

Unconstitutional Animus on Grounds of gender and religion by judges destroys faith in the impartiality of the judicial system

The Supreme Court and High Court must act to restore the public faith that the judiciary does bear true faith and allegiance to the Constitution.

September 20, 2024: PUCL-Karnataka and All India Lawyers Association for Justice (AILAJ) are shocked at the blatantly stereotypical and inherently prejudiced remarks which displays an unconstitutional animus both on grounds of gender and of religion made by Justice V. Srishananda in the Karnataka High Court.

In his comments concerning road safety, he referred to a Muslim-populated area as ‘Pakistan’ and said: *“Go to the Mysore Road flyover. Every auto rickshaw has got 10 people. It (read: rule) is not applicable because the Mysore road flyover until up to the market from Gori Palya is in Pakistan not in India. This is the reality. Keep whatever strict officer you want. Let me see if they can get them to disembark (the vehicle).”*

In another hearing, Justice Srishananda is seen making extremely misogynistic remarks while addressing a woman advocate in open court. When she answered a question he had directed to the opposing counsel, and immediately apologised for speaking out of turn, he is seen telling her: *“Wait ma! You seem to know everything about him? If I ask you tomorrow morning, you will tell me what colour under-garments he is wearing!”*

In both these instances, Justice Srishananda has displayed a troubling disregard to his oath pledging allegiance to the Constitution. These statements fall foul of the *“Bangalore Principles of Judicial Conduct”* that establish standards for ethical conduct of judges laying down six recognised core values – Independence, impartiality, integrity, propriety, equality and competence and diligence. As per these Principles, a judge is expected to exhibit and promote high standards of judicial conduct to reinforce public confidence in the judiciary which is fundamental to the maintenance of judicial independence. Indeed it states that the *“behaviour and conduct of a judge must reaffirm the people's faith in the integrity of the judiciary”* and requires that a judge *“shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on irrelevant grounds”*.

We must recall the words of Justice K Jagannatha Shetty in judgment delivered by him in A.M. Mathur Vs. Pramod Kumar Gupta [(1990) 2 SCC 533]: *“The duty of restraint, this humility of function should be a constant theme of our judges. This quality in decision making is as much necessary for judges to command respect as to protect the independence of the judiciary. Judicial restraint in this regard might better be called judicial respect; that is, respect by the judiciary. Respect to those who come before the Court as well to other co-ordinate branches of the State, the Executive and Legislature. There must be mutual respect. When these qualities fail or when litigants and public believe that the judge has failed in these qualities, it will be neither good for the judge nor for the judicial process. The Judges Bench is a seat of power. Not only do judges have power to make binding decisions, their decisions legitimate the use of power by other officials. The Judges have the absolute and unchallenged control of the Court domain. But they cannot misuse their authority by intemperate comments, undignified banter or scathing criticism of counsel, parties or witnesses.”*

His statements as a sitting judge of the Karnataka High Court are a cause of enormous concern for their impact on the people’s faith in the judiciary and judicial process. We end with the caution recently sounded by the Supreme Court: *“In an age where there is widespread reporting of every proceeding which takes place in the Court, particularly in the context of live streaming which is intended to provide access to justice to citizens, it is all the more necessary that Judges should exercise due restraint and responsibility in the observations which are made in the course of proceedings. Observations of the nature which have proliferated in the video of the proceedings of the Single Judge can cause incalculable harm to the sanctity of the judicial process. We hope and trust that circumspection shall be exercised in the future”*.

The members of the legal fraternity, and the public at large, expect deep circumspection and immediate remedial measures by the High Court and the Supreme Court, which they are duty-bound to undertake as in the interests of democracy and the preservation of constitutional morality.

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