



सत्यमेव जयते

UTTARAKHAND COURT NEWS
(A Quarterly Court Magazine)

Vol.-XIV Issue No.-I (January to March, 2023)



EDITORIAL BOARD

Hon'ble Mr. Justice Sharad Kumar Sharma
Hon'ble Mr. Justice Alok Kumar Verma
Hon'ble Mr. Justice Pankaj Purohit

COMPILED BY

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Ms Neena Aggarwal, Registrar (Inspection), High Court of Uttarakhand



Hon'ble Mr. Justice Vipin Sanghi (Chief Justice)
(w.e.f. 28.06.2022)



Hon'ble Mr. Justice Sanjaya Kumar Mishra
(Transfer on 17.02.2023)



Hon'ble Mr. Justice Manoj Kumar Tiwari



Hon'ble Mr. Justice Sharad Kumar Sharma



Hon'ble Mr. Justice Ramesh Chandra Khulbe
(Superannuated on 02.01.2023)



Hon'ble Mr. Justice Ravindra Maithani



Hon'ble Mr. Justice Alok Kumar Verma

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HIGH COURT OF UTTARAKHAND

LIST OF JUDGES (AS ON 31st March, 2023)

| Sl. No. | Name of the Hon'ble Judges | Date of Appointment |
|---------|---|---------------------|
| 1. | Hon'ble Mr. Justice Vipin Sanghi (Chief Justice) | 28.06.2022 |
| 2. | Hon'ble Mr. Justice Sanjaya Kumar Mishra (Transfer to Hon'ble Jharkhand High Court as Chief Justice on 17.02.2023) | 11.10.2021 |
| 3. | Hon'ble Mr. Justice Manoj Kumar Tiwari | 19.05.2017 |
| 4. | Hon'ble Mr. Justice Sharad Kumar Sharma | 19.05.2017 |
| 5. | Hon'ble Mr. Justice Ramesh Chandra Khulbe (Superannuated on 02.01.2023) | 03.12.2018 |
| 6. | Hon'ble Mr. Justice Ravindra Maithani | 03.12.2018 |
| 7. | Hon'ble Mr. Justice Alok Kumar Verma | 27.05.2019 |

MAJOR EVENTS & INITIATIVES



Full Court Reference on Superannuation of Hon'ble Mr. Justice Ramesh Chandra Khulbe, Judge, High Court of Uttarakhand on 02.01.2023



***On Superannuation of Hon'ble Mr. Justice Ramesh Chandra Khulbe, Judge, High Court of
Uttarakhand on 02.01.2023***

(Sitting R-L)

Hon'ble Mr. Justice Alok Kumar Verma, Hon'ble Mr. Justice Sharad Kumar Sharma, Hon'ble Mr. Justice Sanjaya Kumar Mishra, Hon'ble Mr. Justice Vipin Sanghi, Chief Justice, Hon'ble Mr. Justice Ramesh Chandra Khulbe, Hon'ble Mr. Justice Manoj Kumar Tiwari and Hon'ble Mr. Justice Ravindra Maithani.

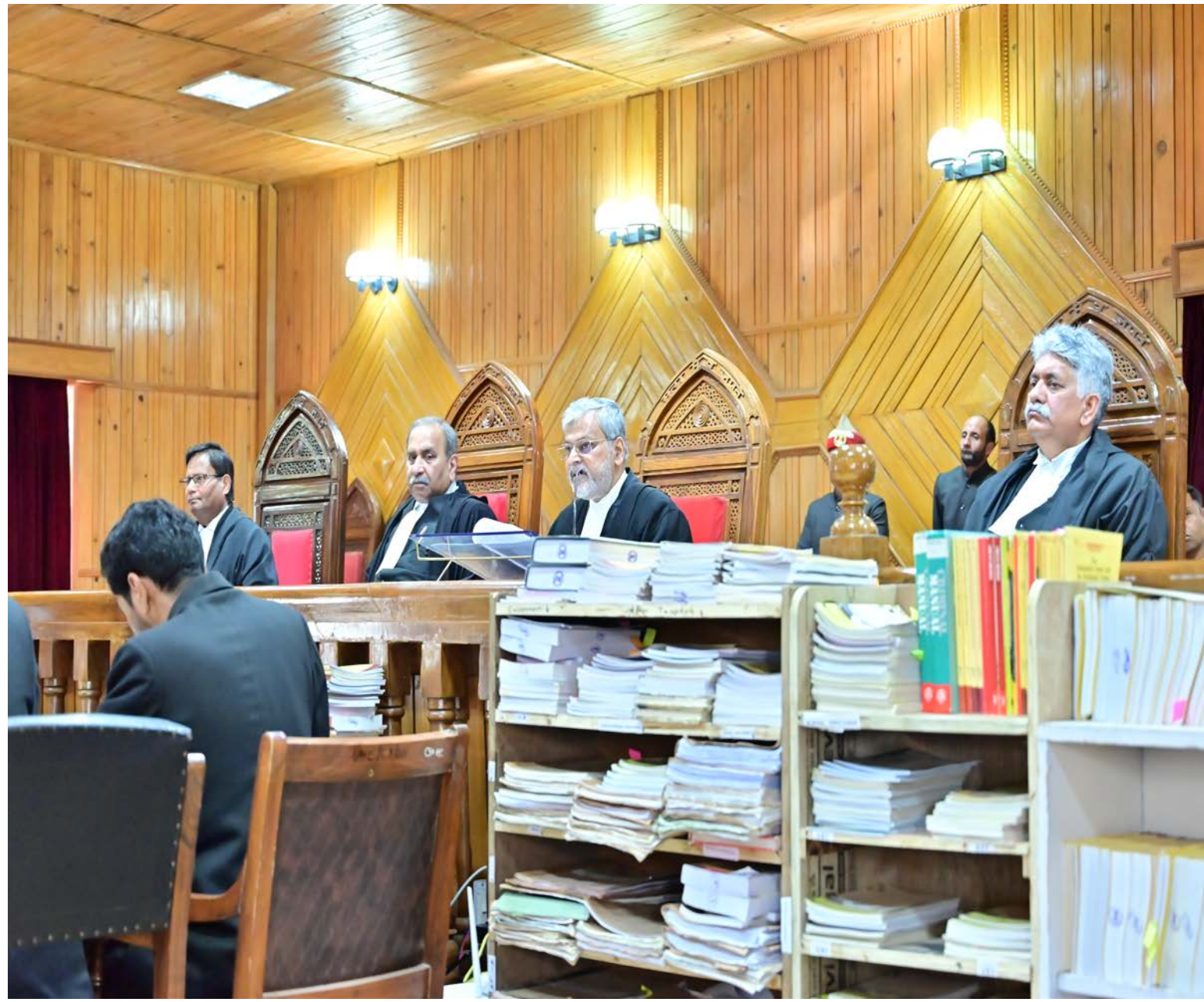


Hon'ble Judges presenting momento to Hon'ble Mr. Justice Ramesh Chandra Khulbe, Judge, High Court of Uttarakhand on the occasion of Superannuation of Hon'ble Mr. Justice Ramesh Chandra Khulbe.

Republic Day Celebration: On 26th January, 2023



On 26th January, 2023 Republic Day was celebrated in the High Court premises with Great enthusiasm. On this occasion, National Flag was hoisted by Hon'ble Mr. Justice Sharad Kumar Sharma, Judge, High Court of Uttarakhand in presence of Hon'ble Judge. Officers and Officials of the Registry and Advocates were also present.



Full Court Reference on transfer of Hon'ble Mr. Justice Sanjaya Kumar Mishra, Senior Judge, High Court of Uttarakhand on 18.02.2023



***On Transfer of Hon'ble Mr. Justice Sanjaya Kumar Mishra, Senior Judge, High Court of
Uttarakhand on 18.02.2023***

(Sitting R-L)

*Hon'ble Mr. Justice Alok Kumar Verma, Hon'ble Mr. Justice Sharad Kumar Sharma, Hon'ble Mr.
Justice Sanjaya Kumar Mishra, Senior Judge and Hon'ble Mr. Justice Ravindra Maithani.*



Hon'ble Judges presenting memento to Hon'ble Mr. Justice Sanjaya Kumar Mishra, Senior Judge, High Court of Uttarakhand on the occasion of transfer of Hon'ble Mr. Justice Sanjaya Kumar Mishra.

PROGRAMMES ATTENDED BY HON'BLE JUDGES

(FROM JANUARY 2023 TO MARCH 2023)

1. Hon'ble Mr. Justice Sharad Kumar Sharma attended the National Convention for Senior High Court Justices: Strengthening Fiscal & Administrative Protocols in High Courts at National Judicial Academy, Bhopal during the period from 14.01.2023 to 15.01.2023.

MAJOR ACTIVITIES OF STATE LEGAL SERVICES AUTHORITY**FROM****JANUARY 2023 TO MARCH 2023****➤ SPECIAL CAMPAIGN ON ROAD SAFETY:**

As per the Plan of Action for January, 2023 special legal awareness camps underlined the subject '**Road Safety, Traffic Rules, Over Speed and Lane Discipline**' were organized by the District Legal Services Authorities on different places and dates throughout the State of Uttarakhand.

By this Legal Awareness Campaign drive the gathering were informed about the benefits of wearing helmet, benefits of following the traffic rules, ill effects of over speed, Motor Vehicle Act etc.

➤ OBSERVATION OF "INTERNATIONAL WOMEN'S DAY" ON 08.03.2023:

"International Women's Day" was celebrated by the District Legal Services Authorities on 08.03.2023 throughout the State of Uttarakhand.

On the occasion, the District Legal Services Authorities conducted Legal Awareness Camps and aware the common mass that on the day, women are recognized for their achievements without regard to divisions, whether national, ethnic, linguistic, cultural, economic or political. During the legal awareness camps gathering were informed about acts, rules, provisions and welfare schemes relating to women empowerment.

➤ MEGA/MULTI-PURPOSE NEW MODULE LEGAL SERVICES CAMP ON 26.03.2023:

A Multipurpose/Mega Legal Awareness Camp, as per New Module Legal Services Camp designed by NALSA, was organized on 26th March, 2023 at Govt. Inter College, Lweshal, Nainital by the Uttarakhand State Legal Services Authority, Nainital in

cooperation with District Legal Services Authority, Nainital and NGO namely Hans Cultural Foundation, Uttarakhand.

The aforesaid Multipurpose/Mega Legal Awareness Camp was organized in the benign presence of the Hon'ble Executive Chairman, Uttarakhand SLSA, Nainital. His Lordship addresses the gathering and inform about different Free Legal Aid Services, provided to the common mass by the Legal Services Institutions throughout the State of Uttarakhand and also about Public Welfare Schemes run by the Central/State Government.

In the said multi-purpose legal services programme the government departments namely Revenue Department, Aadhar Services Center, Primary Health Center, Agriculture Department, Village Development, Animal Husbandry, Forest Department, Labour Department and officials of State Bank of India have set up their stalls and accord the required services to the need persons.

The attended people were gent benefited by providing them Bhumidhari, Widow & Old Age Pension Certificate, Kisan Samman to 43 persons. Total 42 persons were get their Adhar Card prepared and 07 persons get their Ayushman Health Card. The Agricultural Department distributed farming equipments to 12 persons. During the programme the Health Department conducted health check-up to 107 persons. Forest department resolve the issues of 25 persons relating to Forest Department. 17 persons get their BPL Card, family register copy, kisan pension certificate by the village development officials. Total 501 persons were get benefited by providing them wheelchair, walker, stick, hearing aid, glasses, crutches, BP health check-up, backpain belt in cooperation with NGO Hans Cultural Foundation, Uttarakhand. Further informed that 52 persons were benefited by addressing their problems relating to electricity, Police, water supply departments. Different applications mentioning their problems/issues were also submitted by the attended people to the concerned officials relating to their departments.

➤ **CAMPAIGN ON BIODEGRADABLE & NON-BIODEGRADABLE WASTE AND PLASTIC WASTE MANAGEMENT SYSTEM:**

In compliance of the Order dated 07.07.2022 and Order dated 24.11.2022 passed by the Hon'ble High Court of Uttarakhand in WP (PIL) No. 93/2022 (Jitendera Yadav Vs. Union of India & Others) and as per the directions issued by the Hon'ble Executive Chairman, UKSLSA, Nainital with reference to the aforesaid order, different legal awareness camps were organized on different dates and places by the District Legal Services Authorities across the State of Uttarakhand during January to March, 2023.

Directions was also issued to the PLVs to uploaded Google Map Photos and sent complaint of the locations at E-mail ID: solidwaste-complaint@uk.gov.in, where the garbage has been massed/heaped and also sent to concerned authorities. The said E-mail ID: solidwaste-complaint@uk.gov.in also made popularized amongst the common mass. Different legal awareness & cleanliness campaign are also being organized to awaren the public at large about the Uttarakhand Plastic and other Non-Biodegradable Garbage (Regulation and Use of Disposal) Act. 2013; Plastic Waste Management Rules, 2016 with amendment Rules 2018; Environment Protection Act, Uttarakhand Panchayat Solid Waste Management Policy, 2017 and ban on single use of plastic etc.

➤ **MULTI-PURPOSE/NEW MODULE LEGAL SERVICES CAMP:**

As per the New Module Legal Services Camps/Programmes, designed by the National Legal Services Authority, different Legal Awareness Camps were organized by the District Legal Services Authorities, across the rural and urban areas of the State of Uttarakhand.

In the said camps different Govt. Departments also set-up their stalls such as Social Welfare Department, Agriculture Department, Health Workers, Animal Husbandry Department and benefitted the attended persons as per their requirements.

➤ **SPECIAL CAMPAIGN ON CYBER CRIME & INTERNET/SOCIAL MEDIA FRAUDS:**

As per the Plan of Action for March, 2023 the District Legal Services Authorities sanitized the common mass about ‘**Cyber Crime, Internet & Social Media Frauds/Scams**’ by organized special legal awareness camps on different dates and places across the State of Uttarakhand.

By this Legal Awareness Campaign drive the people at large were informed about the ‘**Cyber Crime, Internet & Social Media Frauds/Scams**’ being conducted by the hackers/scammers frequently as the common mass usually used the online/digital payment methods being easy access modes of transactions.

➤ **SPECIAL LEGAL AWARENESS PROGRAMME (LAP):**

As per directions of National Legal Services Authority, special Legal Awareness Programmes was organized by the District Legal Services Authorities. The said campaign has been carried out in collaboration with National Commission for Women (NCW) during the period January to March, 2023. The aim of the said campaign drive is to spread legal awareness amongst women from remote/far-flung areas of the State.

➤ **CAMPAIGN UNDER JAIL SAMIKSHA DIWAS:**

In order to strengthen Jail Legal Aid Clinics established inside the jail campus and prisoners’ rights, different Legal Awareness Programmes and visits were conducted during the Period January-2023 to March-2023 by the District Legal Services Authorities and by these legal awareness programme the jail inmates have been made aware about their legal rights and other relating rules and provisions.

➤ **CAMPAIGN & MEETING REGARDING PRESENTATION OF SALES OF EXPIRY ITEMS:**

As per directions of the Hon'ble Executive Chairman, Uttarakhand SLSA, Nainital, the Secretaries of the District Legal Services Authorities in the State are conducting a monthly meeting with the Food Safety Officer and Drug Inspector of the concerned district to discuss the prevention of sales of expiry items/packets in the district.

District Legal Services Authorities are also conducted surprise inspection with the concerned officers and PLVs to the shops/malls, general stores, medical stores etc. the Food Safety Officer and Drug Inspector of the district were directed to submit the activity report conducted with regard to prevention of sales of expiry items. The District Legal Services Authorities also conducted awareness camps to sanitize the people at large about the ill effects of using of expiry items.

NATIONAL LOK ADALAT ORGANIZED
ON 11.02.2023 AND 04.03.2023
AT HON'BLE HIGH COURT OF UTTARAKHAND



DETAILS OF DISPOSAL OF CASES IN THE NATIONAL LOK ADALAT HELD
ON 11.02.2023 & 04.03.2023
IN THE STATE OF UTTARAKHAND

| S.N. | Name of the Courts | No. of cases referred | No. of cases settled | Settlement Amount |
|------|-----------------------------------|-----------------------|----------------------|-----------------------|
| 1 | Hon'ble High Court of Uttarakhand | 314 | 38 | 3,87,77,353 |
| | Almora | 103 | 82 | 98,97,708 |
| 2 | Bageshwar | 115 | 75 | 24,43,000 |
| 3 | Chamoli | 57 | 56 | 78,54,547 |
| 4 | Champawat | 63 | 55 | 32,20,000 |
| 5 | Dehradun | 1831 | 1740 | 11,67,41,109 |
| 6 | Haridwar | 2082 | 1921 | 7,75,39,313 |
| 7 | Nainital | 1105 | 863 | 4,83,15,970 |
| 8 | Pauri Garhwal | 305 | 304 | 91,96,306 |
| 9 | Pithoragarh | 279 | 271 | 1,10,20,972 |
| 10 | Rudraprayag | 73 | 71 | 23,71,000 |
| 11 | Tehri Garhwal | 302 | 258 | 1,14,50,519 |
| 12 | Udham Singh Nagar | 2031 | 1597 | 14,38,85,403 |
| 13 | Uttarkashi | 250 | 240 | 97,36,250 |
| 14 | Pre-Litigation Cases | 20236 | 12907 | 29,02,21,320 |
| | TOTAL:- | 28832 | 20440 | 74,38,93,417 |
| 15 | Consumer Courts | 98 | 65 | 50,61,662 |
| 16 | Debts Recovery Tribunal, Dehradun | 80 | 70 | 66,00,00,000 |
| | TOTAL:- | 178 | 135 | 66,50,61,662 |
| | GRAND TOTAL :- | 29010 | 20575 | 1,40,89,55,079 |

**STATUS OF FULL TIME SECRETARIES/TLSC/PLVS/PANEL LAWYERS/RETAINER
LAWYERS/MEDIATORS/LEGAL AID CLINICS/FRONT OFFICE/MEDIATION
CENTERS AS ON 31.03.2023**

| NAME OF DLSA/HCLSC | No. of Full Time Secretary | No. of TLSCs Constituted | No. of Panel Lawyers | No. of Retainer Lawyers | No. of trained PLVs | No. of Legal Aid Clinics | No. of Front Offices | No. of Mediation Centers | No. of Mediators |
|--------------------|----------------------------|--------------------------|----------------------|-------------------------|---------------------|--------------------------|----------------------|--------------------------|------------------|
| ALMORA | 01 | 03 | 13 | 01 | 80 | 34 | 01 | 01 | 04 |
| BAGESHWAR | 01 | 01 | 07 | 01 | 28 | 20 | 01 | 01 | 02 |
| CHAMOLI | 01 | 05 | 08 | 01 | 36 | 12 | 01 | 01 | 02 |
| CHAMPAWAT | 01 | 01 | 11 | 01 | 60 | 17 | 01 | 01 | 03 |
| DEHRADUN | 01 | 04 | 45 | 01 | 58 | 55 | 01 | 02 | 15 |
| HARIDWAR | 01 | 02 | 34 | 01 | 52 | 34 | 01 | 03 | 22 |
| NAINITAL | 01 | 02 | 40 | 01 | 76 | 08 | 01 | 03 | 04 |
| PAURI GARHWAL | 01 | 04 | 26 | 01 | 43 | 26 | 01 | 02 | 05 |
| PITHORAGARH | 01 | 04 | 10 | 01 | 29 | 03 | 01 | 01 | 04 |
| RUDRAPRAYAG | 01 | 01 | 06 | 01 | 89 | 44 | 01 | 01 | 01 |
| TEHRI GARHWAL | 01 | 02 | 26 | 01 | 43 | 27 | 01 | 01 | 03 |
| U. S. NAGAR | 01 | 05 | 50 | 01 | 84 | 24 | 01 | 03 | 11 |
| UTTARKASHI | 01 | 02 | 17 | 01 | 60 | 19 | 01 | 01 | 05 |
| HCLSC | 01 | - | 24 | 01 | - | - | 01 | 01 | 09 |
| TOTAL | 14 | 36 | 317 | 14 | 738 | 323 | 14 | 22 | 90 |

STATISTICAL INFORMATION

**STATEMENT SHOWING THE PROGRESS OF LOK ADALATS HELD IN
THE STATE OF UTTARAKHAND
FROM JANUARY 2023 TO MARCH 2023**

| S. No. | Name of District | Total No. of Lok Adalats Held | Total No. of Cases Taken up | Total No. of Cases Disposed off | Compensation/ Settlement Amount | Realized As Fine (in Rs.) | Total No. of Persons Benefited in Lok Adalat |
|--------|--------------------|-------------------------------|-----------------------------|---------------------------------|---------------------------------|---------------------------|--|
| 01 | ALMORA | 03 | 201 | 136 | 98,97,708 | 2,03,800 | 54 |
| 02 | BAGESHWER | 04 | 257 | 101 | 26,15,800 | - | 26 |
| 03 | CHAMOLI | 04 | 121 | 74 | 78,54,547 | 69,600 | 18 |
| 04 | CHAMPAWAT | 04 | 296 | 99 | 32,20,000 | 84,658 | 44 |
| 05 | DEHRADUN | 04 | 12282 | 4986 | 11,98,67,659 | 1,39,700 | 3246 |
| 06 | HARDWAR | 04 | 2327 | 2074 | 7,79,85,313 | - | 153 |
| 07 | NAINITAL | 04 | 2863 | 1934 | 4,90,30,670 | 8,80,900 | 1071 |
| 08 | PAURI GARHWAL | 04 | 537 | 510 | 91,96,306 | 6,37,200 | 68 |
| 09 | PITHORAGARH | 02 | 524 | 293 | 1,10,20,972 | 29,500 | 22 |
| 10 | RUDRAPARYAG | 01 | 73 | 71 | 23,71,000 | - | - |
| 11 | TEHRI GARHWAL | 04 | 486 | 327 | 1,19,38,019 | - | 69 |
| 12 | UDHAM SINGH NAGAR | 04 | 3160 | 1655 | 14,38,85,403 | 2,15,100 | 26 |
| 13 | UTTARKASHI | 01 | 250 | 240 | 97,36,250 | - | - |
| 14 | HCSLC, NAINITAL | 01 | 314 | 38 | 3,87,77,353 | - | - |
| 15 | UKSLSA,NTL | - | - | - | - | - | - |
| | TOTAL :- | 44 | 23691 | 12538 | 49,73,97,000 | 22,60,458 | 4797 |
| 16 | CONSUMER COURTS | 10 | 98 | 65 | 50,61,662 | | |
| 17 | D.R.T., DEHRADUN | 01 | 80 | 70 | 66,00,00,000 | | |
| | TOTAL | 11 | 178 | 135 | 66,50,61,662 | | |
| | GRAND TOTAL | 55 | 23869 | 12673 | 1,16,24,58,662 | 22,60,458 | 4797 |

**STATEMENT SHOWING THE PROGRESS OF CAMPS ORGANIZED IN
THE STATE OF UTTARAKHAND
FROM JANUARY 2023 TO MARCH 2023**

| S. No. | Name of District | No. of Camps Organized | Total No. of Persons Benefited in Camps |
|---------------|-------------------------|-------------------------------|--|
| 01 | ALMORA | 144 | 8454 |
| 02 | BAGESHWER | 181 | 6484 |
| 03 | CHAMOLI | 271 | 12989 |
| 04 | CHAMPAWAT | 391 | 11756 |
| 05 | DEHRADUN | 153 | 9248 |
| 06 | HARDWAR | 105 | 9021 |
| 07 | NAINITAL | 78 | 4894 |
| 08 | PAURI GARHWAL | 129 | 5676 |
| 09 | PITHORAGARH | 144 | 8181 |
| 10 | RUDRAPARYAG | 115 | 5973 |
| 11 | TEHRI GARHWAL | 150 | 7182 |
| 12 | UDHAM SINGH NAGAR | 405 | 26150 |
| 13 | UTTARKASHI | 116 | 6091 |
| 14 | HCLSC, NAINITAL | - | - |
| 15 | UKSLSA, NAINITAL | - | - |
| | Total | 2382 | 122099 |

**STATEMENT SHOWING THE PROGRESS OF LEGAL AID AND
ADVICE/COUNSELING PROVIDED IN THE STATE OF UTTARAKHAND
FOR THE PERIOD FROM JANUARY 2023 TO MARCH 2023**

| S. No. | Name of District | No. of Persons Benefited through Legal Aid & Advice | |
|--------|-----------------------|---|-----------------------------|
| | | Legal Aid | Legal Advice/ Counseling |
| 01 | ALMORA | 35 | 196 |
| 02 | BAGESHWER | 07 | 60 |
| 03 | CHAMOLI | 08 | 63 |
| 04 | CHAMPAWAT | 32 | - |
| 05 | DEHRADUN | 247 | 246 |
| 06 | HARDWAR | 223 | - |
| 07 | NAINITAL | 102 | 20 |
| 08 | PAURI GARHWAL | 30 | 372 |
| 09 | PITHORAGARH | 13 | - |
| 10 | RUDRAPARYAG | 06 | 10 |
| 11 | TEHRI GARHWAL | 46 | 04 |
| 12 | UDHAM SINGH NAGAR | 180 | 29 |
| 13 | UTTARKASHI | 13 | - |
| 14 | HCLSC, NAINITAL | 55 | - |
| 15 | U.K. S.L.S.A., N.T.L. | - | 38 |
| | TOTAL | 997 | 1038 |

PROGRAMMES/ACTIVITIES INSIDE JAIL CAMPUS DURING
JANUARY 2023 TO MARCH 2023

| S.N. | Name of District | Lok Adalat's organized in Jails | | Legal Literacy Camps organized in Jails | | Legal Aid provided to under trial prisoners | Jail visit |
|------|------------------|---------------------------------|---------------------------|---|--------------------|---|-------------------------|
| | | No. of organize Lok Adalats | No. of cases disposed off | Camps organized | Benefitted persons | Number of Benefitted under trial prisoners | Total Number Jail visit |
| 1 | ALMORA | 01 | 01 | 10 | 1614 | 13 | 06 |
| 2 | BAGESHWAR | - | - | 02 | 180 | 02 | 02 |
| 3 | CHAMOLI | 01 | - | 01 | 144 | 03 | 06 |
| 4 | CHAMPAWAT | - | - | 03 | 98 | 21 | 04 |
| 5 | DEHRADUN | 03 | 69 | - | - | 147 | 16 |
| 6 | HARDWAR | 03 | 109 | 06 | 3270 | 130 | 05 |
| 7 | NAINITAL | - | - | 04 | 340 | 77 | 03 |
| 8 | PAURI GARHWAL | - | - | 04 | 2232 | 14 | 11 |
| 9 | PITHORAGARH | - | - | 38 | 1662 | 02 | - |
| 10 | RUDRAPRAYAG | - | - | 05 | 169 | - | - |
| 11 | TEHRI GARHWAL | - | - | 07 | 803 | 35 | - |
| 12 | U.S. NAGAR | 03 | 33 | 05 | 585 | 142 | 08 |
| 13 | UTTARKASHI | - | - | 06 | 639 | 03 | 01 |
| 14 | H.C.L.S.C. NTL | - | - | - | - | 35 | - |
| | TOTAL :- | 11 | 212 | 91 | 11736 | 624 | 62 |

STATISTICAL INFORMATION IN RESPECT OF PERMANENT LOK ADALATS
(Established U/S 22B of Legal Services Authority Act)

(STATISTICAL INFORMATION FOR THE MONTH OF JANUARY, 2023 TO MARCH, 2023)

- (i) No. of PLAs existing : -07 (Almora, Dehradun, Hardwar, Nainital, Pauri Garhwal, Tehri Garhwal and U.S. Nagar)
- (ii) Total No. of PLAs functioning : -04 (Dehradun, Hardwar, Nainital and U.S. Nagar)

| S. No. | Permanent Lok Adalats | Number of Sitzings | No. of cases pending as on 31.12.2022 | No. of cases received during the Period | No. of cases settled during the Period | Total Value/Amount of Settlement (₹) | No. of cases pending as on 31.03.2023 |
|--------|-----------------------|--------------------|---------------------------------------|---|--|--------------------------------------|---------------------------------------|
| 1 | Dehradun | 49 | 180 | 69 | 30 | 20,73,174 | 219 |
| 2 | Haridwar | 33 | 69 | 13 | 11 | 38,14,148 | 71 |
| 3 | Nainital | 37 | 154 | 19 | 07 | 34,39,187 | 166 |
| 4 | Udham Singh Nagar | 36 | 159 | 34 | 46 | 49,80,563 | 147 |
| | Total | 155 | 562 | 135 | 94 | 1,43,07,072 | 603 |

TRAINING PROGRAMMES HELD IN THE PERIOD OF
JANUARY 2023 TO MARCH 2023
AT
UTTARAKHAND JUDICIAL AND LEGAL ACADEMY,
BHOWALI, NAINITAL.

| S. No. | Name of Training Programmes/ Workshops | Duration |
|--------|--|---|
| 1. | Workshop on issues relating to Juvenile Justice under the Juvenile Justice (Care & Protection of Children) Act, 2015 & Rules (Ist phase) | 05.01.2023 to 06.01.2023 (Two days) |
| 2. | Joint Workshop on 'Protection of Children from Sexual Offences Act, 2012', DNA and PCPNDT Act for Doctors and SPs/DSPs of the State (Ist phase) | 11.01.2023 to 12.01.2023 (Two days) |
| 3. | Computer skill enhancement Programme-Level I & II(EC_13_2022) (Ist phase-Virtual mode) | 17.01.2023 (One day) |
| 4. | 40 hours Training Programme for Advocates on Mediation (Ist phase) | 17.01.2023 to 21.01.2023 (Five days) |
| 5. | Refresher programme for Registry Staffs of High Courts (EC_15_2022) (Virtual mode) | 21.01.2023 (One day) |
| 6. | Two days Training Programme for Chief Legal Aid Defense Counsels & Assistant Legal Aid Defense Counsels | 23.01.2023 to 24.01.2023 (Two days) |
| 7. | Two days training programme on Commercial Court Act, 2015 & I.P.R. for H.J.S. (Ist phase) | 24.01.2023 to 25.01.2023 (Two days) |
| 8. | Workshop on issues relating to Juvenile Justice under the Juvenile Justice (Care & Protection of Children) Act, 2015 & Rules (IInd phase) | 07.02.2023 to 08.02.2023 (Two days) |
| 9. | Cyber Laws & Appreciation & handling of Digital Evidence- Refresher Programme (EC_14_2022) (Virtual mode) | 09.02.2023 (One day) |
| 10. | Joint Workshop on N.D.P.S. for HJS, DSPs & DGCs/ ADGCs (Ist phase) | 14.02.2023 to 15.02.2023 (Two days) |

| | | |
|-----|--|--|
| 11. | 40 hours Training Programme for Advocates on Mediation (IInd phase) | 13.02.2023 to 17.02.2023 (Five days) |
| 12. | Ecourts Programme at All-District Headquarters (EC_16_2022) (Virtual mode) | 21.02.2023 (One day) |
| 13. | Training Programme on A.D.R. Mechanism for Judges(Arbitration, Conciliation, Judicial Settlement, Lok Adalat & Mediation) (Ist phase) | 22.02.2023 to 23.02.2023 (Two days) |
| 14. | Training programme for Referral Judges (Virtual mode) (Ist phase) | 25.02.2023 (One day) |
| 15. | Computer skill enhancement Programme-Level I & II(EC_13_2022) (IInd phase-Virtual mode) | 03.03.2023 (One day) |
| 16. | Training Programme on A.D.R. mechanism for Judges(Arbitration, Conciliation, Judicial Settlement, Lok Adalat & Mediation) (IInd phase) | 14.03.2023 to 15.03.2023 (Two days) |
| 17. | Two days training programme on Commercial Court Act, 2015 & I.P.R. for H.J.S. (IInd phase) | 17.03.2023 to 18.03.2023 (Two days) |
| 18. | Foundation Training Programme for Newly Recruited Civil Judge (J.D.) 2019 Batch (Sri Ishank) (IInd phase of Institutional Training) | 06.01.2023 to 19.03.2023 (Two and a half month) |
| 19. | ICT & eCourts Induction Programme for the newly recruited Direct District Judges (EC_18_2022) (Virtual mode) | 21.03.2023 to 22.03.2023 (Two days) |
| 20. | Training programme on Constitutional law & Behavioural management for HJS Cadre Officers (Ist phase) | 23.03.2023 to 24.03.2023 (Two days) |
| 21. | Training programme for Referral Judges (IInd phase) (Virtual mode) | 25.03.2023 (One day) |
| 22. | District wise Online eSCR Outreach Programme (Virtual mode) | 27.03.2023 (One day) |

Introduction of Constitutional Law and Behaviourial Management for HJS Cadre and other Judicial Officers in the State Judicial Academy (UJALA), by Hon'ble Mr. Justice Sharad Kumar Sharma, Judge, In-charge, Education.

In fact, the Judicial Academy of State of Uttarakhand, had the privilege to introduce this particular subject of “**Constitutional Law and Behaviourial Management**”, for the Judicial Officers, even prior to its debate, being raised in the National Judicial Academy, Bhopal, in the conference which was held between 22nd April, 2023 to 23rd April, 2023, in which, I have participated.

In fact, we feel elevated to state, that even much prior to the aforesaid discussion before the National Judicial Academy, we have conducted the various phases of “**Constitutional Law and Behaviourial Management**” of Judicial Officers, between 23rd March, 2023 to 24th March, 2023 and 18th April, 2023 to 19th April, 2023.

The basic backdrop of the subject, which was conducted upon in the State Judicial Academy (UJALA), was to improve the conduct and behaviour of the Judicial Officers in relation to various personality facets, which they are expected to have while discharging their judicial functions, based upon the material collected from the various papers published throughout the world.

We had given the feel to Judicial Officers, as to what they are and how they should be in the said capacity as an Officer, which as a Judge, In-charge of the Academy, I feel it to be one of the vital aspects, which could be imbibed in each of the officers in performance of his official duties.



Training programme on Constitutional Law and Behavioural Management for HJS Cadre Officers (1st phase) from 23.03.2023 to 24.03.2023



Joint Workshop on HJS, DSPs & DGCs/ADGCs (1st Phase) from 14.02.2023 to 15.02.2023)

INSTITUTION, DISPOSAL AND PENDENCY OF CASES**HIGH COURT OF UTTARAKHAND****(From 01.01.2023 to 31.03.2023)**

| | | | | | | Pendency (As on 01.01.2023) | | |
|--|---------------------------|------------------------------|--|---------------------------|---------------------------|--|---------------------------|--|
| | | | | | | Civil Cases | Criminal Cases | Total Pendency |
| | | | | | | 25635 | 18877 | 44512 |
| Institution (01.01.2023 to 31.03.2023) | | | Disposal (01.01.2023 to 31.03.2023) | | | Pendency (As on 31.03.2023) | | |
| Civil Cases | Criminal Cases | Total Institution | Civil Cases | Criminal Cases | Total Disposal | Civil Cases | Criminal Cases | Total Pendency at the end of 31.03.2023 |
| 2369 | 2892 | 5261 | 1749 | 2144 | 3893 | 26255 | 19625 | 45880 |

DISTRICT COURTS**(From 01.01.2023 to 31.03.2023)**

| SL. No | Name of the District | Civil Cases | | | | Criminal Cases | | | | Total Pendency at the end of 31.03.2023 |
|--------|----------------------|--------------------------------|---------------------------------------|------------------------------------|---------------------------------|--------------------------------|---------------------------------------|------------------------------------|---------------------------------|---|
| | | Opening Balance as on 01.01.23 | Institution from 01.01.23 to 31.03.23 | Disposal from 01.01.23 to 31.03.23 | Pendency at the end of 31.03.23 | Opening Balance as on 01.01.23 | Institution from 01.01.23 to 31.03.23 | Disposal from 01.01.23 to 31.03.23 | Pendency at the end of 31.03.23 | |
| 1. | Almora | 423 | 89 | 86 | 426 | 1677 | 863 | 922 | 1618 | 2044 |
| 2. | Bageshwar | 137 | 49 | 48 | 138 | 675 | 331 | 364 | 642 | 780 |
| 3. | Chamoli | 368 | 72 | 61 | 379 | 1153 | 472 | 503 | 1122 | 1501 |
| 4. | Champawat | 267 | 32 | 51 | 248 | 2848 | 1942 | 1712 | 3078 | 3326 |
| 5. | Dehradun | 11635 | 2639 | 2669 | 11605 | 97125 | 26213 | 25469 | 97869 | 109474 |
| 6. | Haridwar | 11839 | 1789 | 1722 | 11906 | 68784 | 20183 | 19283 | 69684 | 81590 |
| 7. | Nainital | 4162 | 400 | 491 | 4071 | 21640 | 8447 | 7628 | 22459 | 26530 |
| 8. | Pauri Garhwal | 1220 | 215 | 205 | 1230 | 5851 | 3738 | 2052 | 7537 | 8767 |
| 9. | Pithoragarh | 495 | 88 | 113 | 470 | 3084 | 1373 | 1412 | 3045 | 3515 |
| 10. | Rudraprayag | 123 | 42 | 58 | 107 | 522 | 202 | 351 | 373 | 480 |
| 11. | Tehri Garhwal | 449 | 170 | 106 | 513 | 2721 | 935 | 1019 | 2637 | 3150 |
| 12. | Udham Singh Nagar | 6057 | 790 | 815 | 6032 | 62728 | 9894 | 9079 | 63543 | 69575 |
| 13. | Uttarkashi | 697 | 116 | 131 | 682 | 2014 | 646 | 1032 | 1628 | 2310 |
| | Total | 37872 | 6491 | 6556 | 37807 | 270822 | 75239 | 70826 | 275235 | 313042 |

FAMILY COURTS
(From 01.01.2023 to 31.03.2023)

| SL. No | Name of the Family Court | Civil Cases | | | | Criminal Cases | | | | Total Pendency at the end of 31.03.2023 |
|--------|--------------------------|--------------------------------|---------------------------------------|------------------------------------|---------------------------------|--------------------------------|---------------------------------------|------------------------------------|-----------------------------------|---|
| | | Opening Balance as on 01.01.23 | Institution from 01.01.23 to 31.03.23 | Disposal from 01.01.23 to 31.03.23 | Pendency at the end of 31.03.23 | Opening Balance as on 01.01.23 | Institution from 01.01.23 to 31.03.23 | Disposal from 01.01.23 to 31.03.23 | Pendency at the end of 31.03.2023 | |
| 1. | Almora | 157 | 36 | 29 | 164 | 164 | 35 | 19 | 180 | 344 |
| 2. | Dehradun (Pr. J.F.C) | 811 | 385 | 392 | 804 | 402 | 161 | 129 | 434 | 1238 |
| 3 | Dehradun (J.F.C) | 484 | 126 | 139 | 471 | 409 | 63 | 69 | 403 | 874 |
| 4. | Dehradun (Addl.J.F.C) | 550 | 26 | 114 | 462 | 366 | 120 | 63 | 423 | 885 |
| 5. | Rishikesh | 244 | 78 | 91 | 231 | 186 | 38 | 47 | 177 | 408 |
| 6. | Vikasnagar | 202 | 72 | 66 | 208 | 327 | 93 | 66 | 354 | 562 |
| 7. | Nainital | 267 | 38 | 38 | 267 | 354 | 42 | 28 | 368 | 635 |
| 8. | Haldwani | 464 | 119 | 126 | 457 | 820 | 125 | 137 | 808 | 1265 |
| 9. | Haridwar | 914 | 201 | 214 | 901 | 1072 | 134 | 177 | 1029 | 1930 |
| 10. | Roorkee | 983 | 203 | 338 | 848 | 1071 | 185 | 242 | 1014 | 1862 |
| 11. | Laksar | 156 | 57 | 65 | 148 | 223 | 36 | 52 | 207 | 355 |
| 12. | Kotdwar | 274 | 67 | 84 | 257 | 447 | 77 | 98 | 426 | 683 |
| 13. | Pauri Garhwal | 105 | 28 | 31 | 102 | 77 | 38 | 32 | 83 | 185 |
| 14. | Tehri Garhwal | 63 | 25 | 43 | 45 | 41 | 21 | 22 | 40 | 85 |
| 15. | Rudrapur-1 U.S.Nagar | 369 | 141 | 157 | 353 | 548 | 104 | 109 | 543 | 896 |
| 16. | Rudrapur-2 | 151 | 43 | 61 | 133 | 163 | 19 | 34 | 148 | 281 |
| 17. | Kashipur | 538 | 113 | 93 | 558 | 617 | 94 | 78 | 633 | 1191 |
| 18. | Khatima | 259 | 97 | 128 | 228 | 339 | 81 | 80 | 340 | 568 |
| | Total | 6991 | 1855 | 2209 | 6637 | 7626 | 1466 | 1482 | 7610 | 14247 |

TRANSFER AND PROMOTION OF THE JUDICIAL OFFICERS

| Sl. No. | Name & Designation of the Officer | Place of Transfer | Date of Order |
|----------------|---|---|----------------------|
| 1. | Sri Kaushal Kishore Shukla, District & Sessions Judge, Uttarkashi. | District & Sessions Judge, Almora | 06.01.2023 |
| 2. | Ms. Sujata Singh, Presiding Officer, Labour Court, Kashipur, District Udham Singh Nagar. | District & Sessions Judge, Nainital. | 06.01.2023 |
| 3. | Sri Gurubaksh Singh, Presiding Officer, Labour Court, Haridwar. | District & Sessions Judge, Uttarkashi. | 06.01.2023 |
| 4. | Sri Anirudh Bhatt, 3 rd Additional District & Sessions Judge, Haridwar. | 2 nd Additional District & Sessions Judge, Haridwar. | 10.01.2023 |
| 5. | Sri Ritesh Kumar Srivastava, 4 th Additional District & Sessions Judge, Haridwar. | 3 rd Additional District & Sessions Judge, Haridwar. | 10.01.2023 |
| 6. | Sri Seash Chandra, 5 th Additional District & Sessions Judge, Haridwar. | 4 th Additional District & Sessions Judge, Haridwar. | 10.01.2023 |
| 7. | Sri Mukesh Chandra Arya, Chief Judicial Magistrate, Haridwar. | Promoted in Uttarakhand Higher Judicial Service Cadre as 5 th Additional District & Sessions Judge, Haridwar. | 10.01.2023 |
| 8. | Ms. Manju Singh Munday, Chief Judicial Magistrate, Bageshwar. | Promoted in Uttarakhand Higher Judicial Service Cadre. Transferred and posted as Additional District & Sessions Judge, Khatima, District Udham Singh Nagar. | 10.01.2023 |

| | | | |
|------------|---|--|------------|
| 9. | Ms. Sangeeta Rani, Civil Judge, (S.D.), Haridwar. | Chief Judicial Magistrate, Haridwar. | 10.01.2023 |
| 10. | Sri Rahul Kumar Srivastava, 1 st Additional Civil Judge (S.D.), Haridwar. | Civil Judge (S.D.), Haridwar. | 10.01.2023 |
| 11. | Ms. Gunjan Singh, Civil Judge (S.D.), Bageshwar. | Chief Judicial Magistrate, Bageshwar. The Chief Judicial Magistrate, Bageshwar shall have the additional charge of the Court of Civil Judge (S.D.), until regular posting of Presiding Officer in the Court of Civil Judge (S.D), Bageshwar. | 10.01.2023 |
| 12. | Ms. Meenakshi Sharma, Civil Judge (Jr. Div.), Khatima, District Udham Singh Nagar. | Civil Judge (Jr. Div.), Purola, District Uttarkashi. Ms. Meenakshi Sharma is directed to hold Camp Court at Barkot, District Uttarkashi for a week in a month. | 01.03.2023 |
| 13. | Sri Amit Bhatt, Civil Judge (Jr. Div.), Laksar, District Haridwar. | Civil Judge (Jr. Div.), Khatima, District Udham Singh Nagar. | 01.03.2023 |
| 14. | Ms. Krishtika Gunjiyal, Civil Judge (Jr. Div.), Purola, District Uttarkashi. | Civil Judge (Jr. Div.), Tharali, District Chamoli. | 01.03.2023 |
| 15. | Sri Kartikeya Joshi, Civil Judge (Jr. Div.), Karnprayag, District Chamoli | Sri Kartikeya Joshi, Civil Judge (Jr. Div.) shall continue the Camp Court at Tharali, District Chamoli for one week in a month until Ms. Krishtika Gunjiyal, Civil Judge (Jr. Div.), Tharali, District Chamoli resumes her duties after availing maternity leave or till further orders, whichever is earlier. | 01.03.2023 |
| 16. | Sri Anurag Tripathi, Civil Judge (Jr. Div.), Rudraprayag. | Civil Judge (Jr. Div.), Laksar, District Haridwar. | 01.03.2023 |

NOTIFICATIONS AND CIRCULARS OF HIGH COURT OF
UTTARAKHAND
FROM JANUARY 2023 TO MARCH 2023

No. 01/UHC/Admin.A/2023

Dated: Jan. 02, 2023

Vide Notification No. 86152/2022/07(100)/XXVII(8)/2008 dated 26.12.2022 issued by Finance Section -8, Government of Uttarakhand, Dehradun; Shri Malik Mazhar Sultan, District & Sessions Judge, Almora has been appointed as Chairman, Commercial Tax Tribunal, Uttarakhand, Dehradun. The above stated Notification reads as under:

“मा0 उत्तराखण्ड उच्च न्यायालय, नैनीताल के संस्तुति पत्र सं0- 5524/XIII-f-7/Admin.A/2004, दिनांक 16.12.2022 के क्रम में उत्तराखण्ड (उत्तरांचल मूल्य वर्धित कर अधिनियम, 2005) अनुकूल एवं उपान्तरण आदेश, 2007 की धारा-54 की उपधारा(2)(क) एवं उपधारा (4)(क) के अधीन प्रदत्त शक्तियों को प्रयोग करते हुये श्री मलिक मजहर सुल्तान, जिला एवं सत्र न्यायाधीश, अल्मोडा को अध्यक्ष, वाणिज्य कर अधिकरण, उत्तराखण्ड, देहरादून के पद पर तैनात किये जाने की श्री राज्यपाल सहर्ष स्वीकृति प्रदान करते है।”

(दिलीप जावलकर)

सचिव

No. 26/UHC/Admin.B/v-a-12/2019

Dated: 19 Jan., 2023

Subject:- Guidelines for Recording of Evidence of Vulnerable Witnesses in Criminal Cases

In compliance of order dated 11.01.2022 of the Hon'ble Supreme Court passed in Miscellaneous Application No. 1852 of 2019 in Criminal Appeal No. 1101 of 2019 titled as "Smruti Tukaram Badade versus The State of Maharashtra & Another", this Hon'ble Court is pleased to frame fresh 'Guidelines for Recording of Evidence of Vulnerable Witnesses in Criminal Cases' (copy enclosed).

Aforesaid guidelines are issued in supersession of Notification No. 63/UHC/ADMIN.B/2022 dated 10.03.2022 and Corrigendum dated 09.09.2022 earlier issued by the Hon'ble Court.

By order of the Hon'ble Court

Guidelines for Recording of Evidence of Vulnerable Witnesses

Preamble

The purpose of this protocol is to present guidelines and recommendations to improve the response of the justice dispensation system towards vulnerable witnesses.

This protocol prescribes guidelines while recording depositions of vulnerable witnesses in order to enable them to give their best evidence in criminal proceedings. Each witness is unique and is to be addressed accordingly. The vulnerability of a witness may emerge from a range of circumstances which include, but are not limited to - nature of crime, threats and intimidation, fear of reprisal, age, developmental levels, gender identity, sexual minorities, ethnicity, religious identity, caste, physical and/or mental disability, lack of infrastructural support, language barriers, geographical location etc. Some of the most challenging cases before judges during the course of their careers are those involving vulnerable witnesses such as children, victims of sexual offences or domestic violence, persons with disabilities, and witnesses experiencing threats to their life and property, among others. Vulnerable witnesses find their interaction with the legal process, especially the criminal justice process intimidating, particularly the courtroom experience. Under these circumstances, unless adequate support is provided, a vulnerable witness may not feel safe to provide robust testimony. Further, the lengthy process of navigating the adversarial criminal justice system or the civil justice system can affect the vulnerable witness' psychological well-being in significant and long-lasting ways.

To respond effectively to the needs of vulnerable witnesses, the justice system needs to respond proactively with sensitivity in an enabling

and age-appropriate manner, so that the judicial process is less traumatic and secondary victimisation can be minimised. Sensitive engagement and suitable modifications of existing procedures within the framework of the law, while ensuring the rights of the accused or the opposite party, can significantly impact the quality of deposition by vulnerable witnesses and potentially the outcome of a trial.

These Guidelines have been developed in furtherance of the Supreme Court's directions in *Smruti Tukaram Badade v. State of Maharashtra*,¹ and have been drawn from the Guidelines for recording of evidence of vulnerable witnesses circulated by *Vulnerable Witness Committee* constituted vide order dated 11.01.2022 passed in *Smruti Tukaram Badade Case*(Supra), Chaired by Hon'ble Ms. Justice Gita Mittal, as well as relevant statutory provisions, judgments, and international standards relevant to vulnerable witnesses.

Objectives of these Guidelines

- 1.To enable vulnerable witnesses to depose freely before any court in a safe and secure environment.
- 2.To minimize harm or secondary victimization of vulnerable witnesses in anticipation and as a result of participation in the justice system.
- 3.To ensure that the rights of all the parties in the judicial processes are effectively implemented. In the context of the criminal process - the accused's right to a fair trial and due process, the right of the victim to take part effectively in the proceedings, to be treated sensitively and not be subject to secondary victimization, and the protection of the rights of a

¹ *Smruti Tukaram Badade v. State of Maharashtra*, 2022 LiveLaw (SC) 80.

vulnerable witness (who may not necessarily be a victim), are effectively implemented.

Applicability

1. Short Title, extent and commencement-

- a. These guidelines shall be called, “***Guidelines for recording evidence of vulnerable witnesses***”.
- b. Unless otherwise provided, these guidelines shall govern the examination of vulnerable witnesses who are victims² or witnesses in any case.
- c. They shall apply to every court subordinate to the High Court of Uttarakhand, including Juvenile Justice Boards in the State of Uttarakhand.
- d. Their application shall commence from the date notified by the High Court of Uttarakhand.

2. Construction of the guidelines-

These guidelines shall be liberally construed and interpreted, in view of the extant laws, to uphold the interests of vulnerable witnesses and to promote their maximum accommodation without prejudice to the right of the accused to a fair trial and due process.

3. Definitions -

²Code of Criminal Procedure 1973, Section 2 —(wa).

- a. Vulnerable Witness** - For the purpose of these guidelines, “vulnerable witness” means and includes-
- (i) any child victim or witness who has not completed 18 years of age;
 - (ii) any victim of an offence under the POCSO Act, 2012
 - (iii) any victim of an offence under Sections 376(1), 376(2), 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB, 376E, 354, 354A, 354B, 354C, 354D and 377 of the Indian Penal Code;
 - (iv) any person with disability as defined under Section 2(s) of the Rights of Persons with Disabilities Act, 2016 and considered to be a vulnerable witness by the concerned court
 - (v) any witness suffering from “mental illness” as defined under Section 2(s) of the Mental Healthcare Act, 2017 read with Section 118 of the Indian Evidence Act, 1872;
 - (vi) any witness deemed to have a threat perception under the Witness Protection Scheme, 2018 of the Union Government as approved by the Supreme Court in *Mahender Chawla v. Union of India*³ ; and
 - (vii) any other witness deemed to be vulnerable by the concerned court⁴, including Family Courts, Children’s Courts, Juvenile Justice Board, civil and criminal courts, or any tribunal subordinate to the High Court of Uttarakhand.
- b. Support Person** – Means and includes Support Persons assigned by the Child Welfare Committee under the POCSO Rules, 2020 to render assistance to the child through the process of investigation and trial, or any other person assisting a child in the pre-trial or trial process in respect of an offence under the POCSO Act⁵, support person or para legal volunteer

³ *Mahender Chawla v. Union of India*, (2019) 14 SCC 615.

⁴ *Smruti Tukaram Badade v. State of Maharashtra*, 2022 LiveLaw (SC) 80; *Sakshi v. Union of India*, AIR2004 SC 3566 para 34.

⁵ POCSO Rules 2020, Rules 2(1)(f), 4(8), and 5(6).

provided by the Legal Services Authority under the Juvenile Justice (Care and Protection of Children) Model Rules, 2016⁶, or any other person appointed by the court to provide support including psycho-social support, accompany and assist the vulnerable witness, whether minor or major, to testify or attend judicial proceedings.

- c. **Best Interests of the Child** –means the basis of any decision taken regarding the child, to ensure fulfilment of the child’s basic rights and needs, identity, social well- being and physical, emotional and intellectual development.⁷
- d. **Development Level** – Development level refers to the specific growth phase in which most individuals are expected to behave and function in relation to the advancement of their physical, mental, socio economical, cognitive and moral abilities.
- e. **In-Camera Proceedings** – means proceedings wherein the court allows only those persons who are necessary to be present while hearing the witness deposing in the court.⁸
- f. **Concealment of identity of witness** –Means and includes any legislative provision or judicial ruling prohibiting the disclosure of the name, address, school, family, relatives, neighbourhood or any other information which may lead to the identification of a vulnerable witness in print, electronic, social media, etc or made known to the public at large during investigation, trial

⁶ Juvenile Justice (Care and Protection of Children) Model Rules 2016, Rule 54(14).

⁷ Juvenile Justice (Care and Protection of Children) Act 2015, Section 2(9).

⁸ Witness Protection Scheme 2018, Clause 2(f).

and post-trial stage.⁹

- g. Comfort Items** – Comfort items mean any article of choice of the vulnerable witness which may have a calming effect at the time of deposition and may include stuffed toy, blanket or book.
- h. Court House Tour** means a pre-trial tour of the courtroom and court complex by the Support Person or a para-legal volunteer, as the case may be, including the vulnerable witness to familiarize the vulnerable witness with the environment and the basic process of adjudication and roles of each court official.¹⁰
- i. Live Link** – ‘Live link’ means and *includes* a live television link, audio-video electronic means or other arrangement whereby a witness, while not being physically present in the courtroom¹¹ is nevertheless present in the courtroom by remote communication using technology to give evidence and be cross-examined.
- j. Special Measures** – means and includes the use of legislative provisions, and any mode, method and instrument, etc, considered necessary for providing assistance in recording deposition of vulnerable witnesses.

⁹ POCSO Act 2012, Section 33(7); JJ Act 2015, Section 74; Indian Penal Code 1860, Section 228A; *Nipun Saxena v. Union of India*, (2019) 2 SCC 703; Witness Protection Scheme 2018, Clause 2(b); Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, Section 15A(8)(a)(b).

¹⁰ Juvenile Justice (Care and Protection of Children) Model Rules 2016, Rule 54(14); Alternative Pre-trial and Trial Processes for Child Witnesses in New Zealand’s Criminal Justice System, Issue Paper, Min. of Justice, New Zealand Govt. 2010

¹¹ Sec 275 Cr.P.C; Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses, CJSJI, UK.

- k. **Testimonial Aids** – means and includes screens; single visibility mirrors, curtains,¹² live links, image and/or voice altering devices;¹³ or any other technical devices, facilities and equipment.
- l. **Secondary Victimization** – means victimization that occurs not as a direct result of a criminal act but through the response of institutions and individuals to the victim.¹⁴
- m. **Revictimization** – means a situation in which a person suffers more than one criminal incident over a period of time.¹⁵
- n. **Waiting Room** – A safe place for vulnerable witnesses where they can wait.
- o. **Special Measures Direction** - The concerned court shall direct as to which special measure will be used to enable a vulnerable witness to depose freely and in a safe, accessible, and comfortable environment. Directions may be discharged or varied during the proceedings, but normally continue to be in effect until the proceedings are concluded.

4. **Applicability of guidelines to all vulnerable witnesses-**

¹² POCSO Act 2012, Section 36(2).

¹³ Witness Protection Scheme, 2018, Clause 7(l); *Mahender Chawla v. Union of India*, (2019) 14 SCC 615

¹⁴ UN Model Law on Justice in Matters involving Child Victims and Witnesses of Crime, 2009

¹⁵ UN Model Law on Justice in Matters involving Child Victims and Witnesses of Crime, 2009.

For the avoidance of doubt, it is made clear that these guidelines shall apply to all vulnerable witnesses as defined in Rule 3(a) of these Guidelines, regardless of which party is seeking to examine the witness.

5. No inference of prejudice to be drawn from special measures-

The fact that a witness has had the benefit of a special measure to assist them in deposition, shall not be regarded in any way whatsoever as being prejudicial to the position of the other side and this should be made clear by the judge at the time of passing order in terms of these guidelines to the parties when the vulnerable witness is examined.

6. Identification of Stress causing factors of adversarial Criminal Justice System-

The Court shall consider the following factors which cause stress, especially but not only limited to child witnesses, rendering them further vulnerable witnesses, and impeding complete disclosure, and take necessary steps to mitigate or minimize the stress. The factors include, amongst others:¹⁶

- a. Multiple depositions
- b. Not using developmentally appropriate language
- c. Delays and repeated adjournments
- d. Testifying more than once
- e. Prolonged / protracted court proceedings

¹⁶ *State v. Sujeet Kumar*, 2014(4) JCC 2718 (High Court of Delhi); Breaking the Cycle of Violence : Recommendations to Improve the Criminal Justice Response to Child Victims and Witnesses, US Dept. of Justice.

- f. Lack of communication between professionals including police, doctors, lawyers, prosecutors, investigators, and mental health practitioners, and lack of convergence with authorities such as Child Welfare Committees, District Child Protection Units, One Stop Centres etc.
- g. Fear of public exposure
- h. Anxiety about threats from the accused and/or their associates
- i. Confusion and guilt about testifying against a family member or relative
- j. Lack of understanding of complex legal procedures
- k. Face-to-face contact with the accused
- l. Practices insensitive to developmental needs
- m. Aggressive and inappropriate cross-examination, including asking irrelevant questions
- n. Lack of adequate support, witness protection, and victims services
- o. Sequestration of witnesses who may be supportive to the vulnerable witness
- p. Placement that exposes the vulnerable witness to intimidation, pressure, or continued abuse
- q. Lack of preparation to enable fearless and robust testifying
- r. Worry about not being believed especially when there is no evidence other than the testimony of the vulnerable witness
- s. Worry about being yelled at, ridiculed, or getting into trouble for testifying
- t. Worry about retaliation or repercussions for themselves or their family
- u. Worry about not being understood or being able to communicate effectively
- v. Formality of court proceedings and surroundings including formal dress of members of the judiciary and legal personnel
- w. Inaccessibility of the courtroom, particularly for vulnerable

witnesses with disabilities

7. **Competency of vulnerable witness-**

Every vulnerable witness shall be presumed to be competent to testify as a witness, unless the court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions due to tender years, disability, either of body or mind, and illness, or any other cause of the same kind, in accordance with Section 118 of the Indian Evidence Act, 1872.¹⁷

Explanation: A mentally ill person may also be held competent unless the person is prevented by the illness to understand questions.⁴

When conducting the competency examination, the court shall not use “general knowledge” or “current affairs” questions to adjudge competence. Similarly, philosophical questions, such as, what truth means should be strictly avoided.

8. **Persons allowed at competence assessment-**

Only the following may be allowed to attend the competence assessment:

- a. the judge and such court personnel deemed necessary and specified by order of the judge concerned;
- b. the counsel for the parties;
- c. the guardian *ad litem*;
- d. non-offending parent, guardian, friend, relative of a child victim or a person in whom the child has trust or

¹⁷ Indian Evidence Act 1872, Section 118.

confidence;¹⁸

- e. one or more support persons for a child victim or witness;
- f. translator, interpreter, expert or special educator, if necessary;¹⁹
- g. person familiar with the manner of communication of a vulnerable witness with intellectual or physical disability;²⁰
- h. the accused, unless the court determines that competence requires to be and can be fully evaluated in their absence; and
- i. any other person, who in the opinion of the court can assist in the competence assessment.

9. Conduct of competence assessment.—

The assessment of a person, as to their competence as a witness shall be conducted only by the presiding judge.

10. Pre-trial visit of Witnesses to the Court -

Vulnerable witnesses shall be allowed a pre-trial court house tour or tour of the civil court or Juvenile Justice Board, etc., along with the support person²¹ or para-legal volunteer, as the case may be, to enable such witnesses to familiarise themselves with the layout, and may include visit to and explanation of the following:

- a. the location of the accused in the dock;
- b. court officials (what their roles are and where they sit);
- c. who else might be in the court;

¹⁸ POCSO Act 2012, Section 33(4); Juvenile Justice (Care and Protection of Children) Model Rules 2016, Rule 54(18)(i).

¹⁹ POCSO Act 2012, Section 38(1).

²⁰ POCSO Act 2012, Section 38(2); Rights of Persons with Disabilities Act 2016, Section 12.

²¹ Juvenile Justice (Care and Protection of Children) Model Rules 2016, Rule 54(14).

- d. the location of the witness box;
- e. a run-through of basic court procedure;
- f. the facilities available in the court which may include the waiting room, toilet, separate passage for entry and exit, and testimonial aids;
- g. discussion of any particular fears or concerns, including concerns regarding safety in relation to the accused, with the support person, prosecutors and the judge to dispel the fear, trauma and anxiety in connection with the upcoming deposition at court;²²
- h. demonstration of any special measures applied for and/or granted, for example practising on the live link and explaining who will be able to see them in the courtroom, and showing the use of screens (where it is practical and convenient to do so).²³

11. Meeting the judge –

The Judge may meet a vulnerable witness *suo motu* on reasons to be recorded or on an application of either party in the presence of the prosecution and defence lawyer, or in their absence before the witness gives their evidence, for explaining the court process in order to help them to understand the procedure and give their testimony, free of fears and concerns.

12. Assistance of an interpreter, translator, special educator or expert-

- (i) The court shall ensure that proceedings relevant to the testimony of a vulnerable witness or witness are conducted in

²² POCSO Rules 2020, Rule 4(9).

²³ Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses, UK; Safeguarding Children as Victims and witnesses, UK.

language that is simple and comprehensible to the witness.

- (ii) Wherever necessary, the court may, *suo motu* or upon an application presented by either party or a Support Person of vulnerable witnesses take the assistance of a qualified and experienced interpreter, translator, special educator or expert, to enable recording of evidence of vulnerable witnesses, and on payment of such fees as may be prescribed by the State Government or authority concerned.²⁴
- (iii) The concerned court may consider the qualifications prescribed for interpreters, translators, sign language interpreters, special educators and experts in Rule 5, POCSO Rules, 2020 or any other laws, rules, or judgments of the High Court or Supreme Court in this regard.
- (iv) The court may also take the assistance of a person familiar with the manner of communication of a vulnerable witness with physical or intellectual disability while recording evidence.²⁵
- (v) If, in view of the vulnerable witnesses' age, level of maturity or special individual needs of a witness, which may include but are not limited to disabilities (if any), ethnicity, poverty or risk of revictimization, the witness requires special assistance measures in order to testify or participate in the justice process, such measures shall be provided free of cost.
- (vi) If the court appoints an interpreter, translator, special educator or expert, the respective counsel for the parties shall pose questions to the vulnerable witness only through them, either in the words used by counsel or, if the vulnerable witness is not likely to understand the same, in words, signs, or by such mode as is comprehensible to the vulnerable witness and which conveys the meaning intended by the counsel.

²⁴ POCSO Act, Section 38(1); Rights of Persons with Disabilities Act 2016, Section 12; Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, clause 14

²⁵ POCSO Act, Section 38(2); Rights of Persons with Disabilities Act 2016, Section 12.

13. Legal assistance and legal aid-

The concerned court shall facilitate the right of a child victim under the POCSO Act to take assistance of a legal counsel of their choice.²⁶ Further, any vulnerable witness who falls within the ambit of Section 12, Legal Services Authorities Act, 1987 or any other laws, rules, or policies that recognise their right to free legal aid may be provided with legal aid by the court either:²⁷

- a. based on a request by or on behalf of the vulnerable witness; or
- b. pursuant to an order of the court on its own motion.

14. Court to allow presence of Support Persons-

- (i) The court shall inform vulnerable witnesses that they may take the assistance of a Support Person during the trial. In cases under the POCSO Act, 2012, the concerned court shall take into consideration the role of the Support Persons as provided in Rule 4(9), POCSO Rules, 2020.
- (ii) The court shall allow *suo motu* or on request, verbal or written, the presence of a Support Person of the choice of the vulnerable witness in the courtroom during the deposition,²⁸ provided that such support person shall not completely obscure the witness from the view of the accused or the judge.
- (iii) The court may allow the Support Person to take appropriate steps to provide emotional support to the vulnerable witness in

²⁶ POCSO Act, Section 40; Juvenile Justice (Care and Protection of Children) Model Rules 2016, Rule 54(19).

²⁷ *Delhi Domestic Working Women's Forum v. Union of India*, 1995 1 SCC 14 (Supreme Court).

²⁸ POCSO Act 2012, Section 33(4); POCSO Rules 2020, Rule 4(9); ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, clause 30(a); Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Clause 14.

the course of the proceedings²⁹ and also inform the court if the vulnerable witness needs a break or is feeling stressed or triggered.

- (iv) The court shall instruct the Support Person not to prompt, sway, influence or tutor the vulnerable witness during their testimony.
- (v) Where no other suitable person is available, and only in very rare cases should another witness in the case, whose deposition has already been completed in all respects, be appointed as a Support Person. The court shall ordinarily appoint a neutral person, other than a parent, as a Support Person. It is only in exceptional circumstances keeping the condition of the vulnerable witness in mind, that the court should appoint a parent as a Support Person. In POCSO cases, however, care shall be taken to ensure that the provisions of the POCSO Rules, 2020 regarding engagement of Support Persons are adhered.
- (vi) The court shall allow Support Persons to coordinate with the other stakeholders such as police, Special Juvenile Police Unit (SJPU), medical officer, prosecutors, mental health professionals, Child Welfare Committee, Juvenile Justice Board, defence counsels and courts.
- (vii) As far as possible, the concerned court shall ensure the continuity of the same Support Person during the deposition.
- (viii) If the Support Person is also a witness in the case, their testimony shall be recorded, ahead of the testimony of the vulnerable witness.

15. Right to be informed-

A vulnerable witness, their parents or guardian, lawyer, the Support Person, if designated, or other appropriate person

²⁹ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Clause 6(a).

designated to provide assistance shall, from their first contact with the court process and throughout that process, be promptly informed by the Court about the stage of the process and, to the extent feasible and appropriate, about the following:³⁰

- a. charges brought against the accused, or if none, the stay of proceedings against them;³¹
- b. the progress of the case;³²
- c. procedures of the criminal justice process including the role of vulnerable witnesses, the importance, timing and manner of testimony, and the ways in which proceedings will be conducted during the trial;³³
- d. existing support mechanisms for a vulnerable witness when participating in proceedings, including services of a Support Person;³⁴
- e. schedule of court proceedings that the vulnerable witness is either required to attend or is entitled to attend and the specific time and place of hearings and other relevant processes;³⁵
- f. right of the informant or person authorised by the informant to be present at the time of hearing of the bail application of an accused under Sections 376(3), 376AB, 376DA, or 376DB of the Indian Penal Code, 1860,³⁶ or under the POCSO Act.³⁷

³⁰ POCSO Rules 2020, Rule 4(15).

³¹ Model Guidelines Under Section 39 of The Protection of Children from Sexual Offences Act, 2012.

³² Model Guidelines Under Section 39 of The Protection of Children from Sexual Offences Act, 2012.

³³ ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 19(b). Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Clause 6(a).

³⁴ ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, clause 19(a).

³⁵ ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, clause 19(d).

³⁶ Code of Criminal Procedure 1973, Section 439(1-A).

³⁷ *Reena Jha v. Union of India*, W.P.(C) 5011/2017 decided by the Delhi High Court on 25.11.2019; *Miss G v. NCT of Delhi*, CrI.M.C. 1474/2020 (High Court of Delhi); *Arjun Kishanrao Malge v. State of Maharashtra*, PIL No. 5/2021 decided by the Bombay High Court on 08.04.21; *Akash Chandrakar v. State of*

- g. right of vulnerable victims and their dependents to reasonable, accurate and timely notice of court proceedings and bail proceedings under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989;³⁸
- h. right of vulnerable victims and their dependents to be heard during proceedings of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act), 1989;³⁹
- i. availability of public and private emergency, and crisis services, including shelters;
- j. availability of protective measures;
- k. availability of victim's compensation benefits;
- l. availability of legal aid;⁴⁰
- m. availability of institutional and non-institutional care under the juvenile justice system for vulnerable witnesses who may come under the ambit of a "child in need of care and protection";
- n. relevant rights of child victims and witnesses under the POCSO Act and Rules, JJ Act, 2015 and Model Rules or applicable State Rules, and other applicable laws, as well as the United Nations Convention on the Rights of the Child and other

Chhattisgarh, Criminal Appeal No.101 of 2021 decided by the Chhattisgarh High Court on 19.01.22; *Rohit v. State of U.P.*, Bail No. 8227/2021 decided by the Allahabad High Court on 06.08.21.

³⁸ Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, Section 15A(3).

³⁹ Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, Section 15A(5); ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 21.

⁴⁰ ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 19(a).

international legal instruments, including the Guidelines and the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34 of 29 November 1985;

- o. the progress and disposition of the specific case, including in a criminal case the apprehension, arrest and custodial status of the accused and any pending changes to that status, the prosecutorial decision and relevant post-trial developments and the outcome of the case and sentence imposed;
- p. all decisions, or at least those decisions affecting the interests of the victim or vulnerable witness;⁴¹
- q. the process for appeal against the order of the court.

16. Waiting area for vulnerable witness-

The courts shall ensure that a waiting area for vulnerable witnesses with the support person, and the lawyer of the vulnerable witness, if any, is separate from waiting areas used by other persons.⁴² Care shall be taken to ensure that the waiting room is used only by the vulnerable witness and the non-offending family members and support persons. The waiting area should be accessible to all vulnerable witnesses, including those with disability.⁴³ The waiting area for vulnerable witnesses should be furnished so as to make a vulnerable witness comfortable. This may include, but not be limited to, being furnished and equipped with toys, books, games, drawing and painting materials and other such activities, TV, etc which can help lower the anxiety of the witness.⁴⁴ It could include a place for

⁴¹ Model Guidelines Under Section 39 of The Protection of Children from Sexual Offences Act, 2012.

⁴² ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 31(b).

⁴³ Rights of Persons with Disabilities Act 2016, Section 12.

⁴⁴ Juvenile Justice (Care and Protection of Children) Model Rules 2016, Rule 54(12).

very young child witnesses to rest or sleep. Accessible toilets and drinking water facilities should also be available inside the waiting room or within close proximity. The approach to the waiting area shall be in such a way that allows the witness to access it with ease and without having to confront other litigants, police, or the accused and their associates. The waiting area needs to be equipped with a digital “Case Number Display Monitor” that shows the case being called in the court. Arrangements for the vulnerable witness to depose from the waiting area, which may include monitors and screens for recording of the evidence of the child shall be made available.

17. Duty to provide comfortable environment-

- (i) It shall be the duty of the court to ensure a comfortable environment for the vulnerable witness by issuing directions and also by supervising the location, movement and deportment of all persons in the courtroom including the parties, their counsel, vulnerable witnesses, Support Persons, guardian *ad litem*, facilitator, and court personnel.⁴⁵
- (ii) Separate and safe waiting areas and passage thereto should be provided for vulnerable witnesses.
- (iii) Care shall be taken to ensure that the vulnerable witness courtroom is accessible to persons with disabilities.
- (iv) The vulnerable witness may be allowed to testify from a place other than the witness chair. The witness chair or other place from which the vulnerable witness testifies may be turned to facilitate their testimony but the accused or the opposite party and their counsel must have a frontal or profile view of the vulnerable witness even by a video link, during the testimony of

⁴⁵ ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 30(d).

the vulnerable witness. The witness chair or other place from which the vulnerable witness testifies may also be rearranged to allow the vulnerable witness to see the accused or the opposite party and their counsel, if the vulnerable witness chooses to look at them, without turning their body or leaving the witness stand.

- (v) In case of a victim of a sexual offence, care should be taken to avoid exposure of the victim to the accused at the time of recording the evidence, while ensuring the right of cross-examination of the accused⁴⁶ and that the accused is in a position to hear the statement of the child and communicate with their advocate.⁴⁷
- (vi) While deciding to make available such an environment, the judge may be dispensed with from wearing their judicial robes.⁴⁸
- (vii) Access to crèche facilities within the court premises should be enabled for vulnerable witnesses who may require child care facilities on the date of their deposition.

18. Directions for Judges of Criminal Courts, Children's Courts and Juvenile Justice Boards¹² -

- (i) Vulnerable witnesses shall receive high priority and shall be dealt with as expeditiously as possible, minimizing unnecessary delays and adjournments to avoid repeated appearances of the witness in the Court.⁴⁹ (Whenever necessary and possible, the

⁴⁶ Code of Criminal Procedure 1973, Section 273.

⁴⁷ POCSO Act 2012, Section 36(1); JJ Model Rules 2016, Rule 54(18)(xi).

⁴⁸ *Virender v. State of NCT Delhi*, CrI.A No. 121/08 dt. 29.09.09 decided by the High Court of Delhi.

⁴⁹ POCSO Act, 2012, Section 33(5); Code of Criminal Procedure 1973, proviso to Section 309(1); Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, Section 14(3); ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 30(c). Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Clause 6(e).

court schedule will be altered to ensure that the testimony of the vulnerable witness is recorded on sequential days, without delays.)

- (ii) Judges and court administrators should ensure that the developmental needs of vulnerable witnesses are identified, recognized and accommodated in the arrangement of the courtroom and recording of the testimony. For instance, judges should use developmentally appropriate language, schedule hearings for the record of testimony bearing in mind the attention span, physical needs and exam schedules of young vulnerable witnesses, and allow the use of testimonial aids as well as interpreters, translators, when necessary.
- (iii) The judges should ensure that vulnerable witnesses with disability are able to exercise their right to access the court without discrimination on the basis of disability.⁵⁰ In case of a victim under Sections 354, 354A, 354-B, 354-C, 354-D, 376(1), 376(2), 376-A, 376-B, 376-C, 376-D, 376-E, or 509, IPC, where the victim is temporarily or permanently mentally or physically disabled, their statement under Section 164(5-A) shall be considered as a statement in lieu of examination-in-chief.⁵¹
- (iv) Additional measures may be taken to enable the recording of evidence of vulnerable witnesses with disability. For instance, steps can be taken to record witness testimony in compliance with Section 278, Cr.PC in Braille to ensure a vulnerable witness is not dependant on another person to read their testimony out; use of amplification devices / document magnifiers / ensuring that all notices that require a response or an action to be taken (e.g. summons, orders) are available by accessible means and in accessible formats; use of video and audio guides; engagement

⁵⁰ Rights of Persons with Disabilities Act 2016, Section 12; UN Convention on the Rights of Persons with Disabilities, Article 13.

⁵¹ Code of Criminal Procedure 1973, Section 164(5A)(b).

of sign language interpreters; enabling wheelchair access in the court premises, courtroom and witness box. Adequate time should be given to vulnerable witnesses using communication boards during evidence.

- (v) The Court should be satisfied that a victim or vulnerable witness is not scared and that they are able to reveal what happened to them when they are subjected to an examination during recording of evidence. The Court must ensure that the victim or vulnerable witness is not concealing any portion of evidence for the reason that they were ashamed of what happened to them.⁵²
- (vi) The Court shall ensure that adequate time and opportunity is given to refresh the memory of vulnerable witnesses.
- (vii) In cases of sexual offences, judges should avoid asking the vulnerable witness to demonstrate intimate touching on their own body, during the recording of the testimony and vulnerable witnesses can instead be asked to point to a body outline diagram.⁵³
- (viii) Judges should be flexible in allowing the vulnerable witnesses to have a Support Person present while testifying and should guard against unnecessary sequestration of Support Persons or any other persons permitted to be present during the testimony of the witness.
- (ix) Judges should encourage the victim or vulnerable witness to let the court know if they have a problem, do not understand a question or if they may need a break.⁵⁴
- (x) Judges should ensure that steps are taken to ensure the atmosphere is comfortable and not intimidating. For instance,

⁵² *AkshaySarma v. State of Assam*, (2017) 2 GLR 121 (Gauhati High Court).

⁵³ Ministry of Women and Child Development, Model Guidelines Under Section 39 of The Protection of Children from Sexual Offences Act, 2012, p.69.

⁵⁴ Model Guidelines Under Section 39 of The Protection of Children from Sexual Offences Act, 2012.

the court may consider allowing a limited number of defence lawyers to be present in the courtroom during the deposition of a vulnerable witness or not allowing counsel to ask questions in an intimidating tone or interrupting the witness.

- (xi) Judges shall carefully monitor the examination and cross examination of the victim or vulnerable witnesses to avoid any harassment or intimidation to the victim or vulnerable witness.⁵⁵
- (xii) Judges may allow a vulnerable witness to carry a comfort item during the deposition.
- (xiii) Judges may provide transport or transportation cost for the vulnerable witness in accordance with the rules framed by the High Court of Uttarakhand in this regard.
- (xiv) Judges shall ensure that the requisite guidelines and Standard Operating Procedures affirmed by the Hon'ble Supreme Court in respect of recording of evidence of vulnerable witnesses is followed.⁵⁶

19. Allowing proceedings to be conducted in camera-

- (i) The mandatory requirement of in camera trials as per section 327 CrPC and Section 37 of the POCSO Act shall be ensured and recorded in the orders passed in such cases. In all other cases, the court may, at the time of testimony of a vulnerable witness, order in writing the exclusion from the courtroom of all persons, who do not have a direct interest in the case including members of the press. Such an order may be made to protect

⁵⁵ *Akshay Sarma v. State of Assam*, (2017) 2 GLR 121 (Gauhati High Court).

⁵⁶ For instance, the SOP laid down in *In Re Children in Street Situations*, 2022 SCC OnLine SC 189 (Supreme Court of India) is to be followed in all criminal trials where the child witnesses do not reside near the court where the trial is conducted and where the child witnesses are examined virtually, not physically, in these courts where the trial is conducted. Judges should also comply with the Witness Protection Scheme 2018 which was approved by the Supreme Court in *Mahender Chawla v. Union of India* (2019) 14 SCC 615 (Supreme Court of India).

the right to privacy of the vulnerable witness or if the court is of the opinion that requiring the vulnerable witness to testify in open court would cause psychological harm to them, hinder the ascertainment of truth, or result in their inability to effectively communicate due to embarrassment, fear, or timidity.

- (ii) In making its order, the court shall consider the developmental level of the vulnerable child witness, the nature of the crime, the nature of testimony regarding the crime, the relationship of the child witness to the accused and to persons attending the trial, their wishes, and the interests of their parents or legal guardian.

20. Live-link television testimony in criminal cases where the vulnerable witness is involved –

- (i) Any party in the case, the prosecutor, counsel or the guardian *ad litem* may apply for an order that the testimony of the vulnerable witness be taken in a room outside the courtroom and be televised to the courtroom by live-link television.
- (ii) In order to take a decision of usage of a live-link the judge may question the vulnerable witness in chambers, or in some comfortable place other than the courtroom, in the presence of the support person, guardian *ad litem*, prosecutor, and counsel for the parties. The questions of the judge shall not be related to the issues at trial but to the feelings of the vulnerable witness about testifying in the courtroom.
- (iii) The court on its own motion, if deemed appropriate, may pass orders in terms of (i) or any other suitable directions for recording the evidence of a vulnerable witness.
- (iv) High Court of Uttarakhand Video Conferencing Rules, 2020 shall apply *mutatis mutandis* for recording of evidence under these guidelines.

21. Provision of testimonial aids to prevent exposure of vulnerable witness to the accused-

The court may *suo motu* or on an application made even by the vulnerable witness, prosecutor or counsel or the guardian *ad litem* order testimonial aid such as screens, one-way mirror, curtains or other devices to be placed in the courtroom in such a manner that the vulnerable witness cannot see the accused/opposite party while testifying and at the same time ensuring that the opposite party/accused is in a position to hear the statement of the vulnerable witness and communicate with their advocate.⁵⁷ The court shall issue an order in writing stating the reasons and describing the approved courtroom arrangement in the judgment.

22. Factors to be considered while considering the application under Guidelines-

- (i) The court may order that the testimony of the vulnerable witness be taken by live- link television if there is a substantial likelihood that the vulnerable witness would not provide a full and candid account of the evidence if required to testify in the presence of the accused/opposite party, their counsel or the prosecutor as the case may be or if the vulnerable witness is likely to be traumatised by exposure to the accused.
- (ii) The order granting or denying the use of live-link television shall state the reasons therefore and may consider the following:
 - a. the age and level of development of the vulnerable witness;
 - b. the physical and mental health, including any intellectual or physical disability of the vulnerable witness;
 - c. any physical, emotional, or psychological harm related to

⁵⁷ POCSO Act 2012, Section 36(1); Code of Criminal Procedure 1973, Section 273; ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, clause 31(c).

- the case on hand or trauma experienced by the vulnerable witness;
- d. the nature of the alleged offence/case and circumstances of its commission;
 - e. any threats against the vulnerable witness;
 - f. the relationship of the vulnerable witness with the accused or adverse party;
 - g. the reaction of the vulnerable witness to any prior encounters with the accused/opposite party in court or elsewhere;
 - h. the reaction of the vulnerable witness prior to trial when the topic of testifying was discussed by parents or professionals;
 - i. specific symptoms of stress exhibited by the vulnerable witness in the days prior to testifying;
 - j. testimony of expert or lay witnesses;
 - k. the custodial situation of the child and the attitude of the members of the child's family regarding the events about which the child will testify;
 - l. the wishes of the vulnerable witness on the manner in which they would like to render the testimony; and
 - m. other relevant factors, such as court atmosphere and formalities of court procedure.
- (iii) The court shall ensure ahead of time that the equipment is working, recordings can be played and that camera angles will not permit the witness to see the defendant. The court shall not wait until the victim or vulnerable witness is in the live link room to run checks: delays and malfunctions can be disruptive to the vulnerable witness. Where a live link is being used during the vulnerable witness's testimony, ensure that they are able to see all

of the questioner's face.⁵⁸ It should be explained that the judge or magistrates can always see the vulnerable witness over the live video link even when the witness cannot see the judge or magistrates.⁵⁹

23. Mode of questioning-

- (i) To facilitate the ascertainment of the truth the court shall exercise control over the questioning of vulnerable witnesses and may do so by:
 - a. ensuring that questions are kept simple and stated in a form appropriate to the comprehension and developmental level of the vulnerable witness;
 - b. protecting vulnerable witness from harassment or undue embarrassment, character assassination, aggressive questioning, and ensure that dignity of the witness is maintained at all times during the trial;⁶⁰
 - c. avoiding waste of time by declining questions which the court considers unacceptable due to their being improper, unfair, misleading, needless, unconnected to the case, repetitive or expressed in language that is too complicated for the witness to understand.
 - d. allowing the vulnerable witness to testify in a narrative form.
 - e. in cases involving multiple accused persons or defendants, take steps to minimize repetition of questions, and the court may require counsels for different parties to provide questions in advance from all the counsels.

⁵⁸ Model Guidelines Under Section 39 of The Protection of Children from Sexual Offences Act, 2012.

⁵⁹ Model Guidelines Under Section 39 of The Protection of Children from Sexual Offences Act, 2012.

⁶⁰ POCSO Act 2012, Section 33(6); Indian Evidence Act 1872, Sections 53 A, 148, 151, 152 and the proviso to Section 146; *State of Punjab v. Gurmit Singh* (1996) 2 SCC 384; *AkshaySarma v. State of Assam*, (2017) 2 GLR 121 (Gauhati High Court).

- f. in cases involving sexual offences against child victims, ensuring that questions are put to the child victim only through the court.⁶¹
- (ii) Objections to questions should be couched in a manner so as not to mislead, confuse, frighten a vulnerable witness.
- (iii) The court should allow the questions to be put in simple language avoiding slang, esoteric jargon, proverbs, metaphors and acronyms. The court should ascertain the spoken language of the victim or vulnerable witness and the range of their vocabulary before recording the evidence.⁶² The court must not allow the question carrying words capable of multiple meanings, questions having use of both past and present in one sentence, or multiple questions, which is likely to confuse a witness. Where the witness seems confused, instead of repetition of the same question, the court should direct it's re-phrasing.

Explanation: The reaction of a vulnerable witness shall be treated as sufficient clue that the question was not clear so it shall be rephrased and put to the witness in a different way.⁶³

- (iv) Given the developmental level of vulnerable witnesses, excessively long questions shall be required to be rephrased and thereafter put to witness.
- (v) Questions framed as compound or complex sentence structure; or two part questions or those containing double negatives shall be rephrased and thereafter put to witness.

24. Rules of deposition to be explained to the Witnesses-

The court shall explain to a vulnerable witness to

⁶¹ POCSO Act 2012, Section 33(2); *Sakshi v. Union of India*, AIR 2004 SC 3566 (Supreme Court of India).

⁶² *AkshaySarma v. State of Assam*, (2017) 2 GLR 121 (Gauhati High Court).

⁶³ *Virender v. State*, CrI.A. No.121/08 decided by the Delhi High Court on 29.9.09.

- (a) Carefully listen to the questions posed and to tell the court the true version of events and, as far as possible (except in the case of very young children) not to respond by shaking their head to mean yes or no, when answering,
- (b) To specifically state if the witness does not remember or has forgotten something,
- (c) To clearly ask when the question is not understood.

A gesture by a vulnerable witness to explain what had happened shall be appropriately interpreted and recorded in the vulnerable witness' deposition. Assistance of an interpreter or special educator shall be taken if the witness is unable to communicate verbally and such statement should be video graphed.⁶⁴

25. Compensation-

The court shall apply its mind to the question of award of compensation in every case involving a victim who is a vulnerable witness, having regard to the laws and schemes applicable to the State of Uttarakhand.⁶⁵

26. Protection of privacy and safety-

⁶⁴ Indian Evidence Act 1872, Section 119.

⁶⁵ Code of Criminal Procedure 1973, Sections 357, 357A. POCSO Act 2012, Section 33(8) and POCSO Rules 2020, Rule 9; NALSA's Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes -2018; *Ankush Shivaji Gaikwad v. State of Maharashtra*, AIR 2013 SC 2454 (Supreme Court of India); *Nipun Saxena v. Union of India*, Writ Petition(s) (Civil) No(s).565/2012 order of the Supreme Court dated 11.05.2018; *Suresh v. State of Haryana*, 2014 SCC OnLine SC 952 (Supreme Court of India); *Bodhisattwa Gautam v. Miss Subhra Chakraborty*, AIR 1996 SC 922 (Supreme Court of India); Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Clause 12. Uttarakhand Victim of Crime Assistance Scheme, 2013 as amended from time to time.

Orders and judgments pertaining to cases involving vulnerable witnesses shall be made available on e-courts or on the official portal of the court after redacting identifying information of vulnerable witnesses. Any record containing identifying information regarding a vulnerable witness shall be confidential and kept under seal. Except upon written request and order of the court, the record shall only be made available to the following:

- a. Members of the court staff for administrative use;
- b. The Public Prosecutor for inspection;
- c. Defence counsel for inspection;
- d. The guardian *ad litem* for inspection;
- e. Other persons as determined by the court.

27. Protective order.—

The depositions of the vulnerable witness recorded by video link shall not be video recorded except under reasoned order requiring the special measures by the judge. However where any video or audio recording of a vulnerable witness is made, it shall be under a protective order that provides as follows:

- (i) A transcript of the testimony of the vulnerable witness shall be prepared and maintained on record of the case. Copies of such transcript shall be furnished to the parties of the case.
- (ii) Recording may be viewed only by parties, their counsel, their expert witness, and the guardian *ad litem* in the office of the court, following a procedure similar to inspection of documents.
- (iii) No person shall be granted access to the recording, or any part thereof unless they sign a written affirmation that they have received and read a copy of the protective order; that they submit to the jurisdiction of the court with respect to the protective order; and that in case of violation thereof, they will be subject to the penalties provided by law.
- (iv) Any recording, if made available to the parties or their counsel,

shall bear the following cautionary notice:

“This object or document and the contents thereof are subject to a protective order issued by the court in (case title), (case number). They shall not be examined, inspected, read, viewed, or copied by any person, or disclosed to any person, except as provided in the protective order. No additional copies of the tape or any of its portion shall be made, given, sold, or shown to any person without prior court order. Any person violating such protective order is subject to the contempt power of the court and other penalties prescribed by law.”

- (v) No recording shall be given, loaned, sold, or shown to any person except as ordered by the court. This protective order shall remain in full force and effect until further order of the court.

28. Personal details during evidence likely to cause threat to physical safety of vulnerable witness to be excluded —

A vulnerable witness has a right at any court proceeding not to testify regarding personal identifying information, including their name, address, telephone number, school, and other information that could endanger their physical safety or that of their family. The court may, however, require the vulnerable witness to testify regarding personal identifying information in the interest of justice.

29. Destruction of videotapes and audiotapes.—

Any video or audio recording of a vulnerable witness produced under the provisions of these guidelines or otherwise made part of the court record shall be destroyed as per directions issued by the High Court of Uttarakhand from time to time.

30. Protective measures-

At any stage in the justice process where the safety of a vulnerable witness is deemed to be at risk, depending upon the intensity of the threat perception, the court shall *suo motu* arrange to have protective measures put in place for the vulnerable witness or refer the matter to the Competent Authority under the Witness Protection Scheme, 2018.⁶⁶ Those measures may include the following:

- a. prohibiting direct or indirect contact between a vulnerable witness and the accused / opposite party at any point in the justice process;⁶⁷
- b. restraint orders;⁶⁸
- c. direct continuation of bail conditions during trial;⁶⁹
- d. protection for a vulnerable witness by the police or other relevant agencies and safeguarding the whereabouts of the vulnerable witness from disclosure;⁷⁰
- e. any other protective measures that may be deemed appropriate, including those stipulated under the Witness Protection Scheme, 2018.

31. Review and Monitoring. —

The implementation of the guidelines shall be reviewed as per need and necessity by the High Court of Uttarakhand and for this purpose it may engage independent research bodies or

⁶⁶ *Mahender Chawla v. Union of India*, (2019) 14 SCC 615 (Supreme Court of India); Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Clause 6(d).

⁶⁷ ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 34(a).

⁶⁸ ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 34(b).

⁶⁹ ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 34(c).

⁷⁰ ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 34(e).

organisations, reputed academic institutions or Universities or constitute a multi-disciplinary Committee including experts having the experience of working with vulnerable witnesses. The recommendations so received shall be promptly acted upon and the guidelines may also be updated based on relevant legal developments.

Additional Guidelines specific to child victims and witnesses

32. Developmentally appropriate questions for child witnesses.—

The questions asked to assess the competency of a child witness shall be appropriate to the age and developmental level of the child; shall not in any manner be related to the issues at trial; and shall focus on the ability of the child to remember, communicate, distinguish between truth and falsehood, and appreciate the duty to testify truthfully.⁷¹

33. Appointment of Guardian *ad litem*.—

The court may appoint any person as guardian *ad litem* as per law to a vulnerable child witness who is a victim of, or a witness to a crime having regard to their best interests, after considering the background of the guardian *ad litem* and their familiarity with the judicial process, social service programs, and human development, giving preference to the parents of the child, if qualified. The guardian *ad litem* may be a member of bar / practicing advocate, except a person who is a witness in any proceeding involving the vulnerable witness. .

⁷¹ *State v. Rahul*, 2013 IVAD 745 (High Court of Delhi); *State v. Sujeet Kumar*, 2014(4) JCC 2718 (High Court of Delhi).

34. Duties of guardian *ad litem*-

It shall be the duty of the guardian *ad litem* of the vulnerable child witness so appointed by court to:

- a. attend all depositions, hearings, and trial proceedings in which a vulnerable witness participates.
- b. make recommendations to the court concerning the best interest of the vulnerable witness keeping in view the needs of the witness and observing the impact of the proceedings on the witness.
- c. explain in a language understandable to the vulnerable witness, all legal proceedings, including police investigations, status and progress of the trial, child-friendly measures and rights, and witness protection measures, in which the vulnerable witness is involved;
- d. assist the vulnerable witness and their family in coping with the emotional effects of participating in any case/proceedings, especially the crime and subsequent criminal or non-criminal proceedings in which the vulnerable witness is involved;
- e. remain with the vulnerable witness while the vulnerable witness waits to testify.

35. Testimony during appropriate hours-

The court may order that the testimony of the child witness or child victim should be taken during a time of day when the vulnerable witness is well-rested and does not clash with their routine activities like meal and sleep timings, attending school/exams or other activities specific to that witness.⁷²

⁷² ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 30(d).

36. **Frequent breaks during testimony-**

The child witness or child victim may be allowed reasonable periods of relief and breaks while undergoing depositions, as often as necessary, depending on their age, disability, and developmental need.⁷³

37. **Measures to protect the privacy and well-being of child victims and witnesses-**

(i) Confidentiality of vulnerable witnesses and judicial transparency are not mutually exclusive and vulnerable victims' / witnesses' right to information and access to court records in their own case shall not be restricted in the name of protecting their privacy and confidentiality. It is possible for courts to maintain anonymity of vulnerable witnesses through simple name suppression measures which would then enable the release of court documents without endangering their privacy. Best practices from various countries and international tribunals and courts may be adapted for the purpose of balancing confidentiality and judicial data accessibility and transparency.⁷⁴

(ii) To ensure the privacy and physical and mental well-being of a child victim and to prevent undue distress and secondary victimization, taking into account the best interests of the vulnerable witness, the court may order one or more of the one or more of the following measures to protect the privacy and physical and mental well-being of the vulnerable child witness or victim:⁷⁵

⁷³ POCSO Act 2012, Section 33(3). ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, Clause 30(d).

⁷⁴ HAQ Centre for Child Rights, *Balancing Children's Confidentiality and Judicial Accountability: A Cross-Country Comparison of Best Practices Regarding Children's Privacy in the Criminal Justice System*, <<https://www.haqcrc.org/new-at-haq/balancing-childrens-confidentiality-and-judicial-accountability>>.

⁷⁵ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Clause 6(d).

- a. Concealing from the public record any names, addresses, workplaces, professions or any other information that could lead to the identification of the child victim or witness in orders, judgments, or any case records accessible to the public.⁷⁶ Where the accused is related to the child victim, care shall also be taken to redact the identity of the accused before making the order or judgment accessible to the public;⁷⁷
- b. prohibiting the defence lawyer and persons present in the court room from revealing the identity of the vulnerable witness or disclosing any material or information that would lead to the identification of the vulnerable witness in the media;
- c. protecting the identity of child victims and permitting disclosure in accordance with relevant statutory provisions and judicial precedents. ;⁷⁸
- d. assigning a pseudonym or a number to a child victim in cases of sexual offences, in which case the full name and date of birth of the child shall be revealed to the accused for the preparation of their defence. In other cases, a pseudonym may be assigned as per request of the parties;
- e. avoiding exposure to the accused by using screens or single visibility mirror;
- f. through examination in another place, transmitted simultaneously to the courtroom by means of video link;

⁷⁶ POCSO Act 2012, Section 33(7); JJ Act 2015, Section 74; Indian Penal Code 1860, Section 228A. *Nipun Saxena v. Union of India*, (2019) 2 SCC 703. Witness Protection Scheme, 2018, Clause 2(b). Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Section 15A(8)(a)(b). ECOSOC Resolution 2005/20, Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, clause 27.

⁷⁷ For instance, in cases of incest where the accused is the father, the child becomes identifiable immediately if the name of the father appears in the judgment copy available on e-courts or any other publicly accessible domain.

⁷⁸ POCSO Act, 2012, Section 33(7); Indian Penal Code 1860, Section 228A(2); Code of Criminal Procedure 1973, Section 327(3); *Nipun Saxena v. Union of India*, (2019) 2 SCC 703 (Supreme Court of India).

- through a qualified and suitable facilitator, such as, but not limited to, an interpreter for vulnerable witness with hearing, sight, speech or other disabilities;
- g. holding *in-camera* trials;
 - h. if the child victim or witness refuses to give testimony in the presence of the accused or if circumstances show that the child may be inhibited from speaking freely in that person's presence, the court shall give orders to temporarily remove the accused from the courtroom to an adjacent room with a video link or a one way mirror visibility into the courtroom. In such cases, the defence lawyer shall remain in the courtroom and question the vulnerable witness , and the accused's right of confrontation shall thus be guaranteed;
 - i. taking any other measure that the court may deem necessary to advance the right to privacy, including, where applicable, anonymity, taking into account the best interests of the child witness and the rights of the accused.
- (iii) Orders and judgments pertaining to cases involving vulnerable child witnesses shall be made available on e-courts or on the official portal of the court after suppressing their identifying information.

38. Standard Operating Procedure to be followed during virtual examination of child witnesses-

Judges shall ensure that the Standard Operating Procedure affirmed by the Hon'ble Supreme Court of India in *In Re Children in Street Situation*⁷⁹ is adhered to in all criminal trials where the child witness does not reside near the court where the trial is conducted and where the child witness is examined virtually, not physically, by the court in which the trial is conducted.

⁷⁹ *In Re Children in Street Situations*, 2022 SCC OnLine SC 189 (Supreme Court of India).

No.34/UHC/Admin.A/2023

Dated: Feb.20, 2023

Civil Judge (Sr. Div.), Nainital is given the powers of Drawing and Disbursing Officer (DDO) of the Family Court, Nainital for the duration (w.e.f. 20.02.2023 to 25.03.2023) of child care leave of Ms. Anjushree Juyal, Judge, Family Court, Nainital, inlight of the Notification No. 101-one/Nyay Anubhag/2002 dated 05.04.2002 of the Government of Uttarakhand.

By Order of Hon'ble the Chief Justice

No.37/UHC/Admin.A/2023

Dated: Feb.21, 2023

Pursuant to the Order dated 20.02.2023 of Hon'ble High Court of Uttarakhand passed in WPSB No. 65 of 2023 titled as Rajeev Kumar Vs. State of Uttarakhand; Shri Rajeev Kumar, Chairman, Permanent Lok Adalat Dehradun stands relieved from the charge of Chairman, Permanent Lok Adalat, Dehradun forthwith, subject to outcome of the Writ Petition (WPSB) No. 65 of 2023.

By Order of the Court

No.51/UHC/Stationery/2023**Dated: February 28, 2023**

High Court of Uttarakhand has been pleased to declare 06.03.2023 (Monday) and 07.03.2023 (Tuesday) as holidays for the High Court of Uttarakhand. In lieu thereof, 19.08.2023 (Saturday) and 02.12.2023 (Saturday) shall be the Court Working days for the High Court.

By Order of the Court**No.74/UHC/Admin.A/2023****Dated: Mar.21, 2023**

In exercise of powers conferred by Sub Section (2) of Section 19 of “*The Bengal, Agra and Assam Civil Courts Act, 1887 as amended upto date*” [also applicable to the **State of Uttarakhand**], the High Court is pleased to direct that Shri Ishank, Civil Judge (Jr. Div.) Batch- 2019, shall have jurisdiction to try Civil Suits of pecuniary value not exceeding ₹3.00 Lakh.

By Order of the Court**No.75/UHC/Admin.A/2023****Dated: Mar.21, 2023**

In exercise of powers conferred U/s 11(3) of the Code of Criminal Procedure 1973, Shri Ishank, Officer of Civil Judge (Jr. Div.), Batch-2019, is hereby conferred with the powers of Judicial Magistrate, 1st Class to exercise these powers within the districts where he remains posted.

By Order of the Court,

No. 76/UHC/XIII-b-1/Recruitment Cell/2023;**Dated: 23rd March, 2023.**

In compliance of directions issued by Hon'ble the Supreme Court of India in Civil Appeal No. 1867 of 2006, "Malik Mazhar Sultan and Another Vs. U.P. Public Service Commission and Others", the High Court of Uttarakhand, Nainital has determined following vacancies (including vacancies likely to occur within one year) for various Judicial Cadres for the Year 2023:-

Recruitment/ Selection Year – 2023

| Sl. No. | Cadres Of Judicial Service In The State | VacanciesNotified |
|----------------|---|--------------------------|
| 1. | H.J.S. 65% by Promotion from the Cadre of Civil Judge (Senior Division) on the principle of merit-cum-seniority | 02 |
| 2. | H.J.S. 10% by Promotion from the Cadre of Civil Judge (Senior Division) through Limited Competitive Examination | 00 |
| 3. | H.J.S. 25% Direct Recruitment (from Bar) | 01 |
| 4. | Civil Judge (Senior Division) | 05 |
| 5. | Civil Judge (Junior Division) | 02 |

By Order of the Hon'ble Court**No. 77/UHC/Admin.A/2023****Dated: March 23,2023**

In exercise of the powers conferred by Article 225 of the Constitution of India and all the other powers enabling in that behalf, the High Court of Uttarakhand hereby substitutes the proviso of Rule 13 of Chapter-IV of Rules of Court, 1952, as applicable to High Court of Uttarakhand as under-

| Existing Rule | Substituted Rule |
|--|---|
| <p>Provided that in the latter case the person so identifying shall sign at the foot of the affidavit a declaration in the following form, after there has been affixed to such declaration in his presence the thumb impression of the person so identified, namely-</p> <p style="text-align: center;"><i>Form of declaration</i></p> <p>I (name, description and address) declare that I am satisfied on the grounds stated below that the person making this affidavit and alleging himself to be A, B is that person:</p> <p style="text-align: center;">(Here state the grounds)</p> | <p><i>Provided that in the latter case the person so identifying shall sign at the foot of the affidavit a declaration in the following form, after satisfying himself from any of the documents furnished by the person so identified from which identity can be duly established, namely Passport, Driving Licence, Voter Identity Card, PAN Card and Photo Identity Card issued by the Government:</i></p> <p style="text-align: center;"><i>Form of Declaration:</i></p> <p><i>I (name, description and address) identify the deponent Shri /Smt. / Km.....from his/her (name of the document of identity).</i></p> |

This amendment shall come into force with immediate effect.

By Order of the Court

CIRCULAR

From,

Registrar General,
High Court of Uttarakhand,
Nainital.

To,

1. All the District Judges, Subordinate to High Court of Uttarakhand.
2. Principal Judge/ Judges, Family Courts, Subordinate to High Court of Uttarakhand.
3. Principal Secretary, Legislative & Parliamentary Affairs, Government of Uttarakhand, Dehradun.
4. Secretary, Law-cum-L.R., Government of Uttarakhand, Dehradun.
5. Chairman, Commercial Tax Tribunal, F-6, Nehru Colony, Haridwar Road, Dehradun.
6. Chairman, State Transport Appellate Tribunal, House of Doctor Poonam Gambhir, Vaidik Kaya Ayurvedic Centre, Ist Floor, House No.85/1, Laxmi Road, (Near Favvara Chauk), Dehradun.
7. Director, Uttarakhand Judicial and Legal Academy, Bhowali, District Nainital.
8. Legal Advisor to Hon'ble the Governor, Raj Bhawan, Dehradun.
9. Secretary, Lokayukt, 3/3, Industrial Area, Patel Nagar, Dehradun.
10. Registrar, State Consumer Disputes Redressal Commission, HN. 23/16, Circular Road, Dalanwala, Dehradun.
11. Member-Secretary, Uttarakhand State Legal Services Authority, Nainital.
12. Presiding Officer, Labour Courts, Dehradun, Haridwar and Kashipur, District Udham Singh Nagar.
13. Presiding Officer, Industrial Tribunal-cum-Labour Court, Haldwani, District Nainital.
14. Presiding Officer, Food Safety Appellate Tribunal, Dehradun and Haldwani, District Nainital.
15. Registrar, Public Service Tribunal, Uttarakhand, Dehradun.
16. Secretary-cum-Registrar, State Level Police Complaint Authority, Dehradun.
17. Chairman, Permanent Lok Adalat, Dehradun, Haridwar, Nainital and Udham Singh Nagar.
18. Legal Advisor to Uttarakhand Public Service Commission, Haridwar.
19. Chairman, Uttarakhand Co-operative Tribunal, Dehradun.

C.L. No. 01/UHC/Admin.A/2023

Dated: January 03, 2023.

Sub: Partial Modification in Nomination of Administrative Judge(s).

Sir/Madam,

With reference to earlier C.L. No. 13 Dated: October 11, 2021 and C.L. No. 01 Dated: May 21, 2022 on the subject noted above, I am directed to inform that Hon'ble the Chief Justice is pleased to nominate the following Hon'ble Judges as the Administrative Judge In-charge of the District, shown against their name, in addition to their earlier nominated districts, with immediate effect.

- | | | |
|--|---|-------------------------|
| 1. Hon'ble Mr. Justice Ravindra Maithani | : | District Uttarkashi. |
| 2. Hon'ble Mr. Justice Alok Kumar Verma | : | District Pauri Garhwal. |

You are therefore, informed accordingly.

From,

Registrar General,
High Court of Uttarakhand,
Nainital.

To,

All the District Judges,
State Judiciary, Uttarakhand.

C. L. No. 02/ UHC/Admin. B/2022

Dated: 5th January, 2023.

Subject: Recording Of Evidence Through Video-Conferencing.

Sir/Madam,

Apropos to the subject noted above, I am directed to issue the following directions of the Hon'ble Court with regard to recording of evidence in the District Judiciary:

1. Evidence of Doctors, Forensic Experts and other witnesses of formal nature invariably be recorded through Video-Conferencing in accordance with "*High Court of Uttarakhand Video Conferencing Rules-2020*".
2. If any of the party applies to the Court that the examination of any of above such witness in Court is necessary instead of by Video-Conferencing, then such witness would be summoned by a speaking order with special reasons justifying the physical presence of such witness passed by the Court concerned before dispensing with the recording of evidence of such witnesses through Video-Conferencing.
3. While recording the evidence through Video-Conferencing, provisions contained in "*High Court of Uttarakhand Video Conferencing Rules-2020*" in general and Rule 3 in particular, be followed invariably.
4. Monthly data of recording of evidence through Video-Conferencing shall be maintained by each Court and shall be submitted along with the minutes of monthly meeting. Minutes shall also contain data of above such witnesses, who were summoned for special reasons.
5. In case, evidence of such witnesses has not been recorded through Video-Conferencing, copy of order justifying the physical presence of such witnesses be enclosed with the minutes.

It is, therefore, requested to circulate the aforesaid directions amongst all the Judicial Officers in your respective judgeship for information and strict compliance.

Regards.

From,

Registrar General,
High Court of Uttarakhand,
Nainital.

To,

All the District Judges,
State Judiciary, Uttarakhand.

C. L. No. 03 / UHC/Admin. B/2022

Dated: 5th January, 2023.

Subject: Weeding (Destruction Of Records).

Sir/Madam,

Apropos to the subject noted above, I am directed to issue the following directions of the Hon'ble Court with regard to weeding (Destruction of Record) in the District Judiciary:

1. Process of digitization of record is to be initiated soon.
2. In order to have a manageable volume of documents for digitization, it is imperative that process of weeding be expedited and regularized.
3. Weeding be carried out strictly in accordance with the provisions contained in Chapter-VII of General Rules (Civil), 1957 (Rule 196 to 202) and Chapter-XII of General Rules (Criminal), 1977 (Rule 118 to 124).
4. A Nodal Officer, not below the rank of Senior Civil Judge be deputed to oversee the work of weeding.
5. Fortnightly report be submitted with regard to steps taken for weeding and number of documents weeded out in the concerned period.

It is, therefore, requested to circulate the aforesaid directions amongst all the Judicial Officers in your respective judgship for information and strict compliance.

Regards,

From,

Registrar General,
High Court of Uttarakhand,
Nainital.

To,

1. All the District Judges, Subordinate to High Court of Uttarakhand.
2. Principal Judge/ Judges, Family Courts, Subordinate to High Court of Uttarakhand.
3. Principal Secretary, Legislative & Parliamentary Affairs, Government of Uttarakhand, Dehradun.
4. Secretary, Law-cum-L.R., Government of Uttarakhand, Dehradun.
5. Chairman, Commercial Tax Tribunal, F-6, Nehru Colony, Haridwar Road, Dehradun.
6. Chairman, State Transport Appellate Tribunal, House of Doctor Poonam Gambhir, Vaidik Kaya Ayurvedic Centre, Ist Floor, House No.85/1, Laxmi Road, (Near Favvara Chauk), Dehradun.
7. Director, Uttarakhand Judicial and Legal Academy, Bhowali, District Nainital.
8. Legal Advisor to Hon'ble the Governor, Raj Bhawan, Dehradun.
9. Secretary, Lokayukt, 3/3, Industrial Area, Patel Nagar, Dehradun.
10. Registrar, State Consumer Disputes Redressal Commission, HN. 23/16, Circular Road, Dalanwala, Dehradun.
11. Member-Secretary, Uttarakhand State Legal Services Authority, Nainital.
12. Presiding Officer, Labour Courts, Dehradun, Haridwar and Kashipur, District Udham Singh Nagar.
13. Presiding Officer, Industrial Tribunal-cum-Labour Court, Haldwani, District Nainital.
14. Presiding Officer, Food Safety Appellate Tribunal, Dehradun and Haldwani, District Nainital.
15. Registrar, Public Service Tribunal, Uttarakhand, Dehradun.
16. Secretary-cum-Registrar, State Level Police Complaint Authority, Dehradun.
17. Chairman, Permanent Lok Adalat, Dehradun, Haridwar, Nainital and Udham Singh Nagar.
18. Legal Advisor to Uttarakhand Public Service Commission, Haridwar.
19. Chairman, Uttarakhand Co-operative Tribunal, Dehradun.

C.L. No. 05/UHC/Admin.A/2023

Dated: February 23, 2023.

Sub: Partial Modification in Nomination of Administrative Judge(s).

Sir/Madam,

In partial modification to earlier C.L. No. 01 Dated : January 03,2023, C.L. No. 01 Dated: May 21, 2022 and C.L. No. 13 Dated: October 11, 2021 on the subject noted above, I am directed to inform that, now the following Hon'ble Judges would be the Administrative Judge In-charge of the Districts, shown against their name:-

- | | |
|--|--|
| 1. Hon'ble Mr. Justice Manoj Kumar Tiwari | : Dehradun , Haridwar, Nainital and Tehri Garhwal. |
| 2. Hon'ble Mr. Justice Sharad Kumar Sharma | : Bageshwar and U.S.Nagar . |
| 3. Hon'ble Mr. Justice Ravindra Maithani | : Almora, Champawat, Pithoragarh and Uttarkashi. |
| 4. Hon'bl Mr. Justice Alok Kumar Verma | : Chamoli, Pauri Garhwal and Rudraprayag. |

You are therefore, informed accordingly.

From,

Registrar General,
High Court of Uttarakhand,
Nainital.

To,

1. All the District Judges, State Judiciary, Uttarakhand.
2. Principal Judge/Judges, Family Courts, State of Uttarakhand.
3. Principal Secretary, Legislative & Parliamentary Affairs, Government of Uttarakhand, Dehradun.
4. Secretary (Law)-cum-L.R., Government of Uttarakhand, Dehradun.
5. Director, Uttarakhand Judicial & Legal Academy, Bhowali, Distt. Nainital.
6. Chairman, Commercial Tax Tribunal, Uttarakhand, Dehradun.
7. Chairman, State Transport Appellate Tribunal, Uttarakhand, Dehradun.
8. Legal Advisor to Hon'ble the Governor, Rajbhawan, Dehradun.
9. Secretary, Lokayukta, Uttarakhand, Dehradun.
10. Registrar, State Consumer Redressal Commission, Uttarakhand, Dehradun.
11. Member-Secretary, Uttarakhand State Legal Services Authority, Nainital.
12. Presiding Officer, Industrial Tribunal-cum-Labour Court, Haldwani, Distt. Nainital.
13. Presiding Officer, Labour Courts, Dehradun, Hardwar and Kashipur, Distt. Udham Singh Nagar.
14. Presiding Officer, Food Safety Appellate Tribunal, Dehradun and Haldwani (Nainital).
15. Registrar, Public Service Tribunal, Uttarakhand, Dehradun.
16. Secretary-cum-Registrar, State Level Police Complaint Authority, Dehradun.
17. Chairman, Permanent Lok Adalat, Dehradun, Hardwar, Nainital and Udham Singh Nagar.
18. Legal Advisor to Public Service Commission, Uttarakhand, Hardwar.

C. L. No.06 /UHC/Admin.A/2023

Dated: March 27, 2023

Subject: **Regarding Annual Confidential Remarks.**

Sir/Madam,

With regard to the subject noted above, I am directed to inform that to inject greater uniformity, objectivity and also some measure of transparency as well as predictability in ACR grading, the Hon'ble Court is pleased to resolve the following assessment system for recording Annual Confidential Remarks (ACRs) of the Judicial Officers, subordinate to the High Court of Uttarakhand from the reporting year commencing from 1st April, 2023 onwards.

2. (i) The concerned judicial officer shall be awarded marks/points out of a maximum of 100.
- (ii) The 100 marks to be awarded shall be divided as follows:
 - (a) 20% shall be earmarked for quality of judgments (*with Sub-Heads for Clarity, Analytical Skills & Marshalling of Evidence and Application and Grasp of Law & Legal Principles*). For appraisal of judgments, five randomly selected judgments – having a spread according to the period (i.e. in the one year period) and jurisdictions dealt with in contested cases, shall be sent by the concerned District Judges to the High Court, after calling for them from the Judicial Officers serving in the district.
 - (b) A maximum of 25% shall be awarded for the institution/disposal ratio. Of this, 10 marks shall be for quantum of achievement (i.e. whether disposals were greater than institutions, in a given year) and 15 maximum marks for the units achieved for the relevant period. The verified information/ data in this regard shall be sent by the District Judge concerned, in respect of each of the Officers serving in the district, with the dossier of judgments.
 - (c) A maximum of 20% shall be awarded for the total number of final judgments delivered in contested matters.

- (d)** A maximum of 10% marks may be awarded for timeliness, promptness in delivery of judgments, disposal of old cases, not taking leave or clubbing leave with vacations.
 - (e)** The balance 25% shall be awarded by the appraising High Court judge/Committee, on the basis of interaction/inspection.
- 3.** The judicial officer shall, in their self-assessment, disclose whether any burdensome administrative tasks, such as membership of committees, co-ordination for events, conducting disciplinary enquiries, if any, of staff, etc. have been assigned during the reporting period. Likewise, where there are peculiarities of jurisdiction, such as where the judicial officer handles CBI courts, or other jurisdictions which have their special characteristics, shall also be disclosed in the self-assessment of the judicial officer, with particulars.
- 4.** No officer would, ordinarily, be subject to appraisal by the same Administrative Judge for more than two consecutive years. Hon'ble the Chief Justice may nominate one of the other Judges available to consider the recommendation made by the District Judge concerned, in case the Administrative Judge has already considered the recommendation of ACRs in respect of two consecutive years.
- 5.** The District Judges shall forward instances of outstanding judgments, and extremely poor judgments of any given judicial officer, which they may come across in their normal judicial functioning to the High Court registry, to be placed before the concerned Administrative Judge for due consideration and input, for the ACR appraisal of that judicial officer.
- 6.** The Administrative Judge concerned may also take inputs from his other colleagues, who may have dealt with the judgments rendered by the Judge under assessment, while dealing with appeals, revisions or other petitions, including under Article 227 of the Constitution of India.

You are therefore, requested to circulate the aforesaid directions issued by the Hon'ble Court regarding Annual Confidential Remarks amongst all the judicial officers under your supervision.

**Proceedings of Superannuation of Hon'ble Mr. Justice Ramesh Chandra Khulbe,
Judge, High Court of Uttarakhand**

Full Court Reference, held on 02.01.2023

In

The Court of the Chief Justice

At 03.30 P.M.

Order of address

- ❖ **Sri S.N. Babulkar, Advocate General, High Court of Uttarakhand.**
- ❖ **Sri Prabhakar Joshi, President of the High Court Bar Association,
Nainital, Uttarakhand.**
- ❖ **Hon'ble Sri Justice Vipin Sanghi, Chief Justice, High Court of
Uttarakhand.**
- ❖ **Hon'ble Sri Justice Ramesh Chandra Khulbe, Judge, High Court of
Uttarakhand.**

Registrar General- My Lord, I seek your Lordship's permission to open the proceedings.

Chief Justice- Please do.

Registrar General- The proceedings are open. Now, I request the Hon'ble Dignitaries to address the esteemed gathering, according to their respective terms.

➤ **Address by Sri S.N. Babulkar, Advocate General, State of Uttarakhand:**

My Lord, Hon'ble Mr. Justice Vipin Sanghi, Chief Justice of Uttarakhand High Court, Hon'ble Mr. Justice Sanjaya Kumar Mishra, Senior Judge, Their Esteemed Companion

Judges, President, High Court Bar Association, Senior Advocates, Deputy Solicitor General, Registrar General, my colleagues on the government side, members of the Bar, members of Registry, ladies and gentlemen.

2. Sir,

3. We have assembled here to bid farewell to Hon'ble Mr. Justice Ramesh Chandra Khulbe on his superannuation as a Judge from this Hon'ble High Court.

4. Moments of farewell are normally painful, as a result, throat gets choked, one does not get words to express his emotions, but the cruel rule of duty always dominates over the tender feelings.

5. His Lordship joined Uttar Pradesh Judicial Service in the year 1987 and has worked as the Civil Judge (Junior Division) at Bareilly, Budaun, Bijnour, Nainital and Khatima. Hon'ble Mr. Justice Khulbe became the Addl. Chief Judicial Magistrate, Shahjahanpur in the year 1999, thereafter, His Lordship joined as Chief Judicial Magistrate at Udham Singh Nagar from 2001 to 2003. Hon'ble Mr. Justice Khulbe also worked as the Additional District Judge at Haridwar, Haldwani and Roorkee and also worked as the Presiding Officer, Industrial Tribunal, Haldwani.

6. His Lordship worked as the District Judge, Uttarkashi in July, 2010. Thereafter, Hon'ble Mr. Justice Khulbe joined as Secretary Lokayukta: Chairman, State Transport Appellate Tribunal, Chairman, State Commercial Tax Tribunal and Principal Secretary, Legislative and Parliamentary Affairs. His Lordship was also the Legal Advisor to His Excellency, the Governor of Uttarakhand.

7. His Lordship took oath as permanent Judge in the High Court of Uttarakhand on 3 December, 2018. His Lordship will be remembered in the legal fraternity as a role model of honesty and simplicity.

8. Sir, we wish you and your family a very good health and prosperity in life. But since we belong to this land which is abode of God and since this is a part of our cherished culture that whenever we bid farewell to our beloved, we pray Almighty to make his path free from all trouble. I follow the same tradition by expressing my emotions through this Vedic verse:-

"जीवेम शरदः शतम्"

Thanking you,

➤ **Address by Sri Prabhakar Joshi, President, High Court Bar Association, Nainital:**

Your Honour,

1. Hon'ble Mr. Vipin Sanghi, the Chief Justice of the High Court of Uttarakhand at Nainital, and other esteemed Judges of our High Court. Learned Advocate General, Deputy Solicitor General, Ld. Govt. Advocate, Learned Senior Advocates, Learned Registrar General and learned members of High Court Bar Association.

2. We are assembled here to bid farewell to Hon'ble Mr. Justice Ramesh Chandra Khulbe, who is demitting the office today after rendering distinguished service to this court for more than four years.

3. I can say without any hesitation that Justice Khulbe has propounded many judgments which certainly strengthen the judiciary of Uttarakhand.

4. Justice Khulbe joined Uttar Pradesh Judicial Service in the year 1987 and has worked as the Civil Judge (Junior Division) at Bareilly, Budaun, Bijnour, Nainital and Khatima.

Became the Addl. Chief Judicial Magistrate, Shahjahanpur in the year 1999, thereafter, joined as Chief Judicial Magistrate at Udham Singh Nagar from 2001 to 2003. Also worked as the Additional District Judge at Haridwar, Haldwani and Roorkee. He has also worked as the Presiding Officer, Industrial Tribunal, Haldwani. Also worked as the District Judge, Uttarkashi in July, 2010. Thereafter, in 2013 joined as Secretary Lokayukta; Chairman, State Transport Appellate Tribunal, Chairman, State Commercial Tax Tribunal and Principal Secretary, Legislative and Parliamentary Affairs. He was also the Legal Advisor to H.E., the Governor of Uttarakhand. Elevated as a Judge of the High Court on 03.12.2018.

5. A judge is required not only to faithfully interpret and apply law but it is equally essential for him to be conscious of the social realities of the world and to decide the carefully, fairly and wisely.

6. My lord's contributions to this Hon'ble High Court would always be remembered and cherished by the members of the Bar. His lordship has a deep attachment to Uttarakhand and to the people of the State. We the members of the Bar have no words to express our gratitude for the services rendered by your lordship to the people of the State.

7. Moments of farewell are always painful but at the same time such occasions are remembered as rememberable of sentiments and relations.

8. I on behalf of me and on behalf of members of Bar Association, take this opportunity to extend my gratitude to Justice R.C. Khulbe for his distinguished contribution to the institution which will be remembered for ever.

9. Once again, I and on behalf of all the members of High Court Bar Association we wish him great health, prosperous tenure and good luck in future.

Thank You.

➤ **Address by Hon'ble Sri Justice Vipin Sanghi, Chief Justice, High Court of Uttarakhand:**

My Esteemed Brothers on the Bench; Mr. Justice Sanjaya Kumar Mishra, Mr. Justice Manoj Kumar Tiwari, Mr. Justice Sharad Kumar Sharma, Mr. Justice Ravindra Maithani, Mr. Justice Alok Kumar Verma, Hon'ble Mr. Justice Ramesh Chandra Khulbe, gracious lady Smt. Nirmala Khulbe and family members of Justice Khulbe; The family members of my other esteemed colleagues; Mr. S.N. Babulkar, learned Advocate General for the State of Uttarakhand; Mr. G.S. Sandhu, learned Government Advocate for the State; Mr. C.S. Rawat, learned Chief Standing Counsel for the State; Mr. Rakesh Thapliyal, learned Assistant Solicitor General of India; Mr. Prabhakar Joshi, President, High Court Bar Association; Mr. Vikas Bahuguna, Secretary, High Court Bar Association and other Office Bearers of the High Court Bar Association; Learned Senior Advocates; Learned Members of the Bar; Members of the Registry of the High Court; The staff of the High Court; Members of the Print and Electronic Media; Ladies and gentlemen;

2. We have assembled here today to bid farewell to Hon'ble Mr. Justice Ramesh Chandra Khulbe on his demitting office as Judge of the High Court of Uttarakhand.

3. Brother Justice Ramesh Chandra Khulbe was born on 03.01.1961 in Village Chaura, Tehsil Dwarahat, District Almora. His father Late Shri Chandra Shekhar Khulbe served as a Member of the Indian National Army with mother India's proudest son Netaji Subhash Chandra Bose. Brother Justice Khulbe did his Graduation from Kumaon University in the year 1980 and, thereafter, LL.B. from Almora Campus being the constituent college of the Kumaon University (now known as Soban Singh Jena University). After obtaining Law Degree from the said University, Brother Justice Khulbe joined the Uttar Pradesh Judicial Service on 01.09.1987 and remained posted as

Civil Judge (Junior Division) at various districts in the State of Uttar Pradesh. On creation of the State of Uttarakhand on 09.11.2000, Brother Justice Khulbe opted to serve in the State of Uttarakhand, and he was posted as the Chief Judicial Magistrate, Udham Singh Nagar from 2001 to 2003. After being promoted to the Higher Judicial Service Cadre, Brother Justice Khulbe was posted as the Additional District Judge at Haridwar, Haldwani and Roorkee, and, thereafter, as the District Judge, Uttarkashi. Owing to his legal knowledge and experience, Justice Khulbe was also tasked with the responsibility to serve as the Secretary to the Lokayukta; Principal Secretary, Legislative and Parliamentary Affairs, Government of Uttarakhand; and as Legal Advisor to His Excellency the Governor of Uttarakhand.

4. Considering his high sense of integrity and erudite knowledge of law, on 03.12.2018, Brother Justice Ramesh Chandra Khulbe was elevated as a Judge of this Court. During his tenure as a Judge for the last about four years, Brother Justice Khulbe has disposed of as many as 14,507 cases, including 11,471 cases in the Single Bench.

5. Brother Justice Khulbe has authored many landmark judgments, which adorn the Law Journals and would guide the legal fraternity in the State for all times to come. It would be worthwhile to narrate a few of them.

6. In the case of *Qazi Mohammed Nooruddin vs. State of Uttarakhand (First Bail Application)*, the issue which arose for determination was whether, in cases wherein the accused is charged with the offence punishable under Section 409 IPC, the charge-sheet is required to be filed within 60 days, or within 90 days. In the present case, the accused had moved an application under Section 167(2) Cr.P.C. before the Chief Judicial Magistrate seeking default bail on the ground that he was in judicial custody since more than 60 days, and the charge-sheet had not been filed. The said application was dismissed by the Chief Judicial Magistrate, holding that the charge-sheet could be filed within 90

days before default bail could be sought by the accused. The said order passed by the Chief Judicial Magistrate was also affirmed by the Sessions Judge. Being aggrieved, the accused had approached the High Court by filing the present petition. The Court considered the rival submissions and also the provisions of law, i.e. Section 409 IPC and Section 167 Cr.P.C. exhaustively, as well as the judgment passed by the Hon'ble Supreme Court in ***Rakesh Kumar Paul vs. State of Assam***. The Court came to the conclusion that, from a perusal of Section 409 IPC, it is clear that, if the offence is proved, the Court can punish the accused with imprisonment for life, according to the nature of the case. The Court, accordingly, held that the present case falls within the ambit of Section 167(2)(a)(i) Cr.P.C., and that the statutory time period for filing the charge-sheet would be 90 days, before default bail could be sought. The Bail Application was, accordingly, dismissed by Justice Khulbe.

7. In ***Nandan Kumar Mittal vs. State of Uttarakhand & others***, the petitioner had approached the High Court under Article 226 of the Constitution of India for quashing the FIR registered under Sections 434 and 427 IPC. The Court noted that both these offences are non-cognizable offences and, as per Chapter XII of Cr.P.C, an Officer of the Police Station has power to lodge information under Section 154 Cr.P.C. in case of cognizable offence and, when information is given regarding non-cognizable offence, the police officer can reduce it in the prescribed format as per Section 155 Cr.P.C. The Court pointed out the difference between the two Sections, to the effect, that as far as Section 154 Cr.P.C. dealing with cognizable offences is concerned, the concerned Police Officer is bound to investigate the matter; whereas, as per Section 155 Cr.P.C. dealing with the non-cognizable offences, the Police Officer has no *suo moto* power to investigate. The Court held that, since the offences involved in the present case fall within the category of non-cognizable offences, the concerned Police Officer had no power to lodge the information as per Section 154 Cr.P.C., nor did he have any power to investigate the

matter without obtaining the prior permission of the concerned Magistrate. The Court, accordingly, allowed the petition and quashed the FIR in question vide judgment rendered on 13.08.2021.

8. In *Pushpraj Singh Chauhan & another vs. State of Uttarakhand & another*, the revisionists had challenged the order passed by the Special Judge (POCSO)/ Addl. Sessions Judge allowing an application moved by the complainant under Section 319 Cr.P.C. in a Special Sessions Trial, and summoning the revisionists to face the trial. The Court considered the rival submissions of the parties and elaborately discussed the scope of Section 319 Cr.P.C. The Court held that Section 319 is an enabling provision, which can be invoked by the court only if evidence surfaces in the course of inquiry or trial, disclosing the complicity of a person or persons other than the person or persons already arraigned before it. The court discussed the law laid down by the Constitution Bench of the Supreme Court in *Hardeep Singh vs. State of Punjab*, in great detail and several other judgments of the Supreme Court. The Court found that, from a perusal of the FIR lodged in the present case, it is evident that the informant had specifically mentioned the names of both the revisionists leveling serious allegations. Although the prosecutrix did not mention the relevant facts before the Magistrate in her statements recorded under Section 164 Cr.P.C; but, in the witness box before the Trial Court, the victim had appeared and, in unequivocal terms, had deposed against both the revisionists. The Court, thus, found that there exist sufficient evidence for the trial court to arrive at the satisfaction, that the revisionists also appear to be guilty of the offence. The Court, accordingly, dismissed the revision petition. All the above judgments are "must read" judgments for every student of law. I may also mention that these are just a few of the many judgments rendered by His Lordship. The judgments pronounced by him would continue to guide us through the difficult and complex legal issues.

9. Moreover, Brother Justice Khulbe remained part of many Committees of the High Court, where both i.e. the Committee and the High Court, has reaped dividends and benefited from his vision and clarity of thoughts and contributions.

10. Brother Justice Ramesh Chandra Khulbe is an inspiring figure amongst us. A very humble person, a God loving man, his simplicity and his sensitivity is heart-warming. His hard work, his tenacity, his courage, his dedication to our values and principles of being an objective, impartial, independent judge, has brought him laurels throughout his service career spanning over 35 years. Since I have had the privilege of having him as my Bench partner for most of the time I have spent here, I can say with personal experience, that Brother Justice Khulbe is very hardworking - as he would read, and be aware of every matter listed in the Cause List, and has an analytical mind - as he would analyze each case threadbare and place before me, step-wise and logically, the legal issues arising in every case that came up before us. Knowing Brother Khulbe, he is not one to rest on his oars or to bask in his past glories. Brother Khulbe would continue to serve the people of the State, though in a different role, as the Chairperson of the Uttarakhand Real Estate Appellate Tribunal. I am sure, he will continue to work, and will continue to contribute substantially, both, to the legal fraternity in particular, and to the society in general.

11. I, on my behalf, and on behalf of all my Brothers, wish Brother Justice Khulbe and his family a happy and joyous peaceful and prosperous, healthy and wealthy life, in decades to come.

Thank you.

➤ **Address by Hon'ble Sri Justice R.C. Khulbe, Judge, High Court of Uttarakhand:**

At this dusk of my professional era, as a Judge of our High Court, let me derive the privilege to express my gratitude for all affection, care and attention granted by you all to me.

2. Hon'ble the Chief Justice, my esteemed brothers on the Bench, the learned Advocate General Mr. S.N. Babulkar, Mr. Rakesh Thapliyal, learned Additional Solicitor General of India, Mr. C.S. Rawat, learned Chief Standing Counsel, Mr. G.S. Sandhu, learned Government Advocate, Senior Advocates, members of the Bar and all the spouses of my brother judges present here, the medical staff attached to the High Court dispensary.

3. I would rather fail in my honourous duty to not to reckon the contribution of some of the brother Judges and the Chief Justices, who have contributed a lot in making me what I am today. The First in the sequence would be the Justice P.C. Pant. During his regime, I joined the profession and he had been a foundation for me in all my learning process.

4. The second would be the most revered Judge of this Court Justice Irshad Hussain, who had been always with me wherever there was a failure on my part in expressing my legal thoughts in my judgments. His contribution to me and my professional discharge of duties would be impeccable.

5. Next in the chain would be Justice Sudhanshu Dhulia, with whom I had an occasion to share the Bench; he too has contributed a lot in my learning the day-to-day proceedings

of the Court and how the interpretation of law should be carried while delivering a judgment as a Judge of this High Court. I would like to refer yet another important name who, in fact, had been worked for the institution as a “lady Justice” called as the “Cult of Themis”, Justice U.C. Dhyani, who had been an example for all of us to learn the art of discipline and honesty, which will always remain embedded for all times to come.

6. And last but not the least, Justice Vipin Sanghi, the Chief Justice of this Court, who had contributed a lot in making me learn the mode of simplicity and the honest way to discharge the responsibilities, as a Judge while delivering the judgments or exercising patience while hearing the counsels for the parties. Their contribution would ever remain fresh in my memories for all times to come and which would be reckoned by me whenever I have to rethink as to in what way I have to dispense with my duties as a Judge in whatever sphere I venture into in future.

7. My personal staff Mr. Sahib Dass, Mr. Jagdish Nishad, Mr. Ram Rath, Mr. Ajay Yadav, Mr. Ram Milan and Mr. Robin, who made my stay safe and comfortable at my residence, my PSO Mr. Ravindra Nath Rai and Mr. Prakash Pande, who had provided me all care and security in my routine movements, my driver Mr. Kishan Arya, my official staff attached to my chamber Mr. Dinesh Bisht, Bench Secretary, Mr. Rajeev Dang, Head Private Secretary, Mr. Balwant Singh, Mr. Sukhwant Singh and Mr. Shubham Kapruwan, Personal Assistants, who had been instrumental in providing all help in discharging of my judicial responsibilities with utmost care and affection.

8. I am really indebted to all the names, which I have referred above, who had helped me out in every ventures of my judicial life in this esteemed Institution.

9. Though the life carries different facets, which touches every sphere of your professional career, but what is bestowed by destiny on us, has had to be admired, which I had done with all my diligence, truthfulness and sincerity attached to the Chair, which the God had permitted me to adorn. I had various sweet and sour moments while working as a Judge of this esteemed Institution; but, today when I am putting my pen down, I could only say the perseverance of parting from you all would be too agonising, but all the fond memories, which I carry of having availed an opportunity to work with you all, will always remain fresh in my memory in whatsoever sphere, I now venture with the knowledge and experience, the professional tacts, which has been bestowed upon me by my experience, gathered by interacting with you all. In this short career of mine as a Judge would always be a Bible for me to be read as a scripture and to be recapitulated whenever I am alone and in a pensive mood just to rejuvenate myself and re-flash back into the depths of time, which I had with you all.

10. Parting always carries an emotional blend in it, and particularly, the parting of this nature, which would be an end of the professional relationship, which I catered with the members of the Bar and my brother colleagues on the Bench but your thoughtful contribution in building me and my thought process and by expanding my horizon of thoughts, which I have dispelled in all the judgments, which I had the occasion to do

right. May it be that it would always leave a mark not only for me, but I expect from you all too, that whenever you have an opportunity to make reference to it, you may be recapitulating my existence with you as a Judge of this High Court.

11. In throughout my career, I have always attempted to profess to be a simple tint and have exercised all my perseverance which the Almighty has bestowed upon me to whom I would always remain indebted throughout my life for giving me this opportunity to serve the mighty cause of justice, may it be for any segment of the society whatsoever.

12. The piousness of one's functioning would always, and rather should always be the pivot official of every person, who is present over here in whatsoever arena of life once steps into and parts from it, trust me that I had made all my sincere efforts to prove what I profess as to be what I am. These are extremely emotional and heartfelt moments, which have to be controlled, because stepping into this profession, everyone should be realistic that this day has had to come in the life of each of the members of the Bench, where we part from our departed professional relationship, but I would not hesitate to say that though I have used the word "professional relationship", but I would always reckon in my memories the personal cord, which my brother colleagues on the Bench have always shared with me and given me a sacred place of brotherhood, which has always encouraged me to learn all throughout and to decipher to my limited ability in order to make a contribution for uplifting the basic ethos of our pious shared institution, the Hon'ble High Court of Uttarakhand.

13. It had been rather an experience that whenever and whichever situation I was placed into, the Registrar General, each of the Registrars and the members of the office attached to the Registrars had always been a supporting foundation to make all my endeavours, be it either private or professional, safe, peaceful, healthy smooth and thoroughly enjoying.

14. I would have failed in my duty, in case if I forget to pay my due regards to my parents, because of whom my legs could hold the strength to stand before you all on this day when I ceased to hold the office as a Judge of the High Court. Whatever virtues I have imbibed are the virtues, which I have inherited in succession of my loveable parents, who, no doubt, played the most important and vital role in building me up, my principles and values, which I have always endeavoured to exercise within the guidelines and framework, as it was parted to me by my parents.

15. The Judge's life is full of pre occupations, both professional and administrative and one doesn't have enough time to prove his worth according to the expectations of your life partner i.e. my wife Nirmala Khulbe and two gems of my life, my sons and my daughters-in-law, who had always acted as a sheet anchor to provide an impetus shield to excel in my professional career and they had been the biggest moral support for me in discharging my indebted responsibilities as bestowed by the Almighty, as a Judge of the High Court of Uttarakhand.

16. Before I close, in case, if inadvertently I have left out any person, who expects to reckon his contribution in my career, I seek an hesitant apology, if I have not proved

myself true to their uncompromising expectations, but nonetheless while parting with the sunset of my career, I would like to express my heartfelt gratuitous thanks to all those, whom I could not include or could have inadvertently missed in the list or the persons, who had played an important role in any phase of my life. Please forgive me for this demeanour of mine.

17. Also, before I close, in fact, I could recollect a very famous poetry of William Wordsworth, who has beautifully described the daffodils, when the swing with the flow of air in the fields where they are grown and the following phrase has been used by him in his poetry “daffodils” that:

“For oft, when on my couch I lie
In vacant or in pensive mood,
They flash upon that inward eye
Which is the bliss of solitude;
And then my heart with pleasure fills,
And dances with the daffodils.”

18. The daffodils herein would mean each and every person present over here i.e. the members of the Bench, the officers of the Registry, the Senior Advocates and the members of the Bar.

19.Ladies and gentlemen, you will always remain as to be the golden daffodils in my life whose memories I would always replenish during my period of services, which I have rendered with you all.

20.Before I get too emotional and the salty waters flows from my teary eyes, I would like to express my heartfelt thanks to each and every person present over here for their unflinching help and untimely support in any sphere which was impeccable as a professional being a Judge of this Court.

21.With these words and with the parting note, I would like to demit my office.

Thank you all.

Registrar General- Now, I seek the permission of Hon’ble the Chief Justice to place the proceedings on record and close the proceedings.

Chief Justice- Please do.

Registrar General- Thank you, Lordship. The proceedings are closed. May I request you all to join in a tea, at the ground floor of the Chief Justice Block.

**Proceedings of Transfer of Hon'ble Mr. Justice Sanjaya Kumar Mishra,
Senior Judge, High Court of Uttarakhand**

Full Court Reference (farewell), held on 18.02.2023

**In
The Court of the Chief Justice**

At 10.30 A.M.

Order of address

- ❖ **Sri S.N. Babulkar, Advocate General, High Court of Uttarakhand.**
- ❖ **Sri Prabhakar Joshi, President of the High Court Bar Association,
Nainital, Uttarakhand.**
- ❖ **Hon'ble Sri Justice Vipin Sanghi, Chief Justice, High Court of
Uttarakhand.**
- ❖ **Hon'ble Sri Justice Sanjaya Kumar Mishra, Senior Judge, High Court of
Uttarakhand.**

I/C Registrar General-My Lord Hon'ble the Chief Justice, I seek your Lordship's permission to open the proceedings.

Chief Justice- Please do.

I/C Registrar General- The proceedings are open. Now, I request the Hon'ble Dignitaries to address the esteemed gathering, according to their respective terms.

➤ **Address by Sri S.N. Babulkar, Advocate General, State of Uttarakhand:**

My Lord, Hon'ble Mr. Justice Vipin Sanghi, Chief Justice of Uttarakhand High Court, Hon'ble Mr. Justice Sanjaya Kumar Mishra, Senior Judge. Their Esteemed Companion Judges, President, High Court Bar Association, Senior Advocates, Assistant Solicitor General, my colleagues on the government side, member of the Bar, members of Registry, ladies and gentlemen.

We have assembled here to bid farewell to Hon'ble Mr. Justice, Sanjaya Kumar Mishra, Senior Judge of Uttarakhand High Court on his elevation as Chief Justice of Jharkhand High Court.

His Lordship was born on 29 December, 1961 in Bolangir, Orissa, started schooling at Tikra Upper Primary School and did his higher secondary education from Prithviraj High School, Bolangir in the year 1977, His Lordship completed B.Com. (Hons) from Rajendra College, Bolangir in the year 1982, M.Com. from Delhi University in 1984 and did his L.L.B. from Law Faculty Delhi University in 1987.

His Lordship started practice in Bolangir District Courts under the guidance of his father Shri Markanda Mishra; His Lordship conducted several sessions cases, civil suits, civil appeal independently and acted as Honorary Law Lecturer of Bolangir Law College, His Lordship secured the 1st position in the Recruitment Examination for District Judges from Bar and on 16-02-1999 joined as Additional District and Sessions Judge, Jeypore, District-Korapur, Orissa; His Lordship worked as District and Sessions Judge in District Sundergarh and Dhenkanal, Special Judge (CBI), Bhubaneswar and thereafter, joined as

Registrar General of Orissa High Court His Lordship elevated as Judge of the Orissa High Court on 07.10.2009.

His Lordship was transferred to High Court of Uttarakhand and assume the charge on 11-10-2021; His Lordship was appointed as the Acting Chief Justice of High Court of Uttarakhand on 24-12-2021 and held the office of Acting Chief Justice till 28-06-2022.

His Lordship's magnetic personality has swayed everyone having found his Lordship besides, being a kind hearted person, a disciplined hard worker, a brilliant Judge and a positive thinker, academician and a great orator and among them all a wonderful Coordinator and Administrator.

Sir, undoubtedly your multifaceted personality has left indelible stamp on our heart, which we will cherish as a souvenir longtime.

Sir, we wish you and your family a very good health and prosperity in life. But since we belong to this land which is abode of God and since this is a part of our cherished culture that whenever we bid farewell to our beloved, we pray Almighty to make His path free from all trouble. I also accomplish this tradition, but in the words of Saint Tulsi,

"प्रबिसि नगर कीजै सब काजा। हृदय राखि कोसलपुर राजा ॥
गरल सुधा रिपु करहिं गिताई। गोपद सिन्धु अनल सितलाई ॥

Thanking you.

➤ **Address by Sri Prabhakar Joshi, President, High Court Bar Association, Nainital:**

Your Honour.

Hon'ble Mr. Vipin Sanghi, the Chief Justice of the High Court of Uttarakhand at Nainital, Senior Judge Mr. Justice Sanjaya Kumar Mishra ji and other esteemed Judges of our High Court. Learned Advocate General, Deputy Solicitor General, Learned Senior Advocates, Learned Registrar General and learned members of High Court Bar Association.

We have assembled here to bid farewell to our beloved Justice Hon'ble Sanjaya Kumar Mishra elevated as Chief Justice of Jharkhand High Court; Hon'ble Justice Sanjaya Kumar Mishra was born on 29.12.1961 in Bolangir. He started schooling at Tikra Upper Primary School; completed B.Com. (Hons.) from Rajendra College, Bolangir in 1982; completed M.Com. from Delhi University in 1984 and completed L.L.B. from Law Faculty, Delhi University in 1987. From March, 1988 joined profession and started practice in Bolangir District Courts under the guidance of his father, Shri Markanda Mishra. Conducted several sessions' cases, civil suits, and civil appeals independently. He secured the 1st position in the Recruitment Examination for District Judges from Bar and on 16.2.1999 joined as Additional District & Sessions Judge, Jeypore. Also worked as District & Sessions Judge, Sundergarh, Dhenkanal, Special Judge (CBI), Bhubaneswar and joined as Registrar General of Orissa High Court. Elevated as Judge of the Orissa High Court on 07.10.2009. His Lordship was transferred to High Court of Uttarakhand where he assumed the charge of the office of Judge of the High Court of Uttarakhand on 11.10.2021.

I can say without any hesitation that Lordship is one of the magnetic personalities, which the portfolio /resume of the lordship itself reflect. Lordship is a God fearing man and always helped to the poor class of society

In this regard, I must mention that Justice Sanjaya Kumar Mishra made a very valuable contribution in the form of his extremely balanced judgments even in many high profile cases.

Due to paucity of time I am not referring judgments rendered by lordship. However it can be summed up that thorough knowledge of law, farsightedness and fierce independence can be seen in his judgments and orders. Hon'ble Lordship through his loyalty to the ethics and commitment to the cause of upholding the nobility of justice administration system has secured a remarkable reputation not just for himself but this institution as well during this period. I found that Hon'ble Justice Sanjaya Kumar Mishra has a nobility of classic quality the Bar and Bench alike.

My Lord's contributions to this Hon'ble High Court would always be remembered and cherished by the members of the Bar. His lordship has a deep attachment to Uttarakhand and to the people of the hill state. His lordship always encouraged the young members of the bar. We the members of the bar have no words to express our gratitude for the services rendered by your lordship to the people of the state and he was always present as a big brother and guardian to all the advocates and was always ahead of doing anything for the members of the legal fraternity, when ever any advocate family was in any need.

Moments of farewell are always painful but at the same time such occasions are remembered as souvenirs of sentiments and relations and this happens to be a special occasion for the Bar.

I conclude wishing Justice Sanjaya Kumar Mishra good luck in all his future endeavors and also wish for his being taking Oath as Hon'ble Supreme Court Judge in near future.

May the choicest blessings of the Almighty be showered on him and all his family members for more happy and healthy life

Thank You and very best wishes.

➤ **Address by Hon'ble Sri Justice Vipin Sanghi, Chief Justice, High Court of Uttarakhand:**

- Hon'ble Mr. Justice Sanjaya Kumar Mishra, Gracious Lady Smt. Madhumita Mishra;
- My Esteemed Brothers on the Bench (Justice Manoj Kumar Tiwari, Justice Sharad Kumar Sharma, Justice Ravindra Maithani, Justice Alok Kumar Verma);
- The family members of my esteemed colleagues;
- Mr. S.N. Babulkar, learned Advocate General for the State of Uttarakhand;
- Mr. G.S. Sandhu, learned Government Advocate for the State;
- Mr. C.S. Rawat, learned Chief Standing Counsel for the State;
- Mr. Rakesh Thapliyal, learned Assistant Solicitor General of India;
- Mr. Prabhakar Joshi, President, High Court Bar Association;
- Mr. Vikas Bahuguna, Secretary, High Court Bar Association, and other Office Bearers of the High Court Bar Association;
- Learned Senior Advocates;

- Learned Members of the Bar,
- Members of the Registry of the High Court;
- The staff of the High Court;
- Members of the Print and Electronic Media;
- Ladies and gentlemen;

A very good morning and happy Maha Shivratri to all. We have assembled here today to bid farewell to Hon'ble Mr. Justice Sanjaya Kumar Mishra on his appointment as the Chief Justice of the Jharkhand High Court.

Brother Justice Sanjaya Kumar Mishra was born on 29th December, 1961 in Bolangir, State of Odisha. After obtaining primary education from Tikra Upper Primary School, Brother Justice Mishra passed Higher Secondary Certificate Examination from Prithviraj High School, Bolangir, in the year 1977. Thereafter, Justice Mishra completed B.Com. (Hons.) from Rajendra College, Bolangir, in the year 1982, and M.Com. from the Delhi University in the year 1984. After completing his LL.B. from Law Faculty, Delhi University, in 1987, where I do studied and Justice Mishra was a batch junior to me, Justice Mishra joined the legal profession and started practising in Bolangir District Courts under the guidance of his father Sri Markanda Mishra. Brother Justice Mishra conducted several Sessions Trials, Civil Suits, Civil Appeals, etc. independently. Due to his legal knowledge and skills, Brother Justice Mishra secured 1st position in the recruitment examination for District Judges from Bar and, on 16.02.1999, joined as the Additional District & Sessions Judge, Jeypore, State of Odisha. Thereafter, Justice Mishra served as the District & Sessions Judge, in districts Sundergarh, Dhenkanal, and also as Special Judge (CBI), Bhubaneswar.

Owing to his knowledge and experience, Justice Mishra was also tasked with responsibility to serve as the Registrar General, High Court of Orissa.

Considering his high sense of integrity and his erudite knowledge of law, on 7th October, 2009, Justice Sanjaya Kumar Mishra was elevated as a Judge to the High Court of Orissa. Consequent upon his transfer to this High Court, Brother Justice Mishra assumed charge as a Judge of this High Court on 11.10.2021. Justice Mishra also served as the Acting Chief Justice of this High Court from 24.12.2021 till 28.06.2022.

During his short stint as a Judge of this High Court for the last about 1 year and 4 months, Brother Justice Mishra has disposed of as many as 3341 Cases while sitting in the Division Benches and 6000 Cases while sitting in the Single Bench.

Brother Justice Mishra has authored many landmark judgments, which adorn the Law Journals and would guide the legal fraternity in the State for all times to come. Due to paucity of time, it would not be possible to refer to all the important judgments rendered by Justice Mishra. To name a few, I may take note of the following judgments:

(i) Mohd. Sahid @ Kallu vs. State of Uttarakhand, Criminal Jail Appeal No. 27 of 2013, decided on 15.03.2022. The case related to uxoricide and was based on the dying declaration. After discussing the law laid down by the Supreme Court, the Bench curled out the principles relating to the admissibility of dying declaration in evidence. The appeal stood dismissed.

(ii) Anita Sharma vs. State of Uttarakhand, Writ Petition (SB) No. 280 of 2020, decided on 01.04.2022. The petitioner had assailed the order by which she was compulsorily retired

purportedly in exercise of jurisdiction conferred under the UP Fundamental Rules, 1942 (as applicable to the State of Uttarakhand). Taking note of the provisions of the UP State Universities Act, 1973, and the First Statute of the University and the Regulations, the Bench did not find that the Management of any aided college, affiliated with the University, had jurisdiction to inflict the punishment of compulsory retirement. The Bench further took notice of the fact that the petitioner was never given an opportunity to defend herself and held that the same was in violation of the principles of natural justice. The writ petition was, accordingly, allowed and the impugned order was quashed.

(iii) Anuj Chauhan vs. State of Uttarakhand, Criminal Appeal No. 27 of 2017, decided on 02.09.2022. The Court opined that the statement made in the Inquest Report is not a substantive piece of evidence and such a statement will not discredit the veracity of an eye-witness. Taking note of the judgment passed by the Supreme Court, the Court held that failure to produce a report by the ballistic expert, who can testify to the fatal injuries being caused by a particular weapon, is not sufficient to impeach the credible evidence of the direct eye witnesses. The Court further held that a single or solitary truthful witness may be sufficient to prove the case of prosecution. The appeal stood dismissed.

(iv) Gulnaaz Khan vs. State of Uttarakhand, Writ Petition (MS) No. 26 of 2019, decided on 16.12.2022. The petitioner, an acid attack victim, had prayed for compensation of Rs. 50,00,000/- for the losses she suffered due to acid attack on her, amongst other reliefs. A preliminary objection was raised by the State Counsel as to the maintainability of the writ petition. The Court, taking note of the judgment passed by the Supreme Court, held that no statute book provides for such a bar in entertaining the writ petition by the High Court and the powers of the High Court, for issuing writs under Article 226 of the Constitution, are very wide. The Court took into consideration that there was a breach of fundamental right of

the victim petitioner, who was acid attack survivor and that the right to life with dignity had been breached in this case. The Court came to the conclusion that a sum of Rs. 35,00,000/- would be just, proper and adequate compensation to the petitioner in addition to the amount already paid to her and issued various directions to the State Government. The writ petition stood allowed.

All the above judgments are "must read" judgments for every student of law. I may also mention that these are just a few of the many landmark judgments rendered by His Lordship. The judgments pronounced by him would continue to guide us through the difficult and complex legal issues.

Moreover, Justice Mishra has chaired many Committees of the High Court, where both, the Committee and the High Court, have reaped dividends from his vision and clarity of thoughts.

Brother Justice Mishra is an inspiring figure amongst us. A very humble person, a God loving man, his simplicity and his sensitivity is heart-warming. His hard work, his tenacity, his courage, his dedication to our values and principles of being an objective, impartial, independent judge, has brought him laurels throughout his career. I joined this High Court as the Chief Justice at the end of June, 2022 and I was very fortunate to have the guidance and support of Brother Justice Mishra, who very humbly introduced me to the members of the Bar and the staff of this High Court and made me understand the work culture and the traditions of this Court. Justice Mishra's name was recommended by the Collegium of the Supreme Court for appointment as the Chief Justice of the Jharkhand High Court in December, 2022. It has taken about two months for it to fructify. Though this delay has denied Justice Mishra his due, we have derived the benefit of his presence amongst us

during this period. Now, Justice Mishra will be joining a new High Court as its Chief Justice. We all will surely miss his company. I had hoped to have his wise counsel in the ensuing months, but it is not to be. Uttarakhand's loss is Jharkhand's gain. I am sure, under his stewardship, the Jharkhand High Court will flourish and will progress by leaps and bounds. I bid farewell to Justice Mishra on my behalf as well as on behalf of my Brothers, with a sense of loss and concern, as his absence will increase the burden on the five of us, who remain in this Court, which has a sanctioned strength of 11 Judges. With less than 50% occupancy, it would be a big challenge for us to deal with the heavy pendency and inflow of work. I, however, assure the Members of the Bar that we will try to do our best within our limited resources.

I, on my behalf, and on behalf of all my Brothers, wish Brother Justice Sanjaya Kumar Mishra and his family a happy and joyous, peaceful and prosperous, healthy and wealthy life, in decades to come

➤ **Address by Hon'ble Sri Justice Sanjaya Kumar Mishra, Senior Judge, High Court of Uttarakhand:**

Hon'ble Mr. Justice Vipin Sanghi, my elder brother and Chief Justice of the Uttarakhand High Court, Nainital, Hon'ble Mr. Justice Manoj Kumar Tiwari, in absentia, Hon'ble Mr. Justice Sharad Kumar Sharma, Hon'ble Mr. Justice Ravindra Maithani and Bhabhi ji and Hon'ble Mr. Justice Alok Kumar Verma, Mrs. Madhumita Mishra (my wife), Mr. Vivek Bharti Sharma, in absentia and Registrars of the High Court, Mr. Prabhakar Joshi, the President of the High Court Bar Association, Nainital, Ms. Charanjeet Kaur, Vice President of the High Court Bar Association, Nainital, Mr. Vikas Bahuguna, Secretary General of the same Bar, Mr. S. N. Babulkar, the Advocate General for the State of Uttarakhand, Mr. G. S. Sandhu, Government Advocate, Mr. C. S. Rawat, Chief Standing

Counsel, Mr. J. S. Virk, learned Deputy Advocate General, who was attached to my Court for a long time and assisted me in disposing a number of cases, Mr. Rakesh Thapliyal, learned Deputy Solicitor General for the Union of India and I also see that the District Magistrate - cum - Collector is present here and S. S. P., Nainital is also present here, Dr. L. M. S. Rawat and his team of perennial workers. Actually, it gives me a lot of pain to leave Nainital. When I came to Nainital, it was like 1987, when I failed in all my attempts to achieve my dreams and have to leave Delhi and go back to Bolangir to start a professional career as a lawyer. At that time, my self-esteem and self-confidence were very low, but the legal profession gave back my self-confidence and self- esteem and gradually, I gained much knowledge under the guidance of my father Shri Markanda Mishra. While I was coming to Nainital, I was being separated from my children. My father and mother were almost bed-ridden and at the place of 2000 Kms away from here and it takes two and a half days to reach from Nainital to Bolangir. So, with a very low-esteem and very low self-confidence, I came to Nainital but Nainital as it is 'Devbhoomi' the God blessed me and somehow, I may say Hindi expression "हंसते खेलते एक साल चार महीने चले गये और दिल खोल के जजमेंट दिया, relief दिया. गरीबों की ज्यादा सुनी बड़े-बड़े लोगों के केस में ज्यादा करा ही नहीं" and that in this one year and four months, I again regained my confidence and hope that I can discharge the high responsibility that has been given to me by the Hon'ble Supreme Court and the President of India on the recommendation of the Hon'ble Supreme Court and hope and trust that kind of disposition that I show in my judgments and also in deciding cases and hearing cases. Sometimes I reprimand the young advocates also "कभी-कभी सीनियर्स को भी डाट देता था और मुझे बताया गया है कि नैनीताल हाई कोर्ट बार एसोसिएशन मेरी गाली को भी पसंद करता था पता नहीं यह सही है या गलत है. लेकिन

सुनने में अच्छा लगता है" , In any case, "हंसते खेलते एक साल तीन-चार महीने चले गये , बहुत ज्यादा वक्त भी नहीं है, बस दस महीने की सर्विस बाकी है और मैं आशा करता हूँ कि मैं जाकर झारखण्ड में कुछ अच्छा काम करूँ ताकि नैनीताल के जितने भी एडवोकेट्स है और जितने भी लिटिगेण्ट्स है , जो मेरी कोर्ट में appear नहीं हुए हैं और जिनके केस मैं decide किया है उनको लगे कि नहीं हमारा जज जो यहां से तालीम लेकर गए है , अच्छा काम करते हैं" About Justice Sanghi. I must say that he is truly a real elder brother. The kind of affection, he has shown me from his assuming the charge of the Chief Justice, can only be realized by me because as many people believe that I was also expecting that I will be made the Chief Justice here. In any case, the Hon'ble Supreme Court in his Collegium, in his own wisdom, did not think it just and proper, that is a different thing, but in such a situation. generally, it is seen that there will be a conflict between the Chief Justice and J 1, but "ईश्वर की अपार कृपा से हम दोनों भाई इससे अलग रहे और उनका जो स्नेह था मेरे प्रति उसके लिए मैं बहुत बहुत आभारी हूँ Chief Justice I can never forget you. Thank You Sir. Justice Manoj Kumar Tiwari मैं दोनों एक ही बिल्डिंग में ऊपर नीचे बैठते हैं. आज तो वो नहीं है वो व्यस्त है उनकी दो बेटों की शादी हुई है , कल एक था , मैं जा नहीं पाया। उनके साथ मेरे बहुत अच्छे संबंध रहे और बहुत अच्छे कनेक्ट थे Justice Sharad Kumar Sharma के साथ भी बहुत अच्छा समय बिताया। बहुत सारे उनसे सिविल लॉ के बारे में उनसे ज्ञान भी आया यू.पी. जेड.ए.एण्ड एल. आर ऐक्ट के बारे में बहुत discussion भी हुई, बहुत अच्छा लगा उनका कम्पनी, Ravindra भाई Justice Maithani साहब, इनको मैं 13 14 साल से जानता हूँ जब

से मैं रजिस्ट्रार जनरल था उड़ीसा हाई कोर्ट में Justice Maithani was the Registrar General of the Uttarakhand High Court, we met in the premises of the Supreme Court during the Chief Justices and Chief Ministers' conference, दो दिन का होता है Immediately we stock एक बॉन्डिंग हो गया था, एक भाई की तरह दोनों बात करते थे उस दिन 13 14 साल से that is 2009 में हुआ था और हमारे प्राइवेट में जब बात करते हैं वो तो बोलते हैं मैं तो जज मानता नहीं आपको , मैं तो भाई मानता हूँ and उनके साथ भी कई बार बैठा मैं डिविजन बेन्च में, उनके नॉलेज की तारीफ करनी होगी बहुत ही erudite judge हैं. hard working judge है Lastly, आलोक भाई Mr. Justice Alok Kumar Verma, उनके साथ पिछले छः महीने से ज्यादा हो गया दस महीने हो गए, एक साथ बैठे हैं डिविजन बैच में Hon'ble Chief Justice दो दिन दिए थे डिविजन बेन्च करने के लिए और इनकी knowledge of law especially in criminal cases जो हम कर रहे थे और उनकी preparation जो होता था पहले दिन से detailed में I was. really impressed by his preparation, I learnt many things from him because criminal trials in different states are being conducted in a different manner, the way depositions are recorded, the way exhibits are marked in evidence, is different from the procedure that is adopted in Orissa. So it took me some time and I learnt a lot from Justice Alok Kumar Verma how to examine the records and how to go on appreciating the evidence especially when the evidence was recorded by me in the Court. So all, my Chief Justice and all my brother Judges, they extended a helping hand to me and stood behind me besides being always and I can never forget their support, for a man, who has come from plains in a very difficult hilly terrain. I also like to extend my thanks to Mr. Vivek Bharti Sharma, Registrar General, Mr. Anuj Kumar Sanghal, Registrar Vigilance, Smt. Neena Agarwal,

Registrar Inspection, Mr. Arvind Kumar, Registrar Judicial, Mr. Ambika Pant, Registrar (Computer), Mr. Vivek Shrivastav, Registrar Protocol, Mr. Madan Ram, Registrar and the Secretary of the Juvenile Justice Committee of the High Court, and Mr. Anup Singh, Secretary, High Court Legal Services Committee. I also thank Mr. S. N. Babulkar, learned Advocate General for the State of Uttarakhand for his erudite arguments advanced in my Court in very sensitive matters, and assisted me in real time, in terms of real knowledge for giving an appropriate and proper judgment. Mr. Sandhu very rarely appeared but I find him to be a very nice person and I also express my thanks to him. Mr. C. S. Rawat, Chief Standing Counsel was always appearing before me when I was the Acting Chief Justice, and in some important cases, perhaps the State Government was asking him to argue, sometimes, he used to appear before me. He is also very well prepared when he argued the case and assisted the Court very effectively; I thank him for his assistance. Among the State Law Officers, I was effectively assisted by Mr. J. S. Virk, learned Deputy Advocate General, who was appearing for the last ten months in my Court as I was assigned with the criminal writ petitions and criminal appeals, his preparation in criminal related cases was good, he was always very erudite and eloquent in putting forth his points and address the Bar. I would fail in my duty if I forget the senior advocates like Mr. D. S. Patni and Mr. Arvind Vashistha, Ms. Manisha Bhandari and so many other counsels, who appeared before me in many cases and I would very effectively, and at sometimes, I was taking a view, after argument I changed my view and dictated the order. I also like to mention that Mr. Piyush Garg, young counsel very eloquent and very effective advocate, who has changed my opinion at least four to five times, I was taking one opinion and he argued the case and then I changed my opinion and give the judgment and I believe that in fact, changing of the opinion was good, as far as interest of justice is concerned. There are several junior counsels, who had been doing very well and it is not possible for me to name all of them, but my advice to them is note three points:

1. सपना देखिए. Please dream.
2. Try to set a goal for yourself, then;
3. Pray to God जो भी ईश्वर को आप विश्वास करते हैं , जो भी नाम है , प्रे कीजिए और प्रार्थना कीजिए, देखिए आप सक्सेस आपके साथ जरूर होगी।

In the end, I would like to thank my personal staff, who has rendered tremendous assistance to me in discharging my duty; my Private Secretaries and Personal Assistants Mr. Satendra Kumar Sharma, Private Secretary, Ms. Parul Verma, Private Secretary, Mr. Akash, Personal Assistant, Bench Secretary, Ms. Preeti Bajpayee, my orderlies/Peons Mr. Narendra Kumar, Mr. Pradeep Kumar Singh, Mr. Nand Lal Sahu, My two PSOs, who were always there with me to protect my life and dreams, Mr. Shivendra Pratap Singh and Mr. Satendra Kumar, my drivers - Mr. Laxman Nath Goswami, and the driver of the Executive Chairman of SLSA Mr. Harish Goswami, my home staff - Mr. Kailash Pathak, Mr. Dwarika Prasad Sharma, Mr. Mohan Bhandari and Mr. Rampal Singh; they also helped me a lot in discharging my duty. So, I would take seat on the dice in right time, they ensured that. The SLSA staff Mr. Bachan Singh was also very nice, and I thank all of them for their very kind and tolerant assistance and services they have rendered to me. Lastly, I thank all the members of the bar, जिन्होंने मुझे बहुत प्यार दिया and all the litigants, who came in my Court to believe that they will get justice. At the end. I pray that my brothers including my elder brother, the Chief Justice of this Court will be definitely able to fulfill the lacuna that is created on my elevation to Jharkhand High Court. To this, I take leave of all.

Thank you. May god bless you.

I/C Registrar General- Now, I seek the permission of Hon'ble the Chief Justice to place the proceedings on record and close the proceedings.

Chief Justice- Please do.

I/C Registrar General Thank you, Lordship. The proceedings are closed. May I request you all to join in a tea, at the ground floor of the Chief Justice Block.

CIRCULATION OF JUDGEMENT OF HON'BLE SUPREME COURT OF INDIA TO ALL HIGH COURTS AND TRIAL COURTS OF INDIA

1. Vide letter dated 16.03.2023, Assistant Registrar, Hon'ble Supreme Court of India requested to all the High Courts of India to circulate the Judgment dated 15.03.2023 in the High Court through their Registrars about the direction passed by Hon'ble Supreme Court in Special Leave to Appeal (Criminal) No. 555/2023 titled Ravish Kumar versus The State of Bihar.

[*\(Click to open\)*](#)

RECENT JUDGMENTS OF THE HON'BLE COURTS

(01.01.2023 TO 31.03.2023)

Division Bench Judgments

1. *In Writ Petition (M/S) No. 1273/2022, M/S Advitya Techno Solution Pvt. Ltd. through its Director vs. State of Uttarakhand & others .(Click to open)*

Single Bench Judgments

1. *Writ Petition (S/S) No. 346 of 2022 along with connected matters, Mohan Lal Bhatt vs. State of Uttarakhand & others .(Click to open)*
2. *Writ Petition (S/S) No. 2123 of 2022, Pushkar Singh Rawat vs. Uttarakhand Public Service Commission. (Click to open)*
3. *In 1st Bail Application No. 836 of 2021, Sharafat vs. State of Uttarakhand.(Click to open)*
4. *C-482 Application No. 248 of 2013 along with connected matters, M/S Hindukush Bio Products Pvt. Ltd. vs. State of Uttarakhand & another.(Click to open)*
5. *Criminal Misc. Application No. 275 of 2018, Sunil Nauriyal vs. State of*

Uttarakhand & another .(Click to open)

6. *C-482 Application No. 393 of 2013, Pulkit Arya vs. State of Uttarakhand. .(Click to open)*
7. *Criminal Misc. Application No. 558 of 2023 along with connected matter, M/S Sharma Associates vs. State of Uttarakhand and another.(Click to open)*
8. *Criminal Misc. Application No. 1644 of 2021, Smt. Sana alias @ Deeksha Tamta & others vs. State of Uttarakhand.(Click to open)*
9. *Criminal Misc. Application No. 1929 of 2018, Janak Sigh vs. State of Uttarakhand & another .(Click to open)*
10. *Criminal Appeal No. 525 of 2022 with connected matters Ishwar Dayal vs. State of Uttarakhand.(Click to open)*
11. *Writ Petition (M/S) No. 225 of 2023, M/S Universal Construction Machinery & Equipment Ltd. vs. National Highway Authority of India & Another.(Click to open)*
