

My Lord, the **Hon'ble Chief Justice, S.Manikumar**, my esteemed brother and sister Judges, Hon'ble Former Judges of this Court, **Sri.C.P.Sudhakara Prasad**, the learned Advocate General; **Lakshmi Narayanan.R**, the President of the Kerala Advocate Association; **Sri.P.Vijayakumar**, the Assistant Solicitor General; **K.V. Sohan**, State Attorney; Law Officers of the Central and State Governments; Distinguished Senior Advocates; the Registrar General and other Registrars of this Court, my friends at the BAR, Advocate Clerks, Staffs of the High Court, cherished family members and friends; ladies and gentleman;

I am overwhelmed by the gracious words and warm sentiments showered on me by the learned Advocate General and the President of the Bar Association. I am doubtful whether I deserve such encomiums. I believe in god almighty. With the grace of god, I will try my level best to work upto your expectations.

I sincerely acknowledge my debt of gratitude to the former **Hon'ble Chief Justice Mr. Antony Domenic**, **Hon'ble Mr. Justice P.N. Raveendran** and **Mr. Justice Surendra Mohan** for recommending my name to this august office. I also express my wholehearted gratefulness to the former Chief Justice of India **Mr. Ranjan Gogoi**, **Hon'ble Justice Madan B. Lokur**, **Hon'ble Justice Kurian Joseph**, **Hon'ble Justice A.K. Sikri** and the **Hon'ble present Chief Justice of India S.A.Bobde** for recommending my name for appointment as Judge of this Court. I also sincerely thank **Hon'ble Justice K.M.Joseph** for giving me confidence at all stages of my elevation process.

I lost my mother on 21.03.2009. She never called me by my name till her death. She used to call me 'MONE', throughout her life. Her loving voice still echoes in my ears. I am sure that, she will be somewhere here to watch this ceremony and to bless me.

My father is now aged 96. A father is neither an Anchor to hold us back nor a sail to take us there, but a guiding light whose love shows us the way. I am so happy that, my father is sitting in front of me to watch this ceremony. He is a person, known to most of you as a film actor. But, he is a loving father to me. At every stage of my life, his guidance was important to me. I am an introvert person in my life. A push from my father was there at every stage of my life.

After completing my pre-degree course at Payyannur College, I decided to continue my education in Mathematics and I joined for B.Sc Course in Mathematics at Kasaragod Government College. At that time, my father's elder brother Advocate P.V.K. Namboothiri, who was a leading lawyer at Kasaragod BAR died. The relationship of my father with his elder brother was beyond a relationship of brotherhood. He was a hero to my father. He was the pillar of our family. After the death of my father's brother, my father decided to send me for studying law and to follow the path of father's elder brother Advocate P.V.K. Namboothiri. Due to the loving compulsion from my father, I discontinued my B.Sc Course from Kasaragod Government College and joined for LLB Course at Kerala Law Academy, Law College, Trivandrum.

My batch was the first batch of five year course LLB, which was introduced at that time. I stayed at Trivandrum with my first cousin Mr. P.V. Narayanan Numboodiri and his wife Mrs. Valsala Narayanan.

Mrs. Valsala Narayanan died two years back and I remember the happy moments with her at Trivandrum.

After completing my LLB Course, I decided to practice at Payyannur, which is my native place. At that time also, my father interfered and asked me to go to a District Centre to start my profession as an Advocate. He took me to Advocate P.K.Kunhirama Pothuval, who was one of the leading criminal Lawyers at Calicut Bar at that time. I was a junior of Adv. P.K. Kunhirama Pothuval for about three and half years at Calicut. I have to concede that, if I know anything about criminal law, the same I studied from my beloved Senior Sri. P.K. Kunhirama Pothuval. He is no more. I hope that, I will get his blessings too on this day.

After completing about three years at Calicut, I was accustomed with the atmosphere at Calicut. I decided to pursue my profession at Calicut. At that stage also, my father interfered and requested me to shift my practice to the High Court. Because of the loving compulsion of my father, I shifted my practice to this Hon'ble Court and joined the office of **Adv. M.V.S Naboothiri**. Adv. M.V.S Naboothiri was not only my Senior, but, he was just like my elder brother. He is one of the person, who worked hard to see that, I reached this position. My gratitude to him cannot be expressed in words.

In 1996, I started my independent practice. From the day one of starting my new office, my Clerk T.K. Gopi has been with me. His commitment and sincerity is matchless. I also remember my Clerk, Jayaram, who died because of a Cardiac arrest, while staying with me. I also remember my second Clerk Mr. T.K. Baburaj, who has been always with me. I also thank my junior lawyers, who worked

with me during the last several years. The present juniors Mr. Anoop P.V, Priyeshkumar and Sreeraj are also helpful to me in my profession. My present stenographer Neetha was also helpful to me.

I started my practice in this Hon'ble Court from September 1993 onwards. I extend my sincere thanks to all Judges of this Hon'ble Court, who always encouraged me, especially in my initial days of practice. I have to specially mention the names of the former Judges of this Hon'ble Court, **Justice Thulasidas**, and **Justice K.T.Thomas**, who were sitting in criminal side during my early days. I still remember a case argued before the criminal Division Bench headed by Hon'ble Justice, Thulasidas. That was a revision filed by me on behalf of the defacto complainant against the acquittal order in a murder case. There was state appeal also against the acquittal order. Instead of asking the public prosecutor, the bench directed me to address the Courts. I argued the case a full day. That was my beginning stage of profession in the High Court. Justice Thulasidas, in his usual manner, argued with me throughout the day. Ultimately, I succeeded in the case. The state appeal was allowed, reversing the judgment of acquittal passed by the Lower Court. I got great confidence after arguing that case before the Bench lead by Justice Thulasidas. Similarly, the former Judge of this Hon'ble Court, **Justice K.T. Thomas**, who retired as Supreme Court Judge, also encouraged me as a young lawyer and used to give encomium in open Court, if a new point is raised.

After mentioning all these personalities, it is my duty to say something about my family. My wife is Nita. She is with me in all my happiness and sorrows. She is my strength in my life. My children are Suman Krishnan and Sunayana. They gave us only happiness. My brother is Bhavadasan Namboothiri, who is a retired Chief Manager of Karnataka Bank. His tension, till I swear now, is greater than me. He is a true brother to me, who know only to share love. My sister-in-

law Indu is also here. My two sisters are Devi Damodaran and Yamuna. Both of them are influential people in my life. My brother-in-laws Sri.Kaithapram Damodaran Namboothiri and Sri.Purushothaman Namboothiri are also here. Their blessings are one of the reasons for me to occupy this august office. My father-in-law Sri.M.Parameswaran and mother-in-law Vasantha Parameswaran are always with us and their love and affection cannot be expressed in words. I have to mention here, the name of my brother-in-law, Nithin and his wife Radhika also.

My name was recommended for the post of High Court Judge by the Collegiums of Kerala High Court on 07.03.2018. The Supreme Court Collegium recommended my name on 09.10.2018. Thereafter, the Supreme Court Collegium reiterated my name on 12.02.2019. Now, one year over after my reiteration and two years over after my original recommendation by the Collegium of this Hon'ble Court. It is true that, I have waited about two years to clear my name. I believe the constitutional authorities of our country. While making appointments to constitutional posts, it may take time. But, this waiting period is really painful. I have a small advice to my dear lawyer friends here. If you come across a news that, the name of a person is recommended for the post of Judgeship, please avoid questions and behavior like this to them:- (1) When will your appointment order will come (2) Where is your file now (3) Are you appearing in Courts now (4) Never show unnecessary respect to them (5) Always encourage them to appear in cases and to continue their vigor of advocacy (6) Never give a publicity, especially to the lower court lawyers that, the candidate stopped practicing as a lawyer because he is going to become a Judge.

I faced all these problems and it happened not because of any ill will towards me from my dear friends. This is the usual procedure followed by all lawyers. Now, when you face these problems personally, we will understand the gravity of the same. Waiting for two years is really disturbing, especially when you are not aware about the reason for the delay in the appointment. The former Judge of this Hon'ble Court, who became Chief Justice of this Court and different other High Courts namely Justice U.L. Bhat, wrote a book narrating his story and the name of the book is '**Story of a Chief Justice**'. In his book, Justice Bhat narrates a story regarding a selection process to the post of Munsiff, in which he participated. Advocate U.L Bhat was practicing at that time at Kasaragod Bar. At that time, Public Service Commission was conducting the selection to the post of Munsiff. After the test and interview, Justice Bhat became No.1 or 2 in the merit list. But, thereafter, he received a letter from the State Home Department informing that, he is debarred from the post of Munsiff, without assigning any reason. Justice U.L Bhat was sure that, his appointment was blocked by the Government, because he was an active member of a political party. This decision of the Government was challenged before this Hon'ble Court by Justice U.L Bhat, through Justice V.R. Krishna Iyer, who was a lawyer practicing in this Court at that time. The Division Bench of this Hon'ble Court dismissed the Writ Petition filed by the Justice U.L. Bhat after perusing the files relating to the appointment, but without disclosing the reason for debarring him for appointment. Justice U.L. Bhat, in his book, after narrating the above facts, wrote like this. Page No.47 of the **Story of a Chief Justice by U.L.Bhat**.

“If the philosophy propounded by the Division Bench of the High Court of Kerala in the case of K.George and U.L. Bhat had been implicitly followed by the Constitutional Authorities involved in appointments to the High Court and Supreme Court,

our judiciary would have lost services of Judges like, Justices V.R. Krishna Iyer, O.Chinnappa Reddy, D.A. Desai, P.B. Sawant, R.P.Sethi, P.Subrahmanyam Potti, M.P.Menon, S.K.Kader, V.Sivaraman Nair, C.S.Rajan, K.Balakrishnan Nair, K.A. Abdul Gafoor, K.K.Dinesan, V.K.Mohanan and others who have been leftist bent of mind and Justice K.S.Hegde, K.T.Thomas, P.Janakiyamma, K.K. Narendan, who were inclined towards the congress before their elevation as Judges and Justice Kurian Joseph, who before his elevation was a supporter of Kerala Congress party. Many of them were splendid Judges of great erudition, commonsense and commitment to constitutional values. The real question is the degree of his commitment to his oath of office and the values of the constitution and constitutional vision. Many a Judge- non political before appointment – has fallen by the way”.

M.C.Chagla in his autobiography- '**Roses in December**' narrated another incident that happened when he was the Chief Justice of Bombay state. At that time, Morarji Desai was the Home Minister of Bombay state. Page 150 of the autobiography of M.C.Chagla- '**Roses in December**' read like this:-

“I also had difficulty with Morarji about the appointment of an Assistant Judge, when we wanted to recruit directly from the Bar. He was a member of the Hindu Mahasaba. Morarji wrote to me and said that, he was surprised that, I should recommend a man with such political complexion. I told him that, I was not concerned with the politics of a member of the Bar. I was only concerned with his ability and efficiency to function as a Judge. Further it would seriously undermine independence of the Bar, if I were to insist that, only those who belong to a particular party or believed in a particular ideology could aspire to become Judges. I said that, a member of a Bar had every right

to hold any political views, he thought proper, provided they were not seditious or subversive. So long as I satisfied that, a Judge did not carry his politics to the Bench, I should consider his political views as utterly irrelevant to his fitness as a Judge. After some correspondence, Morarji ultimately yielded and appointed the man, I had recommended, who, I am happy to say, turned out to be a very good Judge”.

The Hon'ble Supreme Court considered a similar question and delivered a judgment. The facts of the case is that, a teacher was absorbed in Government Service and subsequently terminated from service for the reasons that, he was actively taken part in '**RSS and Janasangh activities**', as per the police report. The same was challenged before the Madhya Pradesh High Court and the Madhya Pradesh High Court quashed the order of termination of that candidate from service. State of Madhya Pradesh challenged this order of the High Court before the Supreme Court and the Supreme Court dismissed the SLP and made certain observations. The judgment was delivered by Justice Chinnappa Reddy. The relevant portion of the Judgment in State of Madhya Pradesh Vs. Ramashanker Raghuvanshi and Another (1983 (2) SCC 145) read like this:-

“What was wrong in his being a member of an organisation which is not even alleged to be devoted to subversive or illegal activities? The whole idea of seeking a police report on the political faith and the past political activity of a candidate for public employment appears to our mind to cut at the very root of the Fundamental Rights of equality of opportunity in the matter of employment, freedom of expression and freedom of association. It is a different matter altogether if a police report is sought on the question of the involvement of the candidate in any criminal or subversive activity in order to find out his suitability for public employment. But why seek a police report on the political faith of

a candidate and act upon it? Politics is no crime. Does it mean that only True Believers in the political faith of the party in power for the time being are entitled to public employment? Would it not lead to devastating results, if such a policy is pursued by each of the Governments of the constituent States of India where different political parties may happen to wield power, for the time being? Is public employment reserved for "the cringing and the craven, in the words of Mr. Justice Black of the United States Supreme Court? Is it not destructive of the dignity of the individual mentioned in the preamble of the Constitution? Is it to be put against a youngman that before the cold climate of age and office freezes him into immobility, he takes part in some political activity in a mild manner. Most of the students and most youngmen are exhorted by national leaders to take part in political activities and if they do get involved in some form of agitation or the other, is it to be to their everlasting discredit? Sometimes they get involved because they feel strongly and badly about injustice, because they are possessed of integrity and because they are fired by idealism. They get involved because they are pushed into the forefront by elderly leaders who lead and occasionally mislead them. Should all these youngmen be debarred from public employment? Is Government service such a heaven that only angels should seek entry into it? We do not have the slightest doubt that the whole business of seeking police reports, about the political faith, belief and association and the past political activity of a candidate for public employment is repugnant to the basic rights guaranteed by the Constitution and entirely misplaced in a democratic republic dedicated to the ideals set forth in the preamble of the Constitution. We think it offends the Fundamental Rights guaranteed by Arts.14 and 16 of the Constitution to deny employment to an individual because of his past political affinities, unless such affinities are considered likely to affect the integrity and efficiency of the individual's service."

I quoted the above observations, not because, it has got any connections in my appointment process. I believe the constitutional authorities. I also believe that, the time taken in my case, is the usual

time, because while making constitutional appointments, it is the duty of the appointing authority to be more careful. I am practicing in this Court as a lawyer from 1993 onwards. I am sure that, my lawyer friends here know my abilities and disabilities. I can only assure you that, I will uphold the oath of office taken by me now and will uphold the values of constitution and the constitutional vision.

Before parting, I will share a light moment that happened in my selection process. When the candidates recommended for the Judgeship, the members of the Supreme Court Collegium invited us for an interaction. At that time, the interaction was done individually. When my turns came, I appeared before the members of the Collegium. After putting certain questions to me by the Hon'ble Judges of the Collegium, the then Chief Justice of India Hon'ble Justice Ranjan Gogoi asked me a question, which goes like this:-

“Will you smile like this if you become a Judge”

I gave a reply smile, but, the Hon'ble Chief Justice repeated the same question for which I gave a positive nod. While upholding the oath of office taken by me now and while upholding the constitution and constitutional values while acting as a Judge of this Hon'ble Court, I assure you that, I will try to keep the words given to the Hon'ble former Chief Justice Ranjan Gogoi.

**“Jai Hind”**