

Government of Bihar
General Administration Department

Notification

Patna-15, Date 16-2-17

No-7/Ashta.-04-14/2016GAD.../In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, as amended from time to time, the Governor of Bihar is pleased to make the following rules in consultation with the High Court of Judicature Patna, Bihar to regulate the conduct of Judicial Officers, namely.

1. Short title, commencement and application- (1) These rules may be called the Bihar Judicial Officer's Conduct Rules, 2017.

(2) They shall come into force on the date of their publication in the official gazette.

(3) These rules apply to every persons appointed to a Judicial Service such as to the members of State Judicial Service or the Superior Judicial Service including on deputation or to ex-cadre posts under the Control of the High Court of Judicature Patna in connection with the affairs of the State of Bihar and who are subjected to the rules making powers of the Government.

(4) The Rules are also applicable to an employee whose services are placed at the disposal of a company, corporation, organization or Local Authority by the High Court of Judicature Patna notwithstanding that his salary is drawn from the services other than the Consolidated Fund of Bihar.

2. Definitions - In these rules unless the context otherwise requires means -

(a) "Government"

(i) in the case of a Judicial Officer whose services have been placed at the disposal of the Government of India, the Government of India;

(ii) in the case of a Judicial Officer whose service have been placed at the disposal of the Government of another State, the Government of that state;

(iii) in all other cases the Government of Bihar.

(b) High Court means the High Court of Judicature at Patna.

(c) "Judicial Officer" means any person appointed to serve as judicial officer in respect of whom the Governor of Bihar is empowered to make rules under Article 309 of the Constitution of India, whether for the time being such persons is serving in connection with the affairs of the Government of India or any State or High Court or is on leave.

(d) "Member of family" in relation to Judicial Officer includes-

- (1) The wife or husband as the case may be, of the Judicial Officer whether residing with the Judicial Officer or not but does not include a wife or husband, as the case may be, separated from the Judicial Officer by a decree/order of a competent court.
- (2) Son or daughter or step-son or step-daughter of Judicial Officer and wholly dependent on him, but does not include a child or step child who is no longer dependent on the Judicial Officer or of whose custody the Judicial Officer has been deprived by or under any law.
- (3) Any other person related, whether by blood or marriage, to the Judicial Officer's wife or husband, and wholly dependent on the Judicial Officer.

3. General - (1) Every Judicial Officer shall at all times-

- (i) maintain absolute integrity;
- (ii) maintain devotion to duty; and
- (iii) do nothing which is unbecoming of a Judicial Officer.

(2) Every Judicial Officer holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Judicial Officer for the time being under his control and authority.

(3) No Judicial Officer shall, in performance of his official duties or in the exercise of power conferred on him, or act otherwise than in his best judgment except when he is acting under the direction of his official superior and shall; where he is acting under such direction, obtain the direction in writing wherever practicable, and where it is not practicable to obtain the direction in writing he shall obtain written confirmation of the direction as soon thereafter as possible.

Explanation- Nothing in sub-rule (3) of rule 3 shall be construed as empowering a Judicial Officer to evade his responsibilities by seeking instructions from, or approval of, superior officer or authority when such instructions are not necessary under the scheme of distribution of powers and responsibilities.

[(4) Prohibition of Sexual harassment-

(i) No Judicial Officer shall indulge in any act of sexual harassment of any women at her work-place.

(ii) Every government who is in charge of a work place shall take appropriate steps to prevent sexual harassment to any woman at such work place.

Explanation- For the purpose of sub-rule (4) of rule 3 sexual harassment shall include such unwelcome sexually determined behaviour (whether directly or otherwise), as-

(a) Physical contact and advances, (b) Demand or request for sexual favour, (c) Sexually coloured remarks, (d) Showing any pornography, (e) Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

4. Consumption of intoxicating Drink and Drugs - No Judicial Officer shall be under the influence of intoxicating drink or drugs.

Every Judicial Officer shall strictly abide by any laws relating to intoxicating drinks or drugs in force in any area in which he may happen to be for the time being.

5. Employment of near relatives of Judicial Officer in private undertaking-

(1) No Judicial Officer shall use his position or influence directly or indirectly to secure employment for any member of his family in any private undertaking with which he has official dealing or in any other undertaking having official dealing with the government.

(2) No Judicial Officer shall, except with the previous sanction of the High Court, permit his son, daughter or other dependent to accept employment in any private undertaking with which he has official dealing or in any other undertaking having official dealing with the High Court or the Courts sub-ordinate to it.

Provided that where the acceptance of any employment cannot wait the prior permission of the High Court or is otherwise considered urgent the matter shall be reported to the High Court; and the employment may be accepted provisionally subject to the permission of the High Court.

(3) If a member of the family of Judicial Officer accepts any employment referred to above even after High Court have refused permission, the Judicial Officer shall make a report to that effect to the High Court and shall also intimate whether he has had any official dealings with that undertaking.

(4) (a) No Judicial Officer shall in the discharge of his official duties, deal with any matter relating to, or award any contract in favour of an undertaking or any other person, if any member of his family is employed in the undertaking or under that person or if he or any member of his family is interested in such undertaking or other person in any other manner.

(b) In any case referred to in clause (a), the Judicial Officer shall refer the matter to his official superior and the case shall thereafter be disposed of according to the instructions of the official superior.

6. Taking part in politics and election - (1) No Judicial Officer shall be a member of or be otherwise associated with any political party or any organization which takes part in politics nor shall he take part in, subscribe in aid of, or assist in any other manner, any political movement or activity.

(2) It shall be the duty of every Judicial Officer to endeavour to prevent any member of the family for taking part in, subscribing in aid of or assisting in any other manner any movement or activity, which is or tends directly or indirectly to be, subversive of the Government as by law established and where a Judicial Officer is unable to prevent a member of his family from taking part in, or subscribing in aid of assisting in any other manner, any movement or activity, he shall make a report to that effect to High Court.

(3) If any question arises whether any movement or activity falls within the scope of sub-rule (2) the decision of the High Court thereon shall be final.

(4) No Judicial Officer shall canvass or otherwise interfere with, or use his influence in connection with or take part in, an election to any legislature or local authority;

Provided that-

- (i) a Judicial Officer qualified to vote at such election may exercise his right to vote but where he does so he shall give no indication of the manner in which he proposes to vote or has voted;
- (ii) a Judicial Officer shall not be deemed to have contravened the provision of this sub-rule by reason only that he assists in the conduct of an election in the due performance of a duty imposed on him by or under any law for the time being in force.

Explanation- The display by a Judicial Officer on his person, vehicle or residence of any electoral symbol shall amount to using his influence in connection with an election, within the meaning of this sub-rule.

7. Joining of Associations by Judicial Officers- No Judicial Officer shall join, or continue to be a member of association the objects or activities of which are prejudicial to the interests of the sovereignty and integrity of India or public order or morality.

8. Demonstration and Strikes- No Judicial Officer shall-

(i) engage himself or participate in any demonstration which is prejudicial to the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign State, public order decency or morality, which involves contempt of court, defamation or incitement to an offence, or

(ii) resort to or in any way abet any form of strike or coercion or physical duress in connection with any matter pertaining to his service or the service of any other Judicial Officer.

9. Connection with Press or Radio- (1) No Judicial Officer himself or through a member of his family or through any other person shall except with the previous sanction of the High Court, own wholly or in part, or conduct or participate in any form or manner in the editing or management of any newspaper or other periodical publications.

(2) No Judicial Officer, shall except with the previous sanction of the High Court or except in the bona fide discharge of his duties.

(a) publish a book himself or through a member of his family or through any other person or through a publisher, or contribute an article to a book or a compilation or articles, or

(b) participate in a radio or contribute or write a letter to a newspaper or periodical, either in his own name or anonymously or in the name of any other person;

Provided that no such sanction shall be required-

(i) if such publication is through a publisher and is of a purely literary artistic or scientific character; or

(ii) if such contribution, broadcast or writing is of a purely literary, artistic or scientific character.

10. Criticism of Government or the High Court- No Judicial Officer shall in any radio broadcast or in any document published anonymously, pseudonymously or in his own name, or in the name of any other person or in any communication to the press, or in any public utterance, make any statement of fact or opinion-

(i) which has the effect of an adverse criticism of current or recent policy or action of the Government of India or the Government of any state; or

- (ii) which is capable of embarrassing the relations between the Government of India and the Government of any State; or
- (iii) which is capable of embarrassing the relations between the Government of India and the Government of any foreign State;

Provided that nothing in this rule shall apply to any statement made or views expressed by a Judicial Officer in his official capacity or in the due performance of the duties assigned to him.

11. Evidence before committee or any other authority- (1) Save as provided in sub-rule (3), no Judicial Officer shall except with the previous, sanction of the High Court, give evidence in connection with any enquiry conducted by any person, committee or authority.

(2) where any sanction has been accorded under sub-rule (1), no Judicial Officer giving such evidence shall criticize the policy or any action of the Central Government or of a State Government or the High Court.

(3) Nothing in this rule shall apply to-

- a) evidence given at an enquiry before an authority appointed by the Government, by Parliament, or by a State Legislature or High Court; or
- b) evidence given in any judicial enquiry; or
- c) evidence given at any departmental enquiry ordered by authorities subordinate to the Government or the High Court.

12. Unauthorised Communication of Information-(1) No Judicial Officer will communicate directly to the High Court any of Judges except through the Registrar General by a communication sent through proper channel.

(2) No Judicial Officer shall, except in accordance with any general or special order of the High Court or in the performance in good faith of the duties assigned to him communicate directly or indirectly, contents of any official document or any part thereof or information to any judicial Officer or any other person to whom he is not authorized to communicate the contents of such document or information.

Explanation- Quotation by Judicial Officer (in his explanation, representation, appeal or memorial, etc. addressed to the High Court from any letter, circular of office memorandum or from the notes on any file, to which he is not authorized to have access, or which he is not authorized to keep in his personal custody or for personal purposes shall amount to unauthorized communication of information within the meaning of this rule.

13. Subscriptions- No Judicial Officers shall, except with the previous sanction of the High Court ask for or accept contributions to or otherwise associate himself with the raising of any fund or collections in case or in kind in pursuance of any object whatsoever.

14. Gifts.- (1) Save as otherwise provided in these rules, no Judicial Officer shall, except with the previous sanction of the High Court accept or permit any member of his family or any other person acting on his behalf to accept, any gift.

Explanation- For the purpose of this rule "gift" includes free transport, free boarding free lodging or any other service of pecuniary advantage when provided by a person other than a near relative or personal friend having no official dealings with the Judicial Officer but does not include a casual meal, casual gift or other social hospitality

(2) On occasion, such as weddings, anniversaries, funerals and religious functions, when the making of gift in conformity with the prevailing religious or social practice, a Judicial Officer may accept gift from his near relative but he shall make a report to the High Court if the value of any such gift exceeds Rs. 20000.

(3) On such occasions as are specified in sub-rule (2) a Judicial Officer may accept gift from his personal friend having no official dealing with him, but he shall make a report to High Court if the value of any such gift exceeds Rs. 10000.

(4) In any other case a Judicial Officer shall not accept any gift without the sanction of the High Court if the value thereof exceeds Rs. 5000:

Provided that where it is not practicable for a Judicial Officer to obtain the previous sanction of the High Court he shall, within one month of acceptance of such gift make a report to the High Court as the case may be, stating the circumstances under which such gift was accepted, and if the High Court does not approve of such acceptance, he shall return the gift to the donor.

(5) Notwithstanding anything contained in sub-rule (2) and (3) a Judicial Officer, being a member of the Indian delegation or otherwise, may receive and retain gifts from foreign dignitaries, if the market value of gift received on one occasion does not exceed rupees ten thousand. In all other cases, the acceptance and retention of such gifts shall be regulated by, the instructions issued by the High Court in this regard from time to time.

(6) A Judicial Officer shall not accept any gifts from any foreign firm or any other person, who has or is likely to have litigation before his Court.

15. Public demonstrations in honour of Judicial Officers-(1) No Judicial Officer shall, except with the previous sanction of the High Court, receive any complementary or valedictory address or accept any testimonial or attend any meeting or entertainment held in his honour, or in the honour of any other Judicial Officer :

Provided that nothing in this rule shall apply to-

- (i) a farewell entertainment of a substantially private and informal character held in honour of any Judicial Officer on the occasion of his retirement or transfer of any person who has recently quitted the service of any Government; or
- (ii) the acceptance of simple and inexpensive entertainments arranged by public bodies or institutions.

(2) No Judicial Officer shall exercise pressure of any sort on any Judicial Officer to induce him to subscribe towards any farewell entertainment even if it is of a substantially private and informal character.

16. Private trade or employment. - (1) No Judicial Officer shall except with the previous sanction of the High Court engage directly or indirectly, in any trade or business or undertake any employment.

Provided that a Judicial Officer may, without such sanction, undertake honorary work of a social or charitable nature or occasional work of a literary, artistic or scientific character, subject to the condition that-

- (i) he shall within a period of one month of his undertaking any such work report to High Court giving full details;
- (ii) his official duties do not thereby suffer: and
- (iii) he shall discontinue any such work, if so directed by the High Court:

Provided further that, if the undertaking of any such work involves holding of an elective office, he shall not seek election to any such office without the previous sanction of the High Court

Explanation- Canvassing by a Judicial Officer in support of the business of insurance agency, Commission agency, owned or managed by any member of his family shall be deemed to be a breach of this sub-rule.

(2) Every Judicial Officer shall report to the High Court if any member of his family is engaged in trade or business or owns or manages as insurance commission agency.

(3) No Judicial Officer shall, without the previous sanction of the High Court or except in the discharge of his official duties take part in the registration, promotion or management of any Bank or either company registered under the Companies Act, 2013 or any other law for the time being in force or any co-operative society, the primary object of which is a commercial purpose.

Provided that a Judicial Officer may take part in the registration, promotion or management of a co-operative society substantially for the benefit of Judicial Officers registered under the Co-operative Societies Act, 1912 (II of 1912) or any other law for the time being in force, or a literary, scientific or charitable society registered under the Societies Registration Act, 1980 (XXI of 1860) or any corresponding law in force subject to the following conditions, namely-

- (i) he shall, within a period of one month of his undertaking any such work, report to High Court giving full details:
- (ii) he Official duties do not thereby suffer: and
- (iii) he shall discontinue any such work if so directed by the High Court:

Provided further, if the undertaking if any such work involves holding of an elective office, he shall not seek election to any such office without the previous sanction of the High Court.

Explanation- Canvassing for a candidate or candidates for an elective office referred to in the second proviso shall be deemed to be a breach of this sub-rule.

(4) No Judicial Officer shall hold a lottery for the disposal of his property or for any other purpose, except with the previous permission of the High Court.

(5) No Judicial Officer may accept any fee for any work done by him for any public body private person without the sanction of the High Court.

17. Investments, leading and borrowing.-(1) No Judicial Officer shall speculate in any stock, share or other investments.

Explanation- Frequent purchase or sale or both of shares, securities or other investment shall be deemed to be speculation, within the meaning of this sub-rule

(2) No Judicial Officer shall make, or permit any member of his family or any person acting on his behalf to make any investment which is likely to embarrass or influence him in the discharge of his official duties and where a Judicial Officer fails to prevent a member of his family from making an investment of this nature, he shall make a report to that effect to the High Court forthwith.

(3) if any question arises whether any transaction is of the nature referred to in sub-rule (1) or sub-rule (2), the decision of the High Court thereon shall be final.

(4) No Judicial Officer shall except with the previous sanction of the High Court lend money to any person possessing land or valuable property within the local limits of his authority or at interest to any person.

Provided that Judicial Officer may make an advance of pay to private servant, or give a loan of small amount free of interest to a personal friend or relative, even if such person possesses land within the local limits of his authority.

(5) (i) No Judicial Officer shall, save in the ordinary course of business with a bank or a public limited company, himself or through any member of his family or any person acting on his behalf:-

(a) Lend or borrow or deposit money as a principal or agent, to or with any person of firm or private limited company within the local limits of his authority or with whom he is likely to have official dealings or otherwise place himself under pecuniary obligation to such person or firm or private limited company : or

(b) Lend money to any person at interest or in manner whereby return in money or kind is paid:

Provided that a Judicial Officer may, give to accept from, a relative or a personal friend, a purely temporary loan of a small amount free of interest, operate a credit account with a bonafide tradesman or make an advance of pay to his private employee.

Provide further that nothing in this sub-rule shall apply in respect of any transaction entered into by a Judicial Officer with the previous sanction of the High Court.

(ii) No Judicial Officer shall permit any member of his family except with the previous sanction of the High Court to enter into any transaction of the nature referred to in the foregoing sub-rule and where a Judicial Officer is unable to prevent a member of his family from entering into any such transaction he shall make a report to that effect to the High Court.

(6) When a Judicial Officer is appointed or transferred to a post of such a nature as to involve him in the breach of any of the provisions of sub-rule (4) or sub-rule (5) he shall forthwith report the circumstances to the High Court and shall thereafter act in accordance with such order as may be passed by High Court.

18. All Judicial Officers should always be appropriately dressed and attend Court in the following dress:-

(a) The male Judicial Officer must wear a black buttoned up coat, chapkan, achkan or a black sherwani and white bands with Advocate Gown or a black open

breasted coat , white shirt, white collar, stiff or soft and white bands with Advocates, Gown. In either case wear long trousers (white, black, striped or grey) or Dhoti.

(b) The women Judicial Officers must wear black full sleeve jacket or blouse, white collar stiff or soft, with white bands and Advocates' Gown; white blouse, with or without collar, with white bands and with a black open breasted coat or sarees or long skirts (white or black or any mellow or subdued colour without any print or design) or flare (white, black or black striped or grey) or Punjabi dress Churidar Kurta or Salwar-Kurta with or without Dupatta (white or black) or traditional dress with black coat and bands.

(c) Ceremonial Dress

19. Insolvency and habitual indebtedness:- A Judicial Officer shall so manage his private affairs as to avoid habitual indebtedness or insolvency. A Judicial Officer, who becomes the subject of a legal proceeding for the recovery of any debt due from him or for insolvency, shall forthwith report the full facts to the High Court.

20. Movable, immovable and valuable property:- (1) Every Judicial Officer shall on his first appointment to any service or post and thereafter at the interval of every twelve months i.e. after 31st December till 28/29th February submit to the High Court return of his assets and liabilities in such form as may be prescribed by the High Court giving full particulars regarding-

(a) immovable property owned, acquired or inherited by him or held by him on lease or mortgage, either in his own name or in the name of any member of his family or in the name of any other person.

(b) shares, debentures, cumulative time deposits and including bank deposits owned acquired or inherited by him or held by him, either in his own name or in the name of any member of his family or in the name of any other person;

(c) other movable property inherited by him or similarly owned, acquired or held by him;

(d) debts and other liabilities, if any, incurred by him directly or indirectly.

(2) No Judicial Officer shall except with the previous permission of the High Court acquire or dispose of any immovable property by lease, mortgage, purchase sale, gift or otherwise, either in his own name or in the name of any member of his family.

Explanation: The Judicial Officer shall disclose if any such transaction is-

(a) with person having official dealings with Judicial Officer, or

(b) otherwise than through a regular or reputed dealer.

(3) Every Judicial Officer shall intimate the High Court in respect of each transaction of purchase of movable property whose value exceeds two months basic pay of the Judicial Officer within a months of the completion of such transaction;

Provided that, the previous sanction of the High Court shall be obtained if any such transaction is to be done with a person having official dealings with a Judicial Officer.

(a) with person having official dealings with Judicial Officer, or

(b) otherwise than through a regular or reputed dealer.

(4) The High Court may, at any time, by general or special order, requiring a Judicial Officer to submit within a period specified in the order, a full and complete statement of such movable or immovable property held or acquired by him or on his behalf or by any member of his family as may be specified in the order and such statement shall if so required by the High Court include details of the means by which of the source from which, such property was acquired.

Explanation.- For the purpose of this sub-rule the expression "movable property" includes:-

(a) jewellery, insurance policies, the annual premium of which exceed Rs. 30,000 shares, securities and debentures;

(b) loans advanced by or to such Judicial Officer whether secured or not;

(c) motor cars, motor cycles, or any other means of conveyance;

(d) refrigerator, and or other electrical goods.

(5) A Judicial Officer found to be in possession of pecuniary resources or property disproportionate to his known sources of income for which he cannot satisfactorily account, shall unless the contrary is proved, be presumed to have been guilty of grave misconduct in the discharge of his official duty for which he will be liable for criminal action besides departmental proceeding.

(6) The High Court or any authority especially empowered by it in this behalf may by an order in writing, require a Judicial Officer to afford facilities for inspection and assessment of the value of any lands, buildings or any other immovable property held or acquired by him or by any member of his family as may be specified in that order and failure to comply with the order shall be deemed to be grave official misconduct on the part of the Judicial Officer concerned.

(7) The High Court may stop the salary of the Judicial Officer not submitting the required return on time till he/she submits the return. Not submitting the return on time will be construed as grave misconduct in discharge of his/her duty for which he/she will be liable for departmental proceedings.

21. Restriction in relation to acquisition and disposal of immovable property outside India and transaction with foreigner, etc.- Notwithstanding anything contained in sub-rule (2) of rule 20, no Judicial Officer shall, except with the previous sanction of the High Court-

(a) acquire by purchase, mortgage, lease, gift or otherwise, either in his own name or in the name of any member of his family, any immovable property situate outside India;

(b) dispose of, by sale, mortgage, gift or otherwise, or grant any lease in respect of any immovable property situate outside India which was acquired or is held by him either in his own name or in the name of any member of his family;

(c) enter into any transaction with any foreigner, foreign Government foreign organization or concern-

(i) for the acquisition, by purchase, mortgage, gift or otherwise either in his own name or in the name of any member of his family, of any immovable property;

(ii) for the disposal of immovable property by sale, mortgage, gift or otherwise or grant of any lease in respect of any immovable property which was acquired or is held by him either in his own name or in the name of any member of his family.

22. Vindication of acts and character of Judicial Officer- No Judicial Officer shall except with previous sanction of the High Court have recourse to any court or to the press for vindication of any official act which has been subject matter of adverse criticism or an attack to defamatory character.

Explanation- Nothing in this rule shall be deemed to prohibit a Judicial Officer from vindicating his private character or any act done by him in his private capacity, provided that he shall submit a report to the High Court regarding such action.

23. Canvassing of non-official or other outside influence- No Judicial Officer shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the High Court.