

THE HIGH COURT OF TRIPURA
AGARTALA

W.P. (C) (Suo Motu) 220 of 2014

Court on own Motion

- Vs. -

1. The State of Tripura by the Secretary,
Home Department,
Government of Tripura.
2. Director General of Police,
Government of Tripura, Agartala.
3. Superintendent of Police,
West Tripura District,
Government of Tripura,
Agartala.
4. Officer-in-Charge,
New Capital Complex Police Station,
Agartala.

..... *Respondents*

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE S.C. DAS

For the respondents : Mr. B.C. Das, Advocate General.
Mr. T.D. Majumder, GA.
Mr. P.K. Biswas, Sr. Advocate.
Mr. D. Chakraborty, Sr. Advocate.
Mr. P. Majumder, Advocate.
Mr. H. Laskar, Advocate.

Date of hearing : 02.06.2015.

Delivery of Judgment
& order : 26.08.2015.

Whether fit for
reporting : Yes.

JUDGMENT & ORDER

(Deepak Gupta, CJ.)

This is a very unfortunate case where a Judicial Officer was arrested by the police in total violation of the law laid down by the Apex Court in ***Delhi Judicial Service Association, Tis Hazari Court, Delhi Vrs. State of Gujarat & Ors., AIR 1991 SC 2176.***

2. The brief facts leading to the initiation of this writ petition are that on Sunday the 8th June, 2014, a news item appeared in one of the local newspaper namely, 'Dainik Sambad' wherein it was stated that Sri Motom Debbarma, a Judicial Officer belonging to the Tripura Judicial Service had been arrested on the night intervening 6th / 7th June, 2014. This news item was brought to the notice of one of us (Chief Justice) and the Registrar General of this Court was immediately directed to call for the report of the Superintendent of Police in this regard. The Chief Judicial Magistrate, West Tripura, Agartala was also asked to furnish his report in the matter.

3. The Superintendent of Police sent a communication on 09.06.2014 to the Registrar General. Relevant portion of the communication reads as follows:-

"...The fact in brief is that on 6.6.2014 night at around 2200 hours, the Police officers and staff of New Capital Complex Police Station were engaged in maintaining the Law & order in

and around GBP hospital and also to organize medical aid to the injured persons evacuated to G.B. hospital following clash between BSF and local people of South Ramnagar, West Agartala Police Station. As injured from both BSF and public were admitted in the hospital, a large number of people and BSF personnel had assembled there, tension was prevailing in and around GB hospital.

At that time, one four wheeler having its Registration number TR-01-Z-0597 was seen being driven in a very rash and dangerous manner. The rash and dangerous driving by driver of the vehicle TR01-Z-0597 caused serious annoyance to the people. The Police officers deployed signaled the driver to stop the vehicle, however the driver did not stop the vehicle.”

The Superintendent of Police in his report stated that on 06.06.2014 at about 10 p.m., there was a lot of rush in the GBP hospital because medical aid was being provided to some injured persons following a clash between some official of the BSF and the local population.

4. According to this report, one vehicle bearing Registration No.TR-01-Z-0597 entered the hospital premises area and the same has been driven in a rash and negligent manner. The people standing in the hospital got very annoyed. The police officials signaled to the driver to stop the vehicle, but the driver did not stop the vehicle. Some of the police officers along with the local people managed to detain the vehicle. The person driving the vehicle came out of the car and started shouting an abusive language. The police, therefore, detained the driver to prevent deterioration of Law & Order situation. The driver of the vehicle was smelling of alcohol and was arrested under Section 202 of the

Motor Vehicles Act and was sent to the Casualty Block of the GBP hospital for medical examination. The Medical Officer opined that the person appeared to be under influence of alcohol. According to the Superintendent of Police, the said driver of the vehicle was taken to the New Capital Complex Police Station and kept in police custody. After he was brought to the Police Station he claimed that he was a Judicial Magistrate.

5. In the report, it is stated as follows:-

"...When he was brought at NCC PS, he claimed himself to be a judicial magistrate, but that version of Sri Motom Debbarma did not appear to be believable as at that time Sri Motom Debbarma was in completely intoxicated state and his overt gestures and postures also did not support such claim."

6. According to the Superintendent of Police, subsequently it was learnt that Sri Motom Debbarma was a Judicial Magistrate posted at Bishalgarh.

7. The Chief Judicial Magistrate also submitted his report on 09.06.2014. According to the report of the learned Chief Judicial Magistrate, the Officer-in-Charge of the New Capital Complex Police Station had reported the matter to him. In his report, the Chief Judicial Magistrate stated that he had been informed by the Officer-in-Charge of the New Capital Complex Police Station that the driver of the vehicle had driven the car into a huge crowd in a reckless manner and therefore, the people had

got very angry. The Chief Judicial Magistrate in his report stated that the Officer-in-Charge of the New Capital Complex Police Station reported to him as follows:-

"...At the relevant point of time, the person on steering of the vehicle who was under influence of liquor and was unable to take care of himself, proclaimed himself to be a Judicial Magistrate posted at Bishalgarh."

Further according to the Chief Judicial Magistrate, he was informed by the Officer-in-Charge that Sri Motom Debbarma started abusing the police personnel and the crowd gathered there. The crowd demanded that the driver be arrested and due to passion of the large number of people, the police was compelled to arrest Sri Debbarma and took him to the hospital for medical examination where he was found to be intoxicated. The Judicial Officer was detained and was released from the Police Station at 9.15 a.m. on 08.06.2014. On the same day at 2.30 p.m., the Officer-in-Charge of the New Capital Complex Police Station submitted the prosecution report against the Judicial Officer under Sections 179/184/185 of the Motor Vehicles Act.

8. The relevant portion of the report filed with the police reads as follows:-

"...In the mean time one vehicle B/NO-TR-01-Z-0597 was driving recklessly and dangerously police party passed signal to stop the vehicle. But the driver of the vehicle was adamant. The people was agitated and angry upon the driver of the said vehicle. They gharrowed the vehicle. Self with assistance of police party rescued it's driver namely Motom Debbarma (42) S/O Lt Ramesh Debbarma of

Laxmirampara, Ps – Bishramganj, who was found drunk and was very excited in his behavior, using slang languages towards police and public. In this circumstances to save Sri Motom Debbarma from the anger of local people took in safe custody. Said Motom Debbarma introduced himself as a Judicial Magistrate of Ld. SDJM Bishalghar Court. Police paid proper respect to him but he was more violent and was using slang languages towards police. It was found the smell of alcohol from his mouth. Finding no other alternative said Motom Debbarma was arrested u/s-202 MV Act. after observing all legal formalities and placed him before EMO. AGMC & GBP hospital for his medical examination. The attending doctor D.K. Debbarma, MO Casulity Block AGMC & GBP Hospital expressed his opinion "the accused has feature of alcohol consumption and presently can not take care of himself". Subsequently he has kept in Ps custody after observing all formalities. Later on 07-06-2014 morning at 09:15 the a/p has been bailed out after observing all legal formalities."

9. Along with the papers submitted to the Court, there are certain G.D. Entry reports and also the application praying for medical examination of the accused. In the said prayer, the name of the Judicial Officer Sri Motom Debbarma has been given along with his father's name etc., but it is not mentioned that he was a Judicial Officer. The arrest Memo shows the time of arrest to be 0030 hours and in this also, it is not mentioned that the arrested person was a Judicial Officer.

10. The Registrar General was directed to issue show cause notice to the Judicial Officer in this regard because the allegations made against him were serious. The relevant portion of his reply reads as follows:-

"(3) That, the real fact is that on 06-06-2014 at about 10.30 pm I was returning back to my wife's quarter at AGMC & GBP Hospital, Agartala after attending an occasion in my uncle's house at Colonel Chowmani, Agartala (on account of passing of Matric and Engineering examinations of my uncle's grandsons) and when I reached near my wife's quarter, after crossing the Emergency Block Square of AGMC & GBP Hospital at about 11.00 pm to 11.30 pm, at that time, I was firstly detained by the police personnel and was taken to New Capital Complex Police Station, then to Emergency Block of AGMC & GBP Hospital and latter on I was arrested and kept behind the lock-up at New Capital Complex Police Station whole night and was released on personal bond next day at about 9.00 am to 9.30 am. Later on, I came to learn that I was arrested on the ground that I was driving vehicle in a reckless and dangerous manner.

(4) That, the Medical Report submitted by the Medical Officer, Casualty Block, AGMC & GBP Hospital is totally false and without justification. Because, the said medical officer has neither examined me clinically nor subjected me to any medical tested in what so ever manner about the percentage of alcohol present/consumed in my body and submitted the said medical report before the police. Thereby, I have been grossly prejudiced due to the such act or omission of the said medical officer. This very act or omission on the part of the said medical officer is very threatening to the live/lives of the arrested person and to the society at large.

(7) That, I would confessed here now that on the night of 06/06/2014 while on the occasion of passing of the matric and engineering examination of my uncle's grandsons in their house I had consumed a small quantity of our home/country made wine as a custom in sharing the pleasure of my cousin brothers and uncle. But, I was in full sense and conscience and is a normal person and was returning back to my wife's quarter in a normal way. Therefore, I would swear again here in the name of God that on that night I was neither intoxicated nor drunk. I am falsely implicated in the case without any justification."

11. The stand of the Judicial Officer was that he was innocent and he was just going to his wife's residence and the police had illegally arrested him. According to the Judicial Officer,

he had informed the police even at the time of his arrest that he was a Judicial Officer, but they paid no heed to him.

12. Therefore, on 11.06.2014, this Court had suo motu registered the writ petition. We had made it clear that we are not commenting one way or the other on the alleged misbehaviour of the Judicial Officer and if he is at fault action would be taken against him.

13. We are mainly concerned with the independence of the Judiciary. That is much more important than any individual dispute or one particular Judicial Officer. At this stage, we may reiterate the law laid down by the Apex Court in ***Delhi Judicial Service Association (supra)*** case. The relevant portion of the Judgment reads as follows:-

"56. The facts of the instant case demonstrate that a Presiding Officer of a Court may be arrested and humiliated on flimsy and manufactured charges which could affect the administration of justice. In order to avoid any such situation in future, we consider it necessary to lay down guidelines which should be followed in the case of arrest and detention of a Judicial Officer. No person whatever his rank, or designation may be, is above law and he must face the penal consequences of infraction of criminal law. A Magistrate, Judge or any other Judicial Officer is liable to criminal prosecution for an offence like any other citizen but in view of the paramount necessity of preserving the independence of judiciary and at the same time ensuring that infractions of law are properly investigated, we think that the following guidelines should be followed:

A) If a Judicial Officer is to be arrested for some offence, it should be done under intimation to the District Judge or the High Court as the case may be.

B) If facts and circumstances necessitate the immediate arrest of a Judicial Officer of the subordinate judiciary, a technical or formal arrest may be effected.

C) The fact of such arrest should be immediately communicated to the District and Sessions Judge of the concerned District and the Chief Justice of the High Court.

D) The Judicial Officer so arrested shall not be taken to a police station, without the prior order or directions of the District & Sessions Judge of the concerned District, if available.

E) Immediate facilities shall be provided to the Judicial Officer for communication with his family members, legal advisors and Judicial Officers, including the District & Sessions Judge.

F) No statement of a Judicial Officer who is under arrest be recorded nor any panchnama be drawn up nor any medical tests be conducted except in the presence of the Legal Advisor of the Judicial Officer concerned or another Judicial Officer of equal or higher rank, if available.

G) There should be no handcuffing of a Judicial Officer. If, however, violent resistance to arrest is offered or there is imminent need to effect physical arrest in order to avert danger to life and limb, the person resisting arrest may be overpowered and handcuffed. In such case, immediate report shall be made to the District & Sessions Judge concerned and also to the Chief Justice of the High Court. But the burden would be on the Police to establish the necessity for effecting physical arrest and handcuffing the Judicial Officer and if it be established that the physical arrest and hand-cuffing of the Judicial Officer was unjustified, the Police Officers causing or responsible for such arrest and handcuffing would be guilty of misconduct and would also be personally liable for compensation and/or damages as may be summarily determined by the High Court.

57. The above guidelines are not exhaustive but these are minimum safeguards which must be observed in case of arrest of a Judicial Officer. These guidelines should be implemented by the State Government as well as by the High Courts. We, accordingly, direct that a copy of the guidelines shall be forwarded to the Chief Secretaries of all the State Governments and to all the High Courts with a direction that the same may be brought to the notice of the concerned officers for compliance."

14. The aforesaid directions were forwarded to the Chief Secretaries of all the State Governments and to all the High Courts with the directions that the same should be brought to the notice of the concerned Officers for compliance. It is manifest that a Judicial Officer cannot be arrested without intimating the District Judge or the High Court even if where a Judicial Officer is to be arrested. It should be only a technical arrest and the matter should be communicated to the District & Sessions Judge of the concerned District as well as the Chief Justice of the High Court forthwith. These directions also clearly lay down that even if the Judicial Officer has to be arrested he shall not be taken to the Police Station without prior order or direction of the concerned District & Sessions Judge of the concerned District. The Judicial Officer must be given an opportunity to communicate with his family members, legal advisors and Judicial Officers including the District & Sessions Judge. No statement of the Judicial Officer is to be recorded nor any medical test is to be conducted except in the presence of the legal advisor of the Judicial Officer concerned or another Judicial Officer of equal or higher rank.

15. We had prima facie found that all these directions have been violated by the police and therefore, issued notice on the writ petition. The Director General of Police was directed to inform this Court as to whether the judgment in ***Delhi Judicial Service***

Association (supra) as well as in the case of **D.K. Basu Vrs. State of West Bengal, (1997) 1 SCC 416** are being brought to the notice of the police officials or not.

16. The then Director General of Police filed an affidavit in which it was stated that the judgment in **D.K. Basu's** case was circulated on 18.08.1997. Thereafter, further circulation with regard to **D.K. Basu's** case was reiterated on 03.06.2004, May 05, 2011. However, with regard to the judgment in **Delhi Judicial Service Association (supra)** case, the affidavit of the Director General of Police was that same has been circulated on 16.09.1991. There is not a word in the affidavit of the Director General of Police that these guidelines were ever re-circulated after that date.

17. The Director General of Police in his affidavit also stated that he had ordered the DIG, Southern range to conduct an inquiry. We had stayed those inquiry proceedings in view of the fact that the matter was being dealt by this Court on the judicial side. We had then summoned all the concerned officials including the Superintendent of Police. The Superintendent of Police stated that he was on leave on that date and therefore, proceedings were drawn up against the Officer-in-Charge of the New Capital Police complex Sri Subrata Chakraborty. The stand of Sri Subrata Chakraborty was that Sri Motom Debbarma did not mention that

he was a Judicial Officer till 2.15 a.m. when he had already been taken to the lock up. According to Sri Chakraborty, this information was given by Sri Motom Debbarma, when Sri Chakraborty was not present in the Police Station. He stated that this information was given by Sri Motom Debbarma to Sri Jatish Chandra Das, ASI. We, therefore, directed Sri Jatish Chandra Das to file his affidavit. He also in his affidavit stated that Sri Motom Debbarma had not informed that he was a Judicial Officer. We had prima facie found that there were apparent contradictions in the stand taken by Sri Subrata Chakraborty and Sri Jatish Chandra Das when compared to the report of Chief Judicial Magistrate. We had also found that according to the police, Sri Motom Debbarma had dashed his car with some other standing vehicle, but number of the said vehicle was not given. We, thereafter, directed Sri Motom Debbarma also to file his affidavit. Since Sri Motom Debbarma stated that his wife was also present we permitted her to file her affidavit also.

18. On 10.09.2014, this Court had passed the following order after perusing of all the affidavits:-

"We have gone through the affidavits of the judicial officer as well as the affidavit of the Officer-in-Charge of the New Capital Complex Police Station. In view of the totally conflicting averments made in the affidavit we have no other option but to record the evidence of the parties in Court.

The matter is very serious in nature where a police officer has arrested a judicial officer. Initially we were told that the police officials were not aware that the person arrested was a judicial officer and that he, the judicial officer, had not informed at the time when he was arrested

that he was a judicial officer. The judicial officer in his affidavit has not only stated that he informed the police officials about his rank and position but has also stated that his wife was present and had informed the police about these facts. He has also stated that his vehicle carried a plate giving his designation. Now the counter-affidavit has been filed by the Officer-in-Charge of the Police Station and he has in the counter-affidavit stated that every allegation levelled against him by the Judicial Magistrate is false. Therefore, either the Magistrate is telling a lie or the police officer is telling a lie.

We cannot let this matter lie because if the Magistrate is telling untruth to this Court then he does not deserve to be in service but if it is the police officer who is telling a lie on affidavit then he does not deserve to be in service. Therefore, list the matter for recording of the statement of Mr. Mutum Debbarma, his wife and any other witness that Mr. Debbarma may want to produce as well as the statement of Mr. Subrata Chakraborty and Mr. Jyotish Chandra Das, A.S.I. and any other officials that the respondents may like to produce on the next date.

List the matter on 7th November, 2014 for this purpose.”

Thereafter, the statements of the witnesses were recorded.

19. According to Sri Motom Debbarma, on 06.06.2014, he had dinner at his uncle's house and thereafter, he and his wife Smt. Sarita Debbarma went in their car to the official residence provided to his wife within the area of GBP hospital and Agartala Medical College. They reached the hospital at 11 – 11.30 p.m. According to Sri Motom Debbarma, when he had just crossed the Emergency Square Block, his car was stopped by the police. He was pulled out of the car and was arrested. He was not informed why he was arrested. The witness clearly states that he informed the police official, who arrested him that he was a Judicial Officer

holding the Post of Civil Judge, Junior Division-cum-Judicial Magistrate, 1st class, Bishalgarh, West Tripura. According to this witness, his wife also protested but to no avail. The witness states thereafter he was taken to the New Capital Complex Police Station from the hospital on foot. 15 to 20 minutes later his wife and two of her colleagues Sri Sanjib Debbarma and Sri Aniket Debbarma also reached the Police Station, but despite his disclosing his identity he was arrested. According to Sri Motom Debbarma, he was again taken AGMC & GBP hospital and produced before the Medical Officer. According to him, the Medical Officer only conducted a cursory examination and the arrest memo was prepared. He states that the time was 11.30 p.m. to 12.00 midnight. In the arrest memo, the name of wife of the Judicial Officer was also mentioned. The witness states that the Officer-in-Charge of the Police Station Sri Subrata Chakraborty not only arrested him, but spoke to him in a derogatory manner, manhandled him and pushed him inside the lock up. Next morning he was released on bail. In reply to a Court question he stated that just above the number plate of the vehicle there was another plate fixed on his vehicle in which his designation as Civil Judge-cum-Judicial Magistrate, 1st Class was clearly mentioned in bold letters.

20. The witness was cross-examined and was confronted with his affidavit filed earlier in which it was not mentioned that his wife was present at the time when he was initially detained. On

perusal of the affidavit, it is apparent that in the first affidavit filed by Sri Motom Debbarma it is not mentioned that his wife was accompanying him. Even in the reply to the show cause notice issued to him he had not mentioned that his wife had accompanied him. In the affidavit all that is stated is that his wife was present at the Police Station. When asked why he did not inform his cousin Sri Sukhendu Debbarma, who bailed him out next morning, the witness replied that he could not contact his cousin because his mobile phone etc. had been seized by the police. He was confronted with the affidavit wherein this fact is not mentioned. The witness was also asked why below his signature in the arrest memo he had not given his designation. The answer of Sri Motom Debbarma was that since he was only required to sign he had not mentioned his designation. He was asked if he could recollect what conversation took place between him and the police officials, who detained him at the GBP hospital. The answer of Sri Motom Debbarma was that he could not recollect all the conversation. He only remembered that he was told that he had committed an offence and was to be arrested. Suggestion was put to the witness that he could not remember anything because he was drunk. He denied the said suggestion. He also denied the suggestion that he disclosed his identity of being a Judicial Magistrate for the first time at 2.15 a.m.

21. This Court put certain questions to Sri Motom Debbarma and the same are quoted hereunder:-

"Court question:- Did your vehicle have any sign to say that it is a vehicle belonging to a judicial officer?"

Answer:- The vehicle which I was driving and which was apprehended by the police has Registration No. TR01Z-0597. The said vehicle is registered in my name. There was another plate fixed on the vehicle in which my designation as Civil Judge-cum-Judicial Magistrate, 1st Class was clearly mentioned in block letters.

Court question:- Mr. Motom Debbarma after you were released on bail why did you not immediately inform the Registrar General, High Court of Tripura or the District Judge, West Tripura or the Chief Judicial Magistrate about the fact that you had been arrested by the police and had been released on bail?

Answer:- I did not inform my superior officials till the next day i.e. Monday, the 8th June, 2014 when I informed the CJM about the occurrence. I am sorry that I did not inform my senior officials or the High Court about this occurrence prior to that."

22. Smt. Sarita Debbarma, wife of Sri Motom Debbarma also appeared in the witness box. According to her she and her husband left her husband's uncle's house at about 10/10.30 p.m. and reached GBP hospital about 11.00 p.m. and her husband was arrested despite the fact that he disclosed that he was a Member of the Tripura Judicial Service and posted as a Magistrate at Bishalgarh. According to her, after her husband was taken away by the police she contacted her colleagues Sri Sanjib Debbarma and Sri Aniket Debbarma. Thereafter, all of them then proceeded to the Capital Complex Police Station. Again her husband disclosed his identity as a Judicial Officer, but the police officials did not

bother about the same. According to her, the police manhandled her husband and she returned to her quarter. The witness in her cross-examination stated that she did not inform her immediate superior about the occurrence. She denied the suggestion that she had not accompanied her husband and was not present with him when he was detained. According to her she had informed her husband's cousin Sri Sukhendu Debbarma about the arrest of her husband immediately after he was arrested at G.B. hospital. She further stated that her cousin came next morning at 9.00 a.m.

23. Sri Subrata Chakraborty, the Officer-in-Charge of the New Capital Complex Police Station stated that when Sri Motom Debbarma was initially detained, his wife Smt. Sarita Debbarma was not present. According to him, Sri Motom Debbarma did not disclose the fact that he was a Judicial Officer. He further states that he was not present when Motom Debbarma was initially detained and Sri Motom Debbarma was detained by ASI, Jatish Chandra Das. According to this witness, Sri Jatish Chandra Das informed him about this fact in front of the Emergency Gate soon after the arrest and brought Sri Motom Debbarma. He noticed smell of alcohol from Sri Motom Debbarma and therefore, he directed Sri Jatish Chandra Das to get Motom Debbarma medically examined. He further states that the medical examination of the accused was conducted in his presence. In the mean time, he, the O.C. became busy with other issues. He admitted that nobody was

injured or hit by the vehicle of Sri Motom Debbarma. Attention of the witness was drawn to the following lines in the prosecution report, Exbt. P4, which reads as follows:-

"In these circumstances to save Sri Motom Debbarma from the anger of local people took in safe custody. Said Motom Debbarma introduced himself as Judicial Magistrate of Ld. SDJM Bishalgarh Court. Police paid proper respect to him but he was more violent and was using slang languages towards police. It was found the smell of alcohol from his mouth. Finding no other alternative said Motom Debbarma was arrested u/s. 202 M.V.Act."

24. When the Court put a question to him as to what this witness has to say because the police report clearly indicated that the person arrested had disclosed that he was a Judicial Magistrate, the answer of the witness was that the police report had been typed by one Sub Inspector and there may be mistake in typing out the police report. He also stated that police report had been prepared after the accused was arrested and therefore, the fact that he was Judicial Magistrate was mentioned there. He denied the suggestions that Sri Motom Debbarma disclosed his identity as Judicial Officer or that he had manhandled Sri Motom Debbarma. Thereafter, the Court put certain question to witness Sri Subrata Chakraborty and attention of the witness was drawn to the Entry Nos. 305 in the General Diary register recorded at 2.15 a.m., which reads as follows:-

"This time ASI Jyotish Ch. Das with PS staff retd. To the PS with Marginally noted A/P. Who was arrested

u/s 202 M.V. Act. During mobile/L/O duty at GBP hospital in c/w BSF firing upon public at South Ramnagar, under PS West Agartala. In this connection 9 prsons were admitted at G.B.hospital and one civilion and one BSF personnel was killed. The situation of G.B. hospital was very much tensed. There was havoc gathering. In the meantime one vehicle which b/reg. No.TR01-Z-0597 car was driving so recklessly and dangerously and the police party passed signal to stop the said vehicle. But the driver of the said vehicle was adamant. The people was excited and angry upon the driver of the said vehicle. The officer with the assistance of police party rescued the driver (i.e. the marginally noted A/P). Who found drunk and was very excited in his behaviour using slang language towards police and public. However the officer managed to send the said vehicle to PS for safe custody and arranged medical examination where attending Doctor opined that the accused has feature of consumption of alcohol and at present he cannot take care of himself. Subsequently the A/P is kept in PS custody after observing all legal formalities. PR is being submitted u/s 179/184/185 of M.V. Act against the noted a/p. While he introduced himself as J.M. Proper respect has been paid to him. But till then he is very much un-rully in his behaviour."

25. The witness admitted that in this Entry, it is mentioned that Sri Motom Debbarma had introduced himself as Judicial Magistrate. This Court put certain questions to the witness and it would be appropriate to refer to the said questions and answers:-

Court Question: In the police report it is clearly stated that Sri Motom Debbarma had disclosed that he was a Judicial Magistrate and thereafter he was arrested. What have you to say?

Ans. This police report has been typed by one of our Sub-Inspector and there may be mistake in typing out the police report. The police report was prepared after the accused had been arrested and there appears to be some mistake in this police report. This police report was prepared after the accused had not only been arrested but released on bail and therefore, there may have been some error in this police report.

Court Question: Were you In-charge of the Police Station?

Ans. Yes.

Court Question: Was the General Diary Register being maintained under your instruction?

Ans. Yes.

Court Question: Show the entry relating to the arrest of Sri Motom Debbarma.

Ans. The witness answers that the entry in question is Entry No.305 recorded at 2.15 a.m.

Court Question: Is this the first entry with regard to his arrest?

Ans. It is correct that this is the first entry with regard to the arrest of Motom Debbarma.

Court Question : In this entry it is mentioned that he had disclosed his identity as a Judicial Magistrate. What have you to say?

Ans. It is correct in this very entry it is mentioned that he had disclosed his identity as a Judicial Magistrate.

Witness states that at 2.30 a.m. he came to know that the person who was arrested was a Judicial Officer. Thereafter he returned to the police station at 3.05 a.m.

Court Question : Did you then know that he was a Judicial Officer?

Ans. At 3.05 a.m. when I returned to the police station and asked Sri Motom Debbarma whether he was a Judicial Officer, he used abusive and derogatory language against me which cannot be repeated in court. I then asked him whether he wanted to contact anybody or to get in touch with anybody. He refused to call anybody.

Court Question: Show the entry in the General Diary Book with regard to the fact which you have now stated in the Court?

Ans. There is no such record in the General Diary Book which is present in Court.

Court Question: Mr. Chakraborty in your affidavit you have stated that you are aware of the judgment of the Supreme Court passed in Delhi Judicial Service Association, Tis Hazari Court, Delhi V. State of Gujarat & Ors., AIR 1991 SC 2176. Is it correct?

Ans. It is true that in my affidavit I have stated that I was well aware of the judgment delivered by the Supreme Court in Delhi Judicial Service Association, Tis Hazari Court, Delhi V. State of Gujarat & Ors., AIR 1991 SC 2176.

Court Question : Now what do you want to say?

Ans. The witness broke down in Court and is on the verge of tears and submits that he was not fully aware about the scope of the judgment of the Apex Court. The witness then stated that he was in fact not aware about the judgment in question. He also apologised profusely.

26. Since the witness was only apologizing and had totally broken down, no further cross-examination was conducted. However, from the conduct of the witness, it was apparent that he was aware that he had made a false statement and was apologizing for the same.

27. As far as Sri Jatish Chandra Das is concerned, his stand is also that Sri Motom Debbarma never informed him that he was a Judicial Officer. Sri Jatish Chandra Das in his evidence stated that he had detained the accused and at that time Motom Debbarma was alone and his wife was not accompanying him. He stated that he did not see any signboard on the vehicle which would indicate that vehicle belonged to a Magistrate. He also states that the Entry No.305 in the General Diary Register dated 07.06.2014 at 2.15 a.m. was recorded by him. He also states that arrest memo and bail bond was prepared by him. In reply to the Court question whether he had prepared the Prosecution Report

(Exhibit-4) he stated that the Prosecution Report was prepared by Sub Inspector, Sri Prajit Malakar. When further asked on whose instructions Sri Prajit Malakar had prepared the report, the witness replied that he had handed over the arrest memo and G.D. entry report to Sri Prajit Malakar who then prepared the prosecution report on the basis of these documents. He however, admitted that a number of facts which were mentioned in the prosecution report are not mentioned in the General Diary register or arrest memo especially with regard to the fact that before his arrest Sri Motom Debbarma had disclosed his identity as a Judicial Officer. This witness has signed the Prosecution Report and admitted that he signs documents only after he is aware what is written in the documents. This witness was cross-examined in detail.

28. Relevant portion of his cross-examination reads as follows:-

"Cross examination by learned Sr. Counsel, Mr. P.K.Biswas:-

Question: Did you make any statement before Sri Jayanta Chakraborty, Addl. SP (Urban), West Tripura?

Ans. I did not make any statement.

The witness was confronted with the statement recorded in Bangla by the Addl. SP(Urban), photocopy of which has been annexed with the reply filed by Sri Balasubhramaniam, Director General of Police, Tripura. When the document was shown to the witness, he stated that there was a lapse of his memory and he had forgotten that he had made a statement to the Addl. SP(Urban). He then stated –My statement was recorded before the Addl. SP (Urban).

The Court has directed this witness to read entire statement which is at page 55 to 57 of the Court file.

Attention of the witness is drawn to the statement.

Question by Mr. P.K.Biswas, learned Sr. Advocate: Whether you in your statement have stated that you arrested Sri Motom Debbarma at the asking of the Officer-in-Charge of the P.S.?

Ans. No.

Cross examination by Mr. P.K.Biswas:

It is incorrect to suggest that my statement that Sri Motom Debbarma had never disclosed his identity is not correct.

Court Question: Have you read the statement?

Ans. Yes.

Court Question: In the statement it is written that you arrested the accused at the instance of the Officer-in-Charge of the P.S.

Ans. Yes, I have arrested the person.

Court Question: Have you written that you have arrested at the instance of the Officer-in-Charge of the P.S.?

Ans. Yes.

(The demeanour of the witness shows that he is trying to evade giving correct and truthful answers and is trying to hide the true facts from the court.)"

From the aforesaid portion of the cross-examination, it is apparent that this witness is a complete liar. He first stated that he had not made any statement before Sri Jayanta Chakraborty, Addl. S.P. (Urban), West Tripura. When the statement was brought to his notice then he stated that he had a lapse of his memory. Even after he had read the entire statement he denied that in the

statement so recorded he had stated that he arrested Sri Motom Debbarma at the asking of Sri Subrata Chakraborty, Officer-in-Charge of the Police Station. When the Court put another question to him, specifically pointing out the portion of the statement, he first tried to avoid giving any answers and thereafter, his demeanour was recorded.

29. The witness in a reply to another Court question admitted that he examined the vehicle of Sri Motom Debbarma, but stated that there was no plate on the vehicle showing that it belonged to a Judicial Magistrate-cum-Civil Judge. It would also be pertinent to refer to some other questions of his statement in detail –

Court Question: Why did you not make any entry with regard to the arrest of Sri Motom Debbarma and with regard to the seizure of his vehicle in the G.D. Book prior to his disclosure that he was a Judicial Officer?

Ans. When I detained Motom Debbarma, he had disclosed that he was a judicial officer but keeping in view his drunken state, I could not believe that he was a Judicial Officer.

Court Question: Were you aware about the judgment of the Supreme Court in Delhi Judicial Service Association, Tis Hazari Court, Delhi V. State of Gujarat & Ors., AIR 1991 SC 2176?

Ans. Yes, I was aware of this judgment.

Court Question: Why did you then not bring this fact to the notice of the superior Judicial Officers in accordance with the judgment?

Ans. I thought that information will be given by my superior officer.

The statement of this witness clearly shows that he has made false statement in his affidavit. Now, according to him, the Judicial Officer had told him that he was a Judicial Officer but since the Judicial Officer was very drunk he could not believe that he was a Judicial Officer.

30. Sri Prajit Malakar was the other witness examined. Firstly, he stated that he had prepared the prosecution report (Exhibit-4) only on the basis of the G.D. Entry No.305, the arrest memo (Exhibit-2), the bail bond (Exhibit-3) and the medical report (Exhibit-5). However, when confronted with the documents and asked to explain how they were other facts stated in the prosecution report which were not mentioned in these documents, the witness stated as follows:-

"I had prepared this prosecution report not only on the basis of the documents but also on the basis of information given to me by ASI, Jatish Ch. Das."

31. After we had recorded the statements we had found that the statement made by the previous Director General of Police was not fully correct and the present Director General of Police was asked to file an affidavit answering the following queries:-

(i) Whether, after the circular which was issued in the year 1991 consequent to the judgment passed by the Apex Court in Delhi Judicial Service Association's case, any other communication was addressed to the officials from the year 1991 onwards informing them about this judgment;

- (ii) ***Whether, during training of these officials, this judgment is being brought to their notice. If the judgment is being brought to the notice, then the supporting material shall be placed on record with contemporaneous evidence to show that right from the year 1991 to 2014 in all the courses being conducted, this judgment is being brought to the notice of the police officials;***
- (iii) ***We further direct that within 15 days from today, the Director General of Police shall send a copy of this judgment to all the police officers belonging to the Indian Police Service, Tripura Cadre and to the Tripura Police Service. It shall be the duty of each and every officer of the Indian Police Service and Tripura Police Service to bring this judgment to the notice of all the concerned police officials and if in future any occurrence of this type takes place, then we shall not limit ourselves to taking action against the sub-ordinate police officials but we shall take action against the Head of the Institution and the police officials who are in-charge of the area in question. It is their responsibility to educate the constables and the other officials at the lower grade about the judgment in question."***

32. Affidavit has now been filed by Director General of Police and relevant portion of the affidavit reads as follows:-

"6. That In reply to query No.1 of the order dated-28-04-2015 of the Hon'ble High Court of Tripura I beg to submit that there is no record available regarding re-circulation of circular No.3/91 or any other communication addressed to the officials after 16.09.1991 onwards informing them about this judgment."

He, however, has added that on 12.05.2015 he has issued a fresh circular in this regard. He has also enclosed the training programme of the police recruits but we find nothing in the programme which would indicate that the judgment of the Apex Court was ever brought to the notice of the police officials.

33. The other relevant portion his affidavit reads as follows:-

"It is admitted that no specific course has been conducted by the Academy for awareness of the trainees exclusively on the topic, "guidelines to be followed before arresting a Judicial Officer", hence no documentary evidence is available to that effect. However, to buttress the contention that trainees were imparted lessons regarding the arrest of judicial officer, I crave leave to rely and refer the notes on Sec 41 Cr PC from Criminal Major Acts by Justice Khastagir, at the time of hearing, a copy of which is enclosed herein and is marked as Annexure D/6 of this affidavit."

34. We have set out all the facts in detail. At the outset, we are constrained to observed that the stand of the State and the senior officials especially, the then Director General of Police has been of virtual non-cooperation with the Court. We are sorry to observe that the then Director General of Police made a false statement in Court that the judgment of the Apex Court in ***Delhi Judicial Service Association (supra)*** was specifically brought to the notice of all the police officials. In the affidavit, now filed by Director General of Police, Mr. K. Nagaraj, it is obvious that there is no record available with the police that the original circular No.3/91 was ever circulated thereafter till 12.05.2015. The DGP has mentioned that during the lectures to the trainee officers and during refresher courses the book 'Criminal Major Acts' by Justice Khastgir is being referred to in which, there is reference to the aforesaid judgment. In our view, this is not sufficient compliance with the judgment of the Apex Court and it was the duty of the Director General of Police and the State to ensure that the

judgment of the Apex Court in ***Delhi Judicial Service Association (supra)*** is specifically brought to the notice of all the new recruits and newly appointed police officials.

35. On perusal of the evidence, we are clearly of the view that the case set up by the police officials that they did not know the identity of the Judicial Officer is totally incorrect. The Judicial Officer has specifically stated that he informed the police officials about this fact. Furthermore, it now stands established that the car of the Judicial Officer in addition to the registration number plate have another plate in which, his designation of Civil Judge (Jr. Div), Bishalgarh, West Tripura was clearly mentioned. The case of the police is that the Judicial Officer was driving this vehicle rashly and negligently. According to the police, a large number of people had gathered at the hospital because there had been some firing incident between the BSF and local persons. When the allegation was that the vehicle was being driven rashly and negligently, it cannot be believed that the Officer-in-Charge and the ASI, Jatish Chandra Das did not notice this plate giving the description of the Judicial Officer.

36. There are contradictions in the statement of the police officials. Whereas the Officer-in-Charge, Sri Subrata Chakraborty states that the Judicial Officer was detained by ASI, Jatish Chandra

Das and he (O.C.) was informed about the said detention of a person by the ASI outside the Emergency Block. Mr. Jatish Chandra Das in a statement to the Addl. S.P. (Urban) has clearly stated that he arrested the driver of the vehicle on the asking of the Officer-in-Charge, Sri Subrata Chakraborty. The ASI Jatish Chandra Das has tried to evade this issue in cross-examination. He firstly, denied that his statement was recorded by the Addl. S.P. but when confronted with the statement he had to admit that he had made such statement and finally, he admitted that in the said statement, it was recorded that he had arrested Sri Motom Debbarma at the instance of Sri Subrata Chakraborty. We are, therefore, clearly of the view that both these police officials were aware that the person that they had detained was a Judicial Officer.

37. Admittedly, both these officials did not care to follow the law laid down by the Apex Court in ***Delhi Judicial Service Association (supra)*** case. No intimation was given to the District Judge or the High Court. We feel that even if it was a case of rash and negligent driving, it was not such a serious offence where the offender much less a Judicial Officer should have been arrested. Even if such arrest was to be made communication was required to be sent to the District & Sessions Judge and the Chief Justice of the High Court. The Apex Court has clearly held that no Judicial

Officer should be taken to the Police Station and such a Judicial Officer should be provided means to communicate with his family members, legal advisors and Judicial Officers including the District & Sessions Judge. The Apex Court has also clearly held that no medical test of a Judicial Officer can be conducted except in the presence of the legal adviser or the Judicial Officer or another Judicial Officer of equal or higher rank. None of the directions of the Apex Court referred to hereinabove were admittedly, complied by the police officials. Both the officials in their affidavits clearly stated that they aware of the judgment in ***Delhi Judicial Service Association (supra)*** case. Therefore, as per their own affidavits they were aware of the law laid down by the Apex Court. Their only defence is that they were not aware that the person who was arrested was a Judicial Officer. This defence has been found to be absolutely false. Therefore, we have no doubt in our mind that both the police officials will have to be dealt with strictly and sternly.

Another shocking aspect of the matter is that the offence, if any, committed was a bailable offence and the police itself should have released the detained person on bail immediately and there was no question of detaining the person.

38. In case, the police officials had followed the law and informed the Registrar General or the District & Sessions Judge or

even if the Chief Justice had been informed in that event, the Chief Justice or the Registrar General or the District & Sessions Judge or any other senior Judicial Officer could have visited the spot and in case, it was found that the Judicial Officer was drunk his complete medical examination could have been conducted and serious action taken against him.

39. Before passing orders, on the conduct of the police officials, we are constrained to observe that though the police officer may be wrong in stating that they were unaware of the identity of the Judicial Officer, the conduct of the Judicial Officer is also not totally above board.

40. Admittedly, according to Sri Debbarma, he was returning home late at night on 6th June, 2014 (Friday) after having dinner and a few drinks at his uncle's house. His stand in Court is that his wife was accompanying him. However, when Sri Debbarma filed his reply to the show cause issued by the Registrar General, he did not state that his wife had accompanied him from his uncle's house to her residence. He has clearly stated that he was going back to his wife's residence. He had not mentioned that he and his wife were returning to their residence. Therefore, it appears to us that his wife was not present when he was initially detained, but she went to the police station later on with her

colleagues. It is true that the wife in her statement has mentioned that she was accompanying her husband, but we are unable to accept her version. If she was actually present she would have immediately after the arrest informed some colleague of her husband or some lawyer or the uncle from whose house they were returning. She would not keep silent at night. In her statement, she has stated that after her husband was detained/arrested at 11.00 p.m., he was taken away by the police and then she went to her residence and contacted her colleagues and then they went to the police station. Her version that she had informed her husband's cousin Sri Sukhendu Debbarma about the arrest of her husband immediately after he was arrested does not appear to be correct because in normal circumstances the cousin should have immediately rushed to the hospital.

41. Another important aspect of the matter is that in the prosecution report which was filed, it was clearly mentioned that the person driving the vehicle was drunk and he was arrested because the local public was very angry. It is also mentioned that said Sri Motom Debbarma introduced himself as Judicial Magistrate of learned SDJM, Bishalgarh Court. The police paid proper respect to him, but the official was violent and was using abusive languages towards the police. Smell of alcohol was coming from his mouth and finding no alternative, Motom Debbarma was

arrested. This police report is dated 07.06.2014 before any action has been taken by the High Court and from perusal of the police report, it is apparent that the police officials were not even aware of the judgment of the Apex Court in ***Delhi Judicial Service Association (supra)*** case.

42. We are sorry to observe that the Superintendent of Police in reply to the show cause notice tried to build up a new case that Sri Motom Debbarma only informed the police that he was a Judicial Officer when he was brought to the police station but that version was not believed because he was totally intoxicated. Sri Motom Debbarma was detained at 10.30 – 11.00 p.m. and Sri Motom Debbarma was arrested at 2.30 a.m. By that time, he could not have been so drunk. In the arrest memo, the police has recorded that he was a Magistrate and at least, at that moment, the High Court should have been informed. It is indeed a sad state of affairs that the police never informed the High Court or the Sessions Judge for two days about the arrest of the Judicial Officer till the Registrar General issued notices pursuant to the directions of this Court.

43. The Judicial Officer could not have been medically examined in the absence of any other Judicial Officer or Legal Adviser. However, all the witnesses state that the Judicial Officer

was drunk and in fact, the version of the police officials is that the Judicial Officer was so drunk that he was not in control of his senses. The medical certificate also shows that the doctor found that Sri Motom Debbarma, son of late Ramesh Debbarma was talking excessively and smell of alcohol was emanating from his mouth. The impression of the doctor is that the Judicial Officer had consumed alcohol and was not in a position to take care of himself. The doctor has not been examined in these proceedings and we feel we should say nothing more in the matter, but the doctor shall be examined in departmental proceedings, which have already been initiated against Sri Motom Debbarma. The High Court on the administrative side shall deal with Sri Motom Debbarma.

44. We, however, even with regard to the Judicial Officer cannot lay matters lie. The Judicial Officer should have been aware of the judgment in ***Delhi Judicial Service Association (supra)*** case. It was also his duty to inform his superior officials that he had been illegally detained by the police. He did not do so. He in fact, did not inform the High Court or the Sessions Judge about this fact. After the evidence was recorded we had directed the Judicial Officer concerned to file an affidavit to state why he did not inform the Registrar General of the High Court or his District Judge about his arrest immediately after being released on bail. An affidavit has been filed and we are constrained to observe that a portion of the affidavit on the face of it appears to be false.

According to Sri Motom Debbarma, he was released from the police station on 07.06.2014 (Saturday) at about 9.30 a.m. He was upset and perplexed and thereafter, he had a bath and after taking food he went to the chamber and learned Chief Judicial Magistrate, West Tripura on 07.06.2014 between 3.00 p.m. to 4.00 p.m. and narrated the incident to the learned Chief Judicial Magistrate. Thereafter, he went to the Court of the learned District Judge at about 5.00 p.m. to inform him about this matter but he could not meet the learned District Judge and thereafter, he came back to the Office of the Chief Judicial Magistrate. In the mean time, he came to know that the learned District Judge had left his chamber. He further submits that he was mentally shocked and therefore, on 09.06.2014, he reported the matter to the learned District Judge over phone and also met him that day and narrated him the incident and later he met the Registrar General on the same day.

45. This affidavit on the face of it appears to be false. As noted earlier, on 08.06.2014 (Sunday), a news item appeared in one of the local newspaper (Dainik Sambad) about the arrest of Sri Motom Debbarma. After the news item was brought to the notice of the Chief Justice, the Registrar General was immediately directed to call for the report of Superintendent of Police and also from the Chief Judicial Magistrate. It is only thereafter that the Superintendent of Police made a report on 09.06.2014. The report

is totally evasive and it does not make reference to the judgment of the Apex Court. The report of the Chief Judicial Magistrate is also dated 09.06.2014 and in his report, the Chief Judicial Magistrate has not made any reference to any visit of Sri Motom Debbarma to his chamber on 07.06.2014. In reply to the show cause notice issued to Sri Motom Debbarma, he has not stated that he met the Chief Judicial Magistrate on 07.06.2014 as is now stated by him.

46. Sri Subhasish Sharma Roy, the Chief Judicial Magistrate was also directed to file affidavit in Court on 23.12.2014. He has stated that on 08.06.2014, he received telephonic instructions from the Registrar General of the High Court to submit his report with regard to the news item, which had appeared in the paper. Thereafter, he directed Sri Subrata Chakraborty, Officer-in-Charge of the New Capital Complex Police Station to meet him in his office chamber at 1.30 p.m. since he was busy with some seminar of the State Legal Services Authority on 08.06.2014, which was a Sunday in the earlier part of day. Sri Subrata Chakraborty met him at about 1.30/2.00 p.m. He has clearly in his affidavit stated that Sri Motom Debbarma met him for the first time on 09.06.2014 between 5.30/5.45 p.m. when he also noticed a plate affixed in front of the vehicle of Sri Motom Debbarma showing his designation. His affidavit clearly belies the

statement of Sri Motom Debbarma that Sri Motom Debbarma had met the Chief Judicial Magistrate on 07.06.2014.

47. Now we have to decide what action has to be taken. As far as the Judicial Officer is concerned, we are clearly of the view that disciplinary proceedings should be initiated against him and he should be dealt with sternly. We have also found that he had made a false statement in this Court with regard to his visiting the Chief Judicial Magistrate on 07.06.2014. This is a very serious issue as far as Judicial Officer is concerned. These issues will be decided in separate disciplinary proceedings on the administrative side. However, keeping in view the conduct of the Judicial Officer, we cannot totally disbelieve the police officials that the Judicial Officer may have been drunk.

48. As far as the police officials are concerned, we have found that they are guilty on many counts. Most importantly, they have violated with impunity all the directions issued in ***Delhi Judicial Service Association (supra)*** case. They filed affidavits in Court stating that they were aware about these directions, but admittedly, they have not complied with the same. We, at the same time, must notice that Sri Subrata Chakraborty in cross-examination when he broke down and started crying firstly, stated that he was not fully aware of the judgment and then stated he was not at all aware about the judgment. He also apologized

profusely. It appears to us that the senior police officials knowing that they had been negligent in not communicating the judgment of the Apex Court in ***Delhi Judicial Service Association (supra)*** case to the new recruits and officials tried to cover up the matter by compelling Sri Subrata Chakraborty and Sri Jatish Chandra Das to state that they were not aware that the person arrested was a Judicial Officer. We have already found that this defence is totally untrue. Even Sri Jatish Chandra Das has admitted that at the time of detention, Sri Motom Debbarma had proclaimed that he was a Judicial Officer, but the police official did not believe him. The identity of the person detained could have been easily verified. The plate on his car showed that he was a Judicial Officer and therefore, this defence is totally false.

49. In view of the above discussion, we have no hesitation in holding that the two police officers have willfully and knowingly disobeyed the law laid down by the Apex Court and the directions given in ***Delhi Judicial Service Association (supra)*** case. Not only that we also hold that Sri Subrata Chakraborty and Sri Jatish Chandra Das have not only disobeyed the directions given by the Apex Court but have filed false affidavits in this Court. They have also made false statements on oath in Court and are guilty of having committed perjury.

50. We could have on the basis of these false statements made by the police officials initiated criminal proceedings against them. We could have also initiated contempt proceedings against them for violating the directions of the Apex Court. We could have also referred the matter to the Apex Court for initiating proceedings against the police officials. We on an overall consideration feel that criminal action need not be taken against the police officials but they must be dealt with strictly and departmental proceedings should be initiated against Sri Subrata Chakraborty and Sri Jatish Chandra Das for having misconducted themselves in as much as they have violated the law laid down by the Apex Court and have also made false statement in this Court and have filed false affidavit which is a clear case of misconduct.

51. We, therefore, direct the State to initiate disciplinary proceedings against both these police officials for imposition of major penalty.

52. We make it clear that in the disciplinary proceedings, the findings given by us in this judgment shall not be questioned nor shall it be a defence for these two officials to say that they are not guilty of disobeying the directions of the Apex Court or that they have not made a false statement in Court. These findings of fact given by us in this judgment after recording evidence cannot

be called in question in disciplinary proceedings. The disciplinary proceedings will be based on this judgment. We may also indicate that Sri Subrata Chakraborty, Officer-in-Charge has at least shown repentance and apologized albeit at the last stage when he was caught telling lies red handed. As far as Sri Jatish Chandra Das, ASI is concerned, he has shown no repentance. His demeanour during the Court was also such that he was obviously telling lies and trying to evade giving truthful answers. These factors shall be taken into consideration by the disciplinary authority while imposing penalty in the disciplinary proceedings. Since virtually no findings have to be given in the disciplinary proceedings, the disciplinary authority shall only be required to issue notice to Sri Subrata Chakraborty and Sri Jatish Chandra Das to show cause why major penalty should not be imposed upon them on the basis of this judgment. Only the issue of punishment is to be decided in these proceedings.

53. We also direct that the Registrar General of this Court shall place a copy of this judgment on the administrative side before the Full Court for taking appropriate action against the Judicial Officer Sri Motom Debbarma.

54. We also direct the Chief Secretary, State of Tripura, the Secretary, Home, State of Tripura and the Director General of Police to ensure that the judgment of the Apex Court in **Delhi**

Judicial Service Association (supra) case is again circulated and made part of the curriculum in the main training courses and also in all refresher courses. We make it clear that in future, if any instance of this type comes to our knowledge, we shall not only take disciplinary action but shall not hesitate to proceed against such officials under the Contempt of Courts Act and under criminal law in which case they may be sent behind bars also.

JUDGE

CHIEF JUSTICE

sima