -Vrs.- Bhag Singh reported in (2004) 1 Supreme Court Cases 547**, observed as follows:



"6. Even in respect of administrative orders, Lord Denning, M.R. in ***Breen -Vrs.- Amalgamated Engg. Union, reported in (1971) 1 All ER 1148*** observed:

'The giving of reasons is one of the fundamentals of good administration.'

In ***Alexander Machinery (Dudley) Ltd. -Vrs.- Crabtree, reported in 1974 ICR 120 (NIRC)*** it was observed:

'Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at.'

Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the 'inscrutable face of the sphinx', it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reasons is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is



spelling out reasons for the order made, in other words, a speaking-out. The 'inscrutable face of a sphinx' is ordinarily incongruous with a judicial or quasi-judicial performance."

Without assigning any reasons in Annexure-10, the petitioner was kept in darkness. The petitioner had legitimate expectation that his representation would be given due weightage and considered in a fair decision-making process. Principle of fairness has an important place in the law of judicial review. Once reasons would have been assigned, the petitioner could have known as to why his representation was rejected. In the case of **Chairman, Disciplinary Authority, Rani Lakshmit Bai Kshetriya Gramin Bank -Vrs.- Jagdish Saran Versheny and Ors. reported in (2009) 4 Supreme Court Cases 240**, it is held that while considering the representation for expunction of adverse remark, reasons should be assigned. The reasons may not be elaborate but brief reasons should be assigned for rejecting the representation.

Thus, we are of the humble view that rejection of the representation of the petitioner vide Annexure-10 is not sustainable in the eyes of law.



Judicial scrutiny on adverse remarks in C.C.R. of the petitioner:

12. The remarks of the Full Court in the C.C.R. of the petitioner for the year 2019 (I) is 'very good' and for the year 2019 (II) is 'very good'. The remarks of the Full Court in the C.C.R. of the petitioner for the year 2020 (I) is 'very good' and the grading given by the Hon'ble Chief Justice in the C.C.R. of the petitioner from 05.06.2020 to 02.01.2021 is 'outstanding'. The grading of the petitioner for the year 2022 was 'very good' and for the year 2023 was also 'very good'. In the C.C.R. of the petitioner from 11.08.2021 to 31.12.2021, the grading has been given as 'very good'.

In the C.C.R. of the petitioner from 04.01.21 to 08.03.2021, the Hon'ble Chief Justice in column no.(i) which relates to 'state of health and special personality', column no.(ii) which relates to 'report on the officer's qualities', column no.(iii) which relates to 'report on officers abilities', column no.(iv) which relates to 'report on knowledge and performance' and column no.(vii) which relates to 'attitude and potential', has given his remarks as 'Good'. In column no.(v) which relates to 'Defect, if any, noticed', the remark has been as 'None'. However, under the heading of 'integrity' in column no.(viii), the remark has been given as 'Doubtful. Does not inspire confidence' and under



the heading of 'Grading' in column no.(ix), the remark has been given as 'Average'. Similarly, in the C.C.R. of the petitioner for the period from 15.03.21 to 12.07.2021, the Judge-in-Charge of the district has given his remarks on dated 21.03.2022 in column no.1(a) which relates to 'Conduct of business in Court and Office' as 'satisfactory', in column no.1(b) which relates to 'quality of judgment etc.' as 'good', in column no.2 which relates to 'quantity of work' as 'sufficient', in column no.8(II) which relates to 'overall assessment of officers with reference to his/her judicial administrative work and ability, reputation and character, strength and shortcomings and also by drawing to the qualities etc.' as 'capable and efficient' and even in column no.9 which relates to 'grading' as 'good'. However, in column no.4 which relates to 'personal relation, quality of relationship with superior officers, colleagues, subordinates, learned members of Bar and Public', remark has been given as 'calculative' and in column no.7 which relates to 'integrity', remark has been given as 'doubtful'.

The learned counsel for the petitioner urged that the performance of the petitioner has been consistently of high quality and he has been graded as "very good", "very good", "very good" and "outstanding" in 2019 and 2020, "very good", "very good" in 2022 and 2023 and from 11.08.2021 to



31.12.2021, his grading was 'very good'. The two months in which he was the Registrar General of this Court i.e. from 04.01.21 to 08.03.2021, the Hon'ble Chief Justice has given his remarks in five columns as "Good" and in one column, he has mentioned that no defect was noticed, but all the same, adverse remark has been given in column relating to 'integrity' and grading has been given as 'average'. Similarly, the Hon'ble Judge-in-charge of district Raygada has given positive remarks in all other columns of C.C.R. except column no.4 where he has mentioned in 'calculative' and column no.9 where integrity has been remarked as 'doubtful'. According to the learned counsel, no one becomes dishonest all of a sudden particularly when he was so good all through.

In the case of **M.S. Bindra** (supra), the relevant para is extracted hereunder:

"13. While viewing this case from the next angle for judicial scrutiny, i.e., want of evidence or material to reach such a conclusion, we may add that want of any material is almost equivalent to the next situation that from the available materials, no reasonable man would reach such a conclusion. While evaluating the materials, the authority should not altogether ignore the reputation in which the officer was held till recently. The maxim "*nemo firut repente*



turpissimus" (no one becomes dishonest all of a sudden) is not unexceptional but still it is a salutary guideline to judge human conduct, particularly in the field of administrative law. The authorities should not keep their eyes totally closed towards the overall estimation in which the delinquent officer was held in the recent past by those who were supervising him earlier. To dunk an officer into the puddle of "doubtful integrity", it is not enough that the doubt fringes on a mere hunch. That doubt should be of such a nature as would reasonably and consciously be entertainable by a reasonable man on the given material. Mere possibility is hardly sufficient to assume that it would have happened. There must be preponderance of probability for the reasonable man to entertain doubt regarding that possibility. Only then there is justification to ram an officer with the label "doubtful integrity".

In the case of **S.T. Ramesh -Vrs.- State of Karnataka and Another reported in (2007) 9 Supreme Court Cases 436**, it is held as follows:-

"40. The confidential report is an important document as it provides the basic and vital inputs for assessing the performance of an officer and further achievements in his career. This Court has held that the performance appraisal through C.Rs. should be used as a tool



for human resource development and are not to be used as a fault finding process but a developmental one. Except for the impugned adverse remarks for a short period of about 150 days, the performance of the appellant has been consistently of high quality with various achievements and prestigious postings and meritorious awards from the President of India. We have already seen that the appellant has been graded as "very good", "excellent" and "outstanding" throughout his career. It is difficult to appreciate as to how it could become adverse during the period of 150 days for which the adverse remarks were made."

In view of the principles laid down in the aforesaid two decisions of the Hon'ble Supreme Court, we find sufficient force in the submission of the learned counsel for the petitioner. The stand taken in the counter affidavit by the opposite parties that merely because an officer was good in past, he is good for all times to come, is not acceptable and that the past conduct of an officer is no guarantee that he would not commit any misconduct and from such angle, the past reputation and assessments were of no concern for the present or future grading/assessment, cannot be legally accepted. We are of the view that the authorities should not keep their eyes totally closed towards the overall estimation in which the delinquent officer



was held in the recent past by those who were supervising him earlier.

CONCLUSION:

13. In view of the foregoing discussions, we are of the view that the adverse entry made in the C.C.R. of the petitioner which was communicated to him vide impugned letter no.15738 dated 15th October 2022 under Annexure-7 as well as the letter dated 21st December 2022 under Annexure-10 rejecting his prayer to expunge the adverse remark in his C.C.R. cannot be sustained in the eyes of law and therefore, the same are quashed.

Accordingly, the writ petition is allowed.

.....
(S. K. Sahoo, J.)

S. S. Mishra, J. I agree.

.....
(S. S. Mishra, J.)

Orissa High Court, Cuttack
The 2nd May 2025/RKMishra/Sipun