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Law Profession-My Experiences & Expectations, (2010)

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by

N.M. Ranka

If an honest endeavour in itself can be said to be a virtue of a personal memoir, *Law Profession-My Experiences & expectations*¹ certainly lives up to this benchmark. This miscellany of the personal experience and reflections of a much respected Senior Advocate from Rajasthan, Mr. N.M. Ranka about the law profession seems to be a painstaking endeavour undertaken despite having the handicap of the lack of flair and continuity in the narration. The entire effort, as explained in the preface, is to acquaint the budding lawyers with challenges that awaits them in the profession and offers valuable advice to overcome those obstacles.

Starting with reflections on law profession, the memoir is divided into 18 Chapters. This follows the discussion on Law Education. Then there is the notable section on the three organs of the State followed by Taxation and Tribunalisation. The discussions about Law Education, Advocates Act, Senior Advocate and Obligations of Bar & Bench, Delays in Disposals, Interpretations of Statutes forms the core of his reflections about the profession. Apart from a chapter on personal memoir the chapters on Humane Face of the Judiciary and Sweet and Sour Moments completes the narrative of his personal experiences.

Chapter One, titled 'Law Profession' starts by tracing the history of the profession of legal practitioners in India, right from Vakils, Mukhtars to present lot of legal professionals-the Advocates. The entire Chapter it is submitted does not do justice to the cause of Law as a profession and, therefore, one can find the narration on legal profession spread rather incoherently in different chapters as well.



Chapter Two, starts by bringing the attention of the readers towards the dismal standards of legal education in India. It points out that the mushrooming growth of the Law Colleges, poor quality of teaching, poor organization and management, lack of continuing legal education, old and traditional methods, stereotype question papers, lacking imagination, faulty examination, lack of infrastructure, lack of adequate library facilities, poor attendance in class, mass copying in examination, absence of practical training and lack of finance, as some of the many reasons for the same. In this gloomy scenario, the five year law course offers new hope by attracting serious students, who want to excel in law profession. There is specific mention of Five Year Law College of the Rajasthan University and the National Law University, Jodhpur owing to the fact that Mr. Ranka hails from Rajasthan. Quoting Justice J.S. Verma, who once stated "that it has always been an enigma to me, I have never understood, why there should have been so little importance attached to legal education, when all along the importance of medical education, technical education and all other similar professions has been far more serious", Mr. Ranka rightly conveys his dismay and simultaneously the need for improving the standards of legal education. In this Chapter it has been

suggested by Mr. Ranka that BCI should emulate the Institute of Chartered Accountants of India² (ICAI) to conduct and regulate examinations on the pattern of the examinations held by ICAI.

Chapter Three, of *My Profession* deals with the functions of the three organs of the State and reminds the Bar and the Bench of its role *vis-a-vis* the Executive and the Legislature. It aptly reminds the judges about the nature of responsibility they have by equating the task of adjudication with the divine function and therefore, despite the fact that their conclusions are to be tested and retested, the same must have the fair average of truth and wisdom. This Chapter also includes a discussion about the pendency of cases in the courts in India and the need to bring it down. Mr. Ranka has also emphasized the need for legal aid and the corresponding requirement of the trained legal professionals. The discussions in this Chapter are of immense importance but the same appears too theoretical and bookish, it is submitted that instances of the anecdotal experiences from the personal life of the author could have made this part more interesting.

Mr. N.M. Ranka's has the rich experience of being the practitioner of law in the area of tax for close to sixty years and reflections from his experience in the field of taxation constitutes a significant part in *My Profession*. But as has been the case with other area that he has touched upon, the discussion about the field of taxation also is sprinkled in several chapters. Chapter Four talks about Taxation and Tribunalisation. Talking about the judgement



of the Supreme Court of India in *L. Chandra Kumar v. Union of India*³ wherein, the Supreme Court made the decisions of the tribunals subject to Article 226/227 of the Constitution, contrary to what was envisaged in the 42nd Constitutional Amendment by the Parliament of India to make tribunals a viable substitute for the High Courts in relations to the subject-matter over which tribunals would exercise jurisdiction, Mr. Ranka argues that tribunals being deprived of the constitutional safeguards ensuring their independence, are incapable of being effective substitute for the High Courts. He has further argued that the tendency of tribunalisation in the large number of field needs to be reconsidered. It is submitted that a reference of the 215th report of the Law Commission of India, should have been made, wherein, the Commission has recommended that the Government of India should request the Supreme Court to review the judgement of *L. Chandra Kumar* or suitable amendments should accordingly be brought so as to nullify the effect of the *L. Chandra Kumar* judgement, so that the object of speedy justice by establishing tribunals be achieved. In this Chapter, the author has rightly deprecated the practice of nullifying the judgements of the Supreme Court of India, High Courts and Tax Tribunals by the Finance Bill with retrospective effect⁴. He has commented that it is saddening that in a country wedded to the rule of law, the sanctity of rule of law and judicial decisions is nullified by amendments, insertions, modifications by the Parliament at the behest of the North Block and the Finance Ministry and that too not by the Amending Act but by the Finance Act.

In Chapter Five, titled 'Advocates Act, 1961' has a discussion about the Bar Council of India (BCI) and the State Bar Councils along with the functions which these bodies perform. But the discussion about the functions of BCI is not limited to this Chapter only and the same is scattered in other Chapters as well.

Chapter Six, is devoted to the discussion about Senior Advocates. This has the description of Mr. Ranka, being designated as Senior Advocate at the age of 57 by the

Rajasthan High Court in the year 1990. The same also has a suggestion for reconsidering the present process of designating Senior Advocates which rarely results in a young person, below the age of 40 being designated as Senior Advocates.



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Again in Chapter Seven, titled 'Obligations of Bar and Bench', addressing the issue of allowing foreign lawyers to practice in India, he has argued for the rule of reciprocity between the countries to be followed as practiced by the ICAI. The suggestions of bringing parity with the functions of BCI and ICAI makes one wonder, whether, there is any distinction between the functions of Chartered Accountant and an Advocate or not. It is submitted that the functions of the two institutions should have been compared and analysed before giving these suggestions. Another Chapter deals with the issue of delay in the disposal of cases by the courts in India, wherein, the famous phrase 'justice delayed is justice denied' is reiterated but with this caveat that 'justice hurried is justice buried'. The next Chapter relates to the issue of 'Interpretation of Statutes' which seems rather unnecessary as the same appears to be paying lip service to some of the very important concepts and rules of interpretation of statutes. It is submitted that instead of trying to summarise the concepts and rules of interpretation, few anecdotal examples from the professional life of the author would have been much better.

Chapter Ten titled the 'Humane face of Judiciary' mostly has anecdotal account of some small adjustments and courteous favours extended by the members of the Bench to Mr. Ranka for which the author has expressed his deep sense of gratitude. In this Chapter Mr. Ranka has made an honest confession that the salary paid to a High Court judge was insufficient, in restraining his social life and not being able to hand over his practice to his son owing to the fact that he was still a student then. This episode of his life certainly does not have the semblance of idealism in it but certainly in a memoir, one also looks for examples which tells us that even people whom we are asked to emulate were also fallible men prone to some of the obvious preferences that most of us have in our lives. It also has a mention of a confidential matter relating to an instance when Mr. Justice V.K. Singhal was elevated to the High Court on the suggestion given to the Chief Justice Mr. K.C. Agarwal by Mr. Ranka which should have been alluded to the reasons behind his suggestion.

Chapter Eleven is titled 'Sweet and Sour Moments' whereas, Chapter Ten is already entirely devoted to sweet moments. Interestingly, based on one of the personal experiences, wherein, a special leave petition (SLP) which was to be argued by Mr. Ranka in the Supreme Court of India was dismissed by Justice Y.K. Sabharwal (as he then was) in less than a minute of him having started arguing by throwing his file, Mr. Ranka sarcastically refers to SLPs as 'special luck petition'. He has also expressed his displeasure about the working style of the Income Tax Appellate Tribunal (ITAT) owing to their non-readiness in accepting the rectification applications and not appreciating adjournment applications even in cases of genuine reasons cited by the advocates.



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Chapter Twelve is about Corruption, Satyagraha and Contempt in relation to the powers and functions to be exercised by the judiciary in India. The author has made a very categorical assertion in relation to the corruption that exists in the judiciary in the following manner — “In my view there is no will and concerted efforts by the persons at the helm of the administration, else it is not an impossible task”. The Chapter also has the enumeration of the unfortunate incidents of corruption involving the judges of the High Courts and Supreme Court, namely Chief Justice P.D. Dinakaran of the Karnataka High Court, whose elevation to the office of the Supreme Court judge had to be stayed by the Supreme Court owing to the reports of his alleged involvement in the acts of corruption, Justice Soumitra Sen of the Calcutta High Court who resigned only after being impeached successfully in the Rajya Sabha and Justice Ramaswamy of the Supreme Court against whom the impeachment proceeding started in the Parliament but could not finally succeed. The chapter also has the reference of the affidavit filed in September, 2010 by Mr. Prashant Bhushan, advocate in the Supreme Court alleging that half of the last sixteen chief justices of the Supreme Court were corrupt.

The rationale behind the issue of contempt has also been gone into, quoting the former Chief Justice Mr. J.S. Verma, who while quoting Lord Denning has said that the contempt power is there to keep in check the recalcitrant, to neutral the incorrigible and punish the adamant; but for what purpose? The purpose for upholding the ‘Majesty of Law’ and not our personal majesty that is what we should always borne in mind. The chapter also has a discussion on boycott of courts and strike and referring the judgement of the Supreme Court in *Harish Uppal (Ex Captain) v. Union of India*⁵, wherein, it was held that lawyers have no right to go on strike or give a call for boycott, Mr. Ranka has referred the instance of the boycott of the court of the Chief Justice of the Rajasthan High Court by the advocates of the Rajasthan High Court protesting against the appointment of 36 individuals to the post of the Additional District Judge without any interview as only 36 of them actually cleared the written test against the 36 posts. The Chief justice also in protest started imposing heavy costs in cases of adjournment applications and as a result the boycott was withdrawn. Mr. Ranka has compared these cases with what he calls the cases of ‘satyagraha’ as used by Mahatma Gandhi and argued that this certainly was not the case of contempt as it was done for truth to prevail. The author must be lauded for his candid thoughts on this issue.

In Chapter Thirteen, titled ‘Earlier, Present & Future’ there are instances enumerated about the cordial relationship that existed between the bar and the bench in the past and deterioration that it has seen over the period of time. While discussing the tax structure there is a bold assertion



made according to which tax planning is sound law and certainly not bad morality. Simultaneously, there is dismay expressed about the manner of functioning of the tax departments because of which refunds are abnormally delayed and not automatic and rectification and appeal effects have to be reminded again and again. This gives a sad but eye opening commentary on the kind of work culture that prevails in the tax departments. The next Chapter has the invocation of adopting the five cardinal principles of life: ‘Truth, Non-violence, Non-Possessiveness, Compassion and Broad Mindedness’ given by Bhagwan Mahavir and spread further by Mahatma Gandhi. The chapter also has the brief discussion on economy and growth in India and ends with the clarion call of cultivating character and human values, being cheerful and happy and the will to serve the nation. In the subsequent Chapter one finds some useful

references of the case laws about the professional ethics of the advocates. Coming to the personal life of Mr. N.M. Ranka in Chapter Sixteen, titled 'Personal Memoir', this is definitely inspiring and presents before the reader a person who was ahead of his time. After losing his first wife to breast cancer and commanded by his sister and mother for a second marriage, he only agreed to marry a widowed lady and not an unmarried girl and finally married a widow who was mother of a daughter from her first marriage in the year 1974. He had also resolved to not accumulate wealth in excess of 55 Lakhs and spent the excess amount in good causes, which he has successfully adhered too. Mr. Ranka and his second wife together have made their will according to which after their death, their eyes have to be handed over to an eye bank and their dead bodies are to be given to the Sawai Mansingh Medical College for teaching and research. These examples would certainly instil in the readers a sense of idealism which our society craves for. Though, the other information given in this chapter seems unnecessary, as Mr. Ranka introduces to the reader almost every member of his extended family.

My Experience culminates by referring to the social educational and professional involvements of Mr. Ranka in Chapter Seventeen and presents before us the humanitarian endeavours undertaken by him in his life. Chapter Eighteen, in the end has the description of 'Nyay Tirth Pariyojana' an initiative undertaken by the Ranka Public Charitable Trust of installing the Statue of the Father of the Nation, Mahatma Gandhi at different places like Jails, Schools and Courts to spread Gandhi's message of peace and justice with a view to make these places *Nyay Tirths*, places of justice.

So, in the final conclusion, it can definitely be said that *The Profession* portrays the journey of Mr. N.M. Ranka's life and his reflections about the profession of law and the domain of taxation practice in particular in a manner which certainly would instil in young aspirants of the profession an urge to strive for excellence with the requisite perseverance and discipline befitting this noble profession. Though, the writing could have been more



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lucid and coherent. The get up is appealing but the spelling mistakes should have been avoided with little more caution in proofreading. Spelling mistakes in the title of the chapter certainly do not raise the standards of this memoir⁴. Despite these flaws, *The Profession* is an endearing read for the sheer honesty with which it has been written and therefore, it deserves a place on the shelves of the law libraries.

—Mr. Manwendra Kumar Tiwari⁵

¹ Hereinafter referred to as *My Profession*.

² ICAI was constituted under the Chartered Accountants Act, 1949.

³ (1997) 3 SCC 261, *The Profession* strangely does not even give the name and citation of this case, though; it has a complete chapter on Some Binding Precedents in Chapter Fifteen giving the names and citations of different cases.

⁴ It is apt to mention here that the then Finance Minister, Mr. Pranab Mukherjee also in his Budget speech in the year 2012 proposed imposition of retrospective tax on Vodafone after the Govt. of India lost the legal battle of taxing Vodafone in the Supreme Court of India in *Vodafone International Holdings BV v. Union of India*, (2012) 6 SCC 613, which invited much criticism from the corporate world and the international and national media leading to the Govt. to reconsider its stand and as a result the Govt. has adopted the mediation route to resolve the issue rather than retrospective taxation.

⁵ (2003) 2 SCC 45 : AIR 2003 SC 739.

⁶ Chapter Fifteen is titled 'Some Important Binding Precedents' instead of 'Some Important Binding Precedents'.

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