

**A Full Court reference at Court Hall "A" on the sad
demise of late Honourable Shri Justice H.W.Dhabe,
Former Judge of Bombay High Court.**

Date : 06th September, 2013.

Time : 10.30 a.m.

ORDER OF SPEECHES

- 1) The Honourable Shri Justice B.R.Gavai, the Senior Judge.
- 2) Shri A.R.Patil, President, High Court Bar Association, Nagpur.
- 3) Shri N.W.Sambre, Govt. Pleader, High Court Bench at Nagpur.
- 4) Shri S.K.Mishra, Assistant Solicitor General of India, High Court Bench, Nagpur.
- 5) Shri Aniruddha K. Chaubey, Member, Bar Council of Maharashtra & Goa.

**Silence for two minutes to pay homage to the
Departed Soul.**

My esteemed sister and brother Judges,

Shri A.R.Patil, President, High Court Bar
Association, Nagpur,

Shri N.W.Sambre, Government Pleader, High Court
Bench at Nagpur,

Shri S.K.Mishra, Assistant Solicitor General of India,
High Court Bench, Nagpur,

Shri A.K.Chaubey, Member, Bar Council of Maharashtra
and Goa,

family members of Justice Dhabe,

members of the Bar and friends,

We have all assembled here to pay our homage to Justice
Hari Wasudeo Dhabe.

Justice Dhabe, who came from a well known Lawyers' family, was born on 13th May 1933. He obtained his Law Degree from Nagpur University in 1957. He was enrolled as an Advocate of Bombay High Court in January 1960 and commenced his practice at Nagpur. He had also worked as a part time Lecturer in the University College of Law at Nagpur from 1969 to 1972. He had appeared in several important cases in the High Court so also in the Supreme Court.

Justice Dhabe was also associated with High Court Bar Association as its General Secretary for a long time. He acted as a Counsel for the Commission headed by Justice Ginwala to enquire into

firing at Indora locality in Nagpur in August 1978. Subsequently, he restricted his practice in the High Court Bench at Nagpur. Justice Dhabe was elevated as a Judge of Bombay High Court on 22nd February, 1983 and worked as such till his retirement on 13th May, 1995.

Though Justice Dhabe had also worked at Aurangabad and Goa Benches of Bombay High Court, he had mainly rendered his services at Nagpur. He had a great attachment with Nagpur and this Bench. As all of us are aware that even after Justice Dhabe became a part of the Administrative Judges' Committee and was required to go to Mumbai, his love for Nagpur and this Bench deterred him from doing so and he chose to remain at Nagpur.

Justice Dhabe was fondly called as "Haribhau Dhabe". His contribution as a Judge at Nagpur has been immense. I must place on record my deep sense of gratitude to Justice Dhabe for the encouragement given to me during my days as a Junior Lawyer. I am sure that many of my colleagues and members of the Bar, who had started practice during his tenure, would share the same feelings.

Though Justice Dhabe presided over the Benches taking up various assignments, his contribution while presiding over the Bench taking up constitutional matters can never be forgotten by any Lawyer, who had a privilege of practising before him. His eminence and expertise in Constitutional and Administrative Law was unmatched. Though the law reports of those twelve years are flooded with his judgments on various issues, on account of paucity of time, it will not be permissible to refer to many of them. However, this occasion

demands reference to at least few of judgments wherein he has decided vital issues.

In the case of Mahadeorao Gulabrao Bhuibar and others vs. State of Maharashtra and others (1996(2) Bom. C.R. 96), he has laid down principles as to when a Writ of Quo Warranto can be issued.

In case of Manikchand Hiralal Kasliwal vs. Arvind Vithalrao Sawalapurkar and another (1994 Mh.L.J. 1623), he has laid down law on the de facto doctrine.

In the case of Vitthaldas s/o Balkisan Gandhi vs. The State of Maharashtra and others (1996 (2) Bom. C.R. 88), he has laid down principles governing issuance of Writ of Mandamus.

In the celebrated case of Kashibai wd/o Sanga Pawar and others vs. State of Maharashtra (1993 Mh.L.J. 1168), he has considered the provisions of Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 vis-a-vis provisions of Scheduled Tribes Order, 1950 issued under Article 342 of the Constitution of India.

In those days, Rules governing admission to Medical and Engineering Courses were unsettled and subjected to challenge every year. His judgments interpreting those Rules have greatly contributed to settling those Rules.

The list is endless.

It is said that simplicity is a virtue of greatness. This was truly reflected in the conduct of Justice Dhabe. He was polite, humble and courteous to the core. One could hardly see him losing his temper. He was also a very humorous person. He had a pleasant personality and smiling face.

The contribution of Justice Dhabe in shaping up a whole generation of Lawyers including at least six of us sitting on this Bench and many more sitting and retired Judges can never be undermined. He was one of the few illustrious Judges, who on account of his erudition in law, had cast an ever-lasting impression in the minds of the Lawyers, who had an opportunity to appear before him and had stood as an inspiration for them. It will not be incorrect to say that he was indeed an icon.

Taking into consideration the eminent services rendered by Justice Dhabe, I and my colleagues felt that Justice Dhabe deserves a reference by Full Court. I must place on record my gratitude to My Lord the Hon'ble the Chief Justice for acceding to our request.

It is said that the Judges are judged by Lawyers. It is also said that the judgment day of a Judge is the day on which he retires. Looking at the large number of Lawyers, which had gathered in the Summer of 1995 on the northern lawns of this magnificent building to bid farewell to Justice Dhabe, it can safely be said that Justice Dhabe had passed the litmus test in flying colours.

In the history of Nagpur Bench of Bombay High Court, the period during which Justice Dhabe rendered his yeomen services to this august institution will always be remembered as a golden era.

I on behalf of My Lord the Hon'ble the Chief Justice, my esteemed colleagues and myself pay homage to Justice Haribhau Dhabe. May the departed soul rest in eternal peace.

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SPEECH OF PRESIDENT OF HCBA A.R.PATIL IN A FULL COURT
REFERENCE ON SAD DEMISE OF HON'BLE Shri JUSTICE
H.W.DHABE, FORMER JUDGE OF BOMBAY HIGH COURT.

1. All the Hon'ble Judges of the Nagpur Bench of Bombay High Court, All the Presidents of various Bar Associations of Nagpur City and Vidarbha Region, The learned Members of Bar Council of Maharashtra, The learned Additional Solicitor General of India, The Government Pleader at Nagpur Bench, his colleagues, The learned designated Senior Counsels, The learned Members of the Bar Present and relatives, family members of Hon'ble Shri Justice Haribhau Dhabe.

2. We have all assembled here under the shadow of sad demise of Hon'ble Shri Justice H.W.Dhabe, one of those few persons of this Bar who have successfully assumed their work and responsibilities at the Bar and the Bench with academic research and writing of remarkable quality. The period of his job as a lawyer and a Judge is almost of half a century from 1960 to 2013.

3. He was close friend of my father since both were practicing in Labour Laws for a long time. A versatile personality, excellent player of Kho-Kho, Kabbadi in his early school and college days and office bearer of a Sports Body Krida Mandal, Nagpur which ran Physical Education College by name "Nagpur Sharirik Shikshan Mahavidyalaya, Nagpur".

4. Also associated closely with Vidarbha Labour Law Practitioner's Association as its Executive Member prior to 1980. He

was Secretary of the High Court Bar Association for a quiet long period. I remember prior to his elevation to coveted post of High Court Judge of Bombay High Court on 22.02.1983, he used to sit in the corner of old ground floor of Bar Room, now occupied by the office of High Court Legal Services Sub Committee. The senior members of the Bar may recollect that whenever he was off, the court work always found preparing for his next augment searching with case laws etc. and never believed in spending his time on any thing else other than law whether it be inside the court room or outside the court room during court hours. A totally dedicated, hard working lawyer for the betterment of client and to do the justice.

5. I am on those few fortunate lawyers who could see him working as a lawyer and as a dignified Judge of this Bench. He had a very longer duration to preside over as senior Judge in Division Bench at Nagpur particularly on a constitutional side from 1987 to 1995 till his retirement. Used to go in detail while recording reasoning and findings. I remember the case of Punjabrao Krishi Vidyapeeth Teacher's case relating to age of retirement in which the Division Bench of this Court headed by him has discussed all the provisions of P.K.V. Act, 1967, Statutes of 1971, Maharashtra Agriculture University Act, 1983, Statutes of 1990-91, Age Act, BCSR-1959, MCSR 1979, Constitutional provisions. This Landmark Judgment is reported in 1996, Vol-2, Bombay Cases Reporter, Page 120 (Arjun Mahajan V/s. PKV) This Judgment shows how he used to go in details and discuss the issue in depth.

6. I am also fortunate to assist him in the matters of Shri Gajanan Maharaj Sansthan, Shegaon before the Supreme Court of India from 1997 to 2002. Both the cases argued by him and decided by the Apex Court are reported in (2002) 5 Sec – 44 (Union of India V/s. Shri Gajanan Maharaj Sansthan, Shegaon) and (2002) 10 Section 531 (Shri Gajanan Maharaj Sansthan V/s. Shri Gajanan Karmachari Sangh). Because of his ability of presentation and in depth study of Labour Laws the Apex Court set aside the award of learned Industrial Court, Amravati passed in IDA Reference 01/83 as well as the judgement of this court and remanded the matter back to learned Industrial Court to decide afresh as to whether the “Sanstha” is an 'Industry' as defined under Section 2 (s) of Industrial Disputes Act, 1947.

7. Lastly, I had an opportunity to appear before him on behalf of Dr. Punjabrao Deshmukh Krishi Vidyapeeth, Akola in Dhabe Commission appointed by his Excellency, the Governor of Maharashtra to enquire in to the allegations of irregularities in the appointment of lower staff. On few occasions during 2007-2008, the enquiry he conducted in detail lasted for 3 ½ years. The report submitted by him in detail was running in to more than 3,500 pages. This was done when he was almost in Eighties. What a mind boggling dedication to a work assigned.

8. In his passing away, we have lost an outstanding, popular Judge, a dedicated, hard working lawyer forever. It is an end of an era of humanitarian values and concern for social justice.

9. Though his complete name was Hari Wasuderao Dhabe, he

was fondly called in the Bar Room as a Haribhau. In his name "Hari" is there. "Hari" means the Great God Shri Krishna who assured all the human beings in Geeta in unequivocal terms that he is the protector of every creature because.

"Aham Vaishva Naro Bhutva Praninam Deh Mashritah,
Pranapan Samayuktah Pachnamyanam Chaturvidham"

Meaning thereby the Great God occupies the body of every creature and consumes whatever he eats, inhales, listens and looks. Thus, every biological body is temple of "Shri Hari". The Architect, Designer, Developer, Builder, Occupier of this temple is "Hari".

The "Hari" has left the temple body of "Bhau" for an unknown destination. The living temple of Justice namely Late Shri Justice H.W.Dhabe was set on motion by Almighty God in this mortal world in a family of Lawyer's on 13.05.1933 and laid to Rest on 04.04.2013.

10. On my behalf, on behalf my family, on behalf of my members of HCBA, DBA, VLLPA, VLLA, CAT Bar Association, MAT Bar Association, Co-operative Court Bar Association, Debt Recovery Tribunal Bar Association, Consumer Courts Bar Association, Income Tax Bar, Sales Tax Bar, Akhil Bhartiya Adhivaktqa Parishad and all other registered, unregistered Bar Association pray that the departed Soul may Rest in Peace.

11. We all together convey our heartfelt condolences to the

family members of departed Soul in their bereavement.

“Om Purna Maha Purna Meedam Purnat Purna Mudchayate
Purnasag Purna Mamadaya Purna Meva Vashishyat”

Om Shanti, Shanti, Shanti.

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Meaning thereby the Great God occupies the body of every creature and consumes whatever he eats, inhales, listens and looks. Thus

every biological body is temple of "Shri Hari". The Architect, Designer, Developer, Builder, Occupier of this temple is "Hari".

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"Om Purna Ma^{chayate}ha Purna Meedam Purnat Purna Mudysate

Purnast^{say}h Purna Mamadaya Purna Meva Vashiyate^{shyate}"

Om Shanti, Shanti, Shanti.