

there is need for decentralisation of the judiciary, so as to reduce the work-load of judges at the Supreme Court and High Courts and that task should be undertaken by the Bar Council of India. But it is necessary to spell out as to how decentralisation could be brought about by the Bar Council of India.

(iv) It is also necessary to make it clear as to whether Lok-Adalat, legal aid and public interest litigations are going to be made permanent features of our system and if so whether, when and how they would be given a statutory recognition.

But the problem of problems that is causing a great concern at the moment for the very survival of the administration of justice, is that of corruption. In my view, no reform howsoever well conceived would be of any consequence or would ever succeed, unless it is free from corruption. It goes without saying that judiciary being the very back-bone of our Democracy and the Rule of law, unless the fountains of justice are kept pure and unsullied, Democracy is bound to face peril and even ultimately vanish.

One way to check this evil which is both visible and invisible from the judicial administration is to appoint a Nyaya-Pal at the Supreme Court and High Court level and Vigilance Officers at the level of the District Courts, who would receive complaints from the aggrieved parties, investigate them and send their reports to the authorities concerned to take suitable action against those found guilty in the discharge of their duties.

So far as the question of judicial reform is concerned everything seems to have been kept beautifully vague and in a perfectly nebulous form by the Government of India till today. Let the Government of India make up its mind and issue a white paper on the subject, so that people would know what sort of reforms in the field of judicial administration they want to introduce and what would be their nature.

Notes

1. i) In his concluding article of the three part series on reforming the judiciary, appearing in the Illustrated Weekly of India, dt. 27-10-1985, J. Krishnan Iyer takes a close look at some of the cures they have been prescribed for the Malaise, at the said conference and says that the intended reforms suggested at the conference would not be in tune with our constitutional provisions of Socialistic Democratic Republic and will have just the opposite results than intended.
- ii) Nagpur Times dt. 16-10-1985 : "Judicial Reform" For whom and for what by *N. R. Madhav Menon*.
- iii) Nagpur Times dt. 25-9-1985 "Need for Judicial Reform" by *Justice H. R. Khanna*.

LATE SHRI S. P. KOTWAL FORMER CHIEF JUSTICE, BOMBAY HIGH COURT

We regret to record the passing away of Shri S. P. Kotwal, Former Chief Justice of the Bombay High Court, on 6th of March, 1987. Shri Kotwal was well connected with Nagpur and had his education at the Saint Joseph's Convent High School, Nagpur and later at Billimoria High School, Panchgani. He graduated himself from Morris College, now known as Nagpur Mahavidyalaya and enrolled himself as an Advocate of the Nagpur High Court in 1932. He soon made a mark in the profession. He was appointed as a Judge of the Nagpur High Court on 18th of August, 1955 and on Re-organisation of States became a Judge of the Bombay High Court. He had shifted

permanently from Nagpur to Bombay in 1964 and became the Chief Justice of the Bombay High Court in July, 1966 which office he held till 1972. For a while in 1969-70 he had acted as Governor of Maharashtra on the death of Dr. Cheria, the then Governor. Shri Kotwal was known for his extreme courtesy.

A reference to condole the passing away of Shri Kotwal was held at Bombay on 10-3-1987 when glowing tributes were paid to him.

Chief Justice Kania speaking at the reference said :

"We are gathered here today to mourn the passing away of Chief Justice Kotwal who was the Chief Justice of this High Court for a long period of six years from 1966 to 1972.

Chief Justice Kotwal had the privilege of being born in a family held in high esteem in official and social circles in the City of Nagpur and the whole of C.P. & Berar. His father was a known and highly respected figure in the City of Nagpur. He was a Commander of the British Empire in the British days. He was the Judicial Commissioner of Nagpur for a long time and was respected by the entire legal fraternity and people generally in the City of Nagpur and the territory of the then province of C.P. & Berar.

Chief Justice Kotwal was educated at St. Joseph's Convent, Nagpur and later at Billimoria High School, Panchgani. He graduated from Morris College (now known as Nagpur Mahavidyalaya) and got his LL.B. from the University College of Law at Nagpur. He was a good debator and in his student days got Jakatdar Elocution Prize, and Karsonji Gold Medal for debatifer He was also a keen sportsman and played in the Nagpur Quadranguls. He was also a very good tennis player.

He was enrolled as an Advocate at Nagpur in 1932, and practised in the Nagpur and later Madhya Pradesh High Courts as well as in the Federal Court and the Supreme Court. In the course of his career as an advocate he acquired an extensive practice in Company Law and Commercial Law. He was appointed a Judge of the Madhya Pradesh High Court on 18th August 1955. On the Re-organisation of the States in 1956, the Bombay High Court had the privilege of getting him as a Judge and he used to sit on the Nagpur Bench. In 1958 he was appointed as one-Man Commission of Inquiry into the causes of Police Firing in Ahmedabad. This was a time when appointment of such Commissions was somewhat rare. He had to formulate the procedure which he would follow. He did this satisfactorily and to the admiration of all concerned and the procedure evolved by him was of considerable help to persons who are appointed to such Commissions later. It was to some extent because of the findings given by him that a separate State of Gujarat was created. In 1964 he was shifted permanently from Nagpur to Bombay. In the end of July 1966, he was elevated as the Chief Justice of this High Court and held that office till 1972. In 1969-70 he acted as the Governor of Maharashtra on the death in office of Dr. Cheria.

The entire judicial career of Chief Justice Kotwal was marked by extreme courtesy in court and charm and friendliness outside. In court he was a model of courtesy and patience. He gave a patient hearing to lawyers' arguments whether they were good, bad and indifferent. His judgments were known for their clarity and lucidity. So courteous was he that there was hardly any tension on the mind of any advocate who was appearing in his court. Many of us who are Judges now and have had the pleasure of appearing before him can personally testify to this. Even as Chief Justice he was a model of social grace and charm. He was invariably friendly and courteous to all of his colleagues.

I still remember the time when he invited me to offer me the position of a High Court Judge. I felt not as if he was offering a highly valued position, but as if my joining the Bench would be of help to the Court.

After Chief Justice Kotwal retired from the High Court, he was appointed the first Lokayukta of Maharashtra, in fact the first Lokayukta in the entire country. It fell to him to devise the procedure for the functioning of the office of the Lokayukta. The procedures adopted by him have served as a model to the several Lokayuktas who have been appointed in different States thereafter. It may be mentioned that it was largely as a result of the reports submitted by him as Lokayukta that two Ministers of the Maharashtra State had to leave their positions. Our late Chief Justice was a man of splendoured personality.

Apart from the high positions he held as Chief Justice of this Court and Lokayukta, Chief Justice Kotwal occupied several other distinguished positions in life. In 1979 he had the distinction of presiding over a Committee appointed by the shareholders of the Tata Iron and Steel Company to inquire whether that Company was fulfilling its moral and social responsibility. The other members of the Committee were Prof. P. G. Malvankar and Prof. Rajani Kothari. The report of that Committee is in the nature of judicial-social audit of the work of the Company. He was a trustee of the J. N. Tata Girls' High School and the President of the Parsee Anjuman at Nagpur. He also worked as the President of the Vidarbha Branches of the Bharat Sevak Samaj and the Cancer Society of India.

Chief Justice Kotwal also was a known figure in academic circles. In 1935 he was elected to the Court of the Nagpur University and in 1942 to the Academic Council. He retained both these positions till 1964, when he left permanent residence at Nagpur. In 1957 he was elected as the Dean of the Faculty of Law of the Nagpur University and in 1961 as its Vice-Chancellor. As the Vice-Chancellor he had the distinction of starting five new Science Departments for Post-Graduate studies. Because of the good relations, which he had with the Government and by his persuasiveness he was able to secure for the Nagpur University 320 acres of land for establishing a new campus.

In mourning the death of Chief Justice Kotwal, we are mourning the passing of a distinguished lawyer who graced the position of a Judge of this Court for a long period of 17 years and the position as Chief Justice of this Court for six years as well as a person who devoted his life to the social and public utility. We also mourn the passing away of a distinguished public figure who was known for his courtesy, kindness and gentleness. He has left behind him his wife, and also four children of whom only one, an unmarried daughter, is in India. On this occasion our hearts go out in sympathy to his wife and family and we can only pray that God will give them strength to bear this loss."

Shri J. A. Barde on behalf of the Government Pleader's Office while associating himself with sentiments expressed by the Chief Justice said :

• "It is with profound sorrow that I associate myself with all that has been said on this sad occasion by my Lord, the Chief Justice. The passing away of the Late Chief Justice Kotwal, a distinguished career has come to an end. All the members of the Bar feel bereaved by his demise and we will always cherish his memory.

He started his early education at Billimoria High School, Panchgani. Graduated from Morris College, Nagpur in 1930 and secured his LL.B. degree from University

College of Law in 1932. He started his career as an Advocate in the Court of Judicial Commissioner of C.P. & Berar and remained in actual practice for 23 years and then elevated to the bench of Madhya Pradesh High Court in 1955 and was appointed Chief Justice of Bombay High Court on 31-7-1966 and retired on 27-9-1972. He gave equal treatment and patient hearing to both the Junior and Senior members of the Bar. It was a pleasure to appear in his Court because of absence of tension. Every case was decided on merits without showing favour.

Apart from his judicial duties he was connected with activities of Nagpur University of which he was a Vice-Chancellor from 1962 to 1964. He was a lecturer in Jurisprudence and Constitution Law in Nagpur University from 1939 to 1946.

He took also active interest in sports especially in cricket. Even when the hearing of the case was in progress, the Sheristadar used to pass chits regarding the score of the cricket matches.

My Lords, on this occasion our hearts turn to the members of bereaved family and on behalf of Government Pleader I would like to tell them how much they have been in our thoughts since their sad loss and we send them our heartfelt sympathies in their sad loss which we share with all the members of the Bar. May his soul rest in peace."

Mr. K. S. Cooper, President of the Bombay Bar Association speaking on the occasion said :

"It is with deep sorrow that I, on behalf of my Association, associate myself with the sentiments which have been expressed here. It is really a sad occasion, but we can only take consolation in the fact that Mr. Justice Kotwal passed away full of honours and achievements. His was indeed a glittering career, a many splendoured career and he left his mark in the various fields to which he contributed in so sterling a manner. A student, a sportsman, an advocate, a Professor of law, a Judge and then the Chief Justice of this premier High Court, the first Lokayukta, an acting Governor, he was all this and more. He is now no more but his memory will linger with us. I can even now see him gracing the Judge's chair. The soul of courtesy, the very embodiment of dignity, courteous alike to lawyer and litigant, to junior and senior, to witnesses and brother Judges, to officers of the Court, to just every body. He was a man of total integrity. He administered justice without fear or favour. His impartial dispensation of justice brooked no favourites nor did it permit him to exhibit the slightest prejudice. He was a man of conscience who passionately believed that the law should be an instrument of justice. In fact, these were his words, I think, the last words, when he addressed the Bar at the time of his elevation to the position of the Chief Justice. He took his office very seriously but he never took himself seriously. He had a delightful sense of humour and above all this he was a great gentleman. It was to be expected that he would be so because he had both law and gentlemanliness in his blood. I do not want to enlarge upon his various achievements which have already been catalogued by My Lord the Chief Justice, but I would like to say that our hearts do go out to those whom he has left behind and whom he loved so dearly. I ask them to permit us to share their great sorrow in a small measure."

Mr. P. P. Hudlikar, Vice-President of the Western India Advocates' Association paying his tributes said:

On behalf of the Advocates' Association of Western India, I associate myself with

the sentiments expressed on the sad demise of late Chief Justice S. P. Kotwal. My Lords, we have assembled here with heavy heart and a great luminary from the galaxy of a highly esteemed judicial competence has fallen. I must express the deep sorrow felt by myself and my association on this occasion. I had an humble experience of appearing in the Court of Chief Justice Kotwal and also when he was a Judge of this High Court. The experience which I gathered in his Court was that he had a great zeal to understand to the last permissible limit the submissions of both the sides which appeared and made submissions in a given case before him and after being satisfied that he had given a complete hearing to the counsel appearing on both the sides till the last limit, he decided to give the judgment. There was a satisfaction in his Court that there was a complete hearing on a given case and he also gave judgment after understanding both the sides completely. I remember one case where I had appeared before him in a murder trial and the evidence was that my client, who was accused, had almost shouted from housetop that he had committed the murder. However, evidence which was collected by the prosecution was of not much value for basing a conviction and the late Chief Justice S. P. Kotwal told me that "Mr. Hudlikar, though your client has shouted from the housetop that he had committed murder, in the absence of evidence I will not be able to confirm the order of conviction given by the trial Court" and he acquitted my client. This was the approach given by him to a particular case, the most judicial approach. In the loss of Chief Justice S. P. Kotwal we have lost a great asset which was available to us, even when he was in service of this Bombay High Court and even after he had retired. I remember that he had a great affection for this High Court and its working. He was very keen to keep himself present on whatever occasions which permitted him to come to the High Court. I remember, on every 15th August, even after his retirement, he used to be present amongst us and took part in the functions of this High Court.

On behalf of the Advocates' Association of Western India I offer my deep condolences to the members of the bereaved family and pray that the soul of late Chief Justice S. P. Kotwal may rest in peace and the family may get the necessary strength to bear this sorrow."

Mr. M. T. Tijoriwala, President, Incorporated Law Society, Bombay, speaking next said :

"It was a sad day when we came to learn of the passing away of the Chief Justice Kotwal, who retired as the Chief Justice of our High Court in 1972. He served the judiciary for a long period of 17 years and during his tenure, Chief Justice Kotwal tried to bear upon his decisions a great deal of learning and wisdom. Not only was he a good Judge loved and liked by all, but he was also an able administrator and an educationist, as has been observed. He worked for some years as Professor teaching Jurisprudence and Constitutional Law. He also became the Vice-Chancellor of the Nagpur University for two years. Chief Justice Kotwal upheld the dignity of the Court and maintained the high traditions of this High Court. His standard of sincerity was very great. He lived a full life and whatever activities he undertook were done with great zest and vigour. Passing of a near and dear one is always sad. However, it must have been a source of great satisfaction to him that some of his children who were out of India came to meet him in his last illness.

May I join all in conveying to the members of his family our heartfelt condolences."

A reference was also held at the Nagpur Bench of the Bombay High Court on the 10th of March, 1987 to condole the sad demise of Late Shri S. P. Kotwal.

Shri V. A. Mohta, Senior Judge, at the Nagpur Bench speaking at the reference said :

“On Saturday morning we received with shock and anguish the news of sad demise of late Ex-Chief Justice Shri S. P. Kotwal, who passed away at Bombay on Friday, the 6th March. We have assembled here to mourn the sad demise.

It is as natural to die as to be born, but in the death of certain persons, not only the family but the society at large is a loser and Shri Kotwal's personality belonged to that class.

Born in September 1910, he graduated and post-graduated from Morris College and Law College, Nagpur respectively. In his adolescence he was a keen sportsman and excellent debator. He began his legal career in the chamber of Shri R. N. Padhye to whom he always made reference with great reverence. Even after becoming a lawyer in 1936, his interests were not limited to forensic activities. He was President of Shree Nagpur and Kamotee Parsee Zoroastrian Anjuman. He was closely associated with several important social organisations of the city like L. A. D. Women's College, Nagpur School of Arts, Electricity Board, Board of Industries, Indo-Soviet Friendship Society and many others. His special field of interest was education. He did splendid job as a Vice-Chancellor, Nagpur University.

Son of an illustrious father Shri P. S. Kotwal — member of the then Judicial Commissioner's Court — he was elevated to the Bench of the Nagpur High Court in 1955. He became a Judge of newly formed Bombay High Court on reorganisation of States and was at the helm of affairs of administration of justice of the new State since July 1966. I had the good fortune of appearing before him on some occasions. What struck me was the civility in his nature, his fairness and his sense of humour.

As you know, we have recently revived the Judicial Officers' Training Institute at Nagpur. This institute — only one of its type in the whole of India — was first established in his regime as a Chief Justice. He served the State in various other capacities like the Governor and the Lok-Ayukta.

Many of us saw and heard him last in the Nagpur District Bar during its Centenary Celebrations. In nostalgia he had narrated interesting incidents relating to his old friends, seniors and association in the Bar. His speech there was one of the best. No doubt he passed away at ripe age, but his absence will always be felt in public life of the State.

My brother Judges and I participate in the bereavement of his family members and offer them our heart-felt condolences.”

Shri P. G. Palshikar, President of the High Court Bar Association, Shri M. P. Badar, Government Pleader, Shri Ram Lambat on behalf of the Bar Council of Maharashtra, Shri S. D. Deshpande, President of the District Bar Association and Shri S. V. Natu, Standing Counsel on behalf of Central Government associated themselves with the sentiments expressed by Shri Justice Mohta on the occasion.

We send our heartfelt condolences to the bereaved family.