

(1997) 02 AHC CK 0098

In the Allahabad High Court

Case No : Criminal Contempt Petition No. 13 of 1996

High Court of Judicature

APPELLANT

Vs

Satyajeet Thakur, District Magistrate and Others

RESPONDENT

Date of Decision : 06-02-1997

Acts Referred:

Arms Act, 1959 — Section 25, 27, 3
Civil Procedure Code, 1908 (CPC) — Section 80
Constitution of India, 1950 — Article 215, 227, 233, 235, 236
Criminal Procedure Code, 1973 (CrPC) — Section 190(1), 202, 299, 313
Penal Code, 1860 (IPC) — Section 147, 279, 304A, 337, 392

Citation : (1997) 3 AWC 1991

Hon'ble Judges : N.B. Asthana, J; Binod Kumar Roy, J

Bench : Division Bench

Advocate : Rakesh Dwivedi, A.A.G., Prabodh Gaur, C.S.C., P.P. Srivastava, A.A.G. and C.K. Rai, S.C., V.S. Misra and G.A, for the Appellant; R.K. Jain and A.D. Giri for Contemner No. 1 and V.N. Sharma, for Contemner Nos. 2 and 3, for the Respondent

Final Decision : Disposed Of

Judgement

Binod Kumar Roy and N.B. Asthana, JJ.—Since in the unfortunate incident which happened on the 13th (which is usually considered to be an unlucky number) June, 1995 when Mr. Justice R. S. Dhavan, who was on circuit to the Judgeship of Chamoli in the capacity of Inspecting Judge, was involved we consider appropriate to begin our judgment with his letter dated July 19, 1995 to the then Hon'ble the Chief Justice, which reads thus:

My dear Chief Justice.

Subject -- (1) In the matter relating to complaints against Sri R.P. Yadav, C. J. M.. Chamoli.

(2) The incident at Chamoli when the inspection Judge on circuit tour of Pithoragarh, Chamoli. Uttarkashi, Tehri Garhwal and Pauri Garhwal have been

locked out of the accommodation as a consequence of the District Magistrate, Chamoli, cancelling the reservation and thus, interfering with the Judicial administration of the High Court under Article 227 of the Constitution.

On 17th May, 1995 the Registrar forwarded to the Inspection Judge a record which on the note of the registry referred to three complaints in reference to Sri R. B. Yadav, C.J.M.. Chamoli. The endorsement of the registry dated 15th May, 1995 forwarded to the Registrar by the Joint Registrar by his note of 15th May, 1995 was sent by the Registrar to the Inspection Judge on 16th May.

On this the Inspection Judge recorded:

For the kind attention of the Hon"ble the Chief Justice, with the complete service record

(Emphasis)

Likewise the next day i.e., 18th May, 1995 another record was forwarded to the Inspection Judge also in the matter relating to complaints against the C.J.M., Chamoli, aforesaid on which (he Inspection Judge made the endorsement as below:

Registrar:

One such and related file was to be placed before the Hon"ble C.J. My orders are of yesterday. Please contact.

Kindly confer with me immediately (tomorrow) at 10 a.m. if convenient.

Sd./- 3.55 p.m. 18.5.95.

The reason why the record was marked for your counsel as a matter of urgency, was that an Administrative Committee meeting was scheduled for May 20, 1995. It appears that these papers were, never placed before you, and, thus, could not be before the Administrative Committee, which met on May 20, 1995.

I, as Inspection Judge, left for my circuit tour on June 1, 1995. The inspection secretariat carried the requisite dockets of the complaints against whoever be the Judicial Officer, for an enquiry at the spot with first-hand knowledge. When I reached Gopeshwar (Chamoli), the C.J.M. was not on call.

I was given to understand at Gopeshwar by the District Judge that the Administrative Committee had appointed the District Judge, Dehradun as the Enquiry Officer in the matter relating to complaints against the C.J.M., Chamoli. I was under the impression that the decision of the Administrative Committee may have been on the record which I had forwarded for your perusal on 17 and 18 May, 1995. But, as an abundant cause, I checked with the District Judge to show me copy of the order and the resolution of the Administrative Committee meeting by which the District Judge, Dehradun had been designated as the Enquiry Officer in the matters relating to the C.J.M., Chamoli. The D.O. letter was placed before me on the eve of my departure from Gopeshwar. It appears that

the Enquiry Officer in the District Judge, Dehradun had been made in another context in which I am given to understand the C.J.M., Chamoli, had made some incorrect remarks against the High Court in his representation.

However, another incident happened at Gopeshwar. I arrived at Gopeshwar towards the close of the day. around 6.00 p.m. While I arrived at the P.W.D. Inspection House with the District Judge, Chamoli it was announced to us that the District Magistrate had cancelled the scheduled reservation of the High Court which had been made a month earlier. The order of the District Magistrate had been marked as a copy to Chaukidar of the P.W.D., Inspection House. The Chaukidar announced to the District Judge that the reservation of the High Court had been cancelled by the District Magistrate. Upon overhearing what the District Judge was being told by the Chaukidar, I thought it best that it would be in the best interest in keeping with the class and dignity of the High Court that I should quietly remove my presence from the P.W.D. Inspection House and asked the District Judge to look for another accommodation. Thus, the District Judge who but had no choice except to find one, arranged an accommodation 19 Kms. away from Gopeshwar. This had to be done after the District Magistrate had locked out the High Court Judge on inspection circuit.

In this accommodation there was neither any light nor drinking water but just two rooms. It appears that the object was that whatever be the reason, the inspection of the High Court be jeopardised, interfered with the thwarted.

I did carry out the inspection but every time I had to drive 19 Kms. to and then from. This itself became the subject matter of a serious investigation to find out what exactly was the purpose in cancelling a long standing reservation made for the High Court registered at the records of the District Magistrate with a permit issued to the District Judge, only to cancel it on the day when the Inspection Judge was to arrive at Gopeshwar. Rather than enquire this matter myself as this would have anchored me for more days than I was supposed to camp at Gopeshwar, I thought it appropriate to act on the only available alternative. I asked that very Enquiry Officer appointed by the Administrative Committee to investigate -- (a) in the matters relating to the C.J.M., Chamoli, and (b) the action of the District Magistrate in interfering with the inspection by cancelling the long standing reservation of the High Court for use by the Inspection Judge on circuit.

I am afraid I must decline any comments on the merits of the matter on both the aspects. But, now the enquiry on both the aspects is complete.

The matters which relate to the C.J.M., Chamoli, if it could be seen in isolation, are matters for the Administrative Committee. The matter which relate to the incident of cancelling the reservation of the High Court and locking out the Inspection Judge and interference with the judicial administration of the High Court, are those which affect the powers and status of the Court; these are matters for the Full Court.

The report of the District Judge and his earlier reports which had been marked to the Chief Justice are being submitted to you again. The report of the Inquiry Officer, (District Judge, Dehradun) regarding the incident at Chamoli concerning the District Magistrate is also enclosed.

Thus, while I refrain from making any comments on merits, on the two matters, the record is entrusted to you.

With regards.

Yours sincerely Sd./- (Ravi S. Dhavan)

Enclosures :

1. Reports of the District Judge, Chamoli.
2. Report of the Enquiry Officer, the District Judge, Dehradun.

Hon"ble Mr. A. Lakshmana Rao, The Chief Justice.

2. On the aforementioned letter the following order was passed by Hon"ble the Chief Justice:

This letter along with the report dated 13.7.95 of Mr. K. S. Rakhra, District Judge, Dehradun be placed on the Judicial side before the appropriate Bench.

3. The minutes of the District Judge, Chamoli reads thus:

Last evening June 14, 1995 at about little before 9.40 p.m. unscheduled and without appointment it was announced to the Administrative Inspection Judge in Circuit at his camp 6 kms. away from the village Mandal. about 18 kms. away from Gopeshwar that the District Magistrate, Chamoli (Mr. Satyajeet Thakur) and the District Magistrate, Pauri. Commissioner Incharge (Mr. Bhupendra Singh) have arrived and desired to meet the Administrative/Inspection Judge on circuit. They sent their design slips. There are only two rooms in this P.W.D. hut. There are no lights and, thus, they were received at that hour in the make shift meeting room in candle light. In this P.W.D. hut, there is no drinking water and no electricity.

It was enquired from them by His Lordship as to what brought them for call at that hour. They introduced themselves. Mr. Bhupendra Singh, District Magistrate, Pauri and Incharge Commissioner, at the outset stated that the administration is ashamed of the circumstances in which the Hon"ble Administrative/Inspection Judge has had to come at the Mandal P.W.D. hut. He stated that he has come to express regret as Incharge Commissioner, Garhwal Division. He said that the Commissioner, Garhwal Division will Join his duty on 19th and will be meeting the Hon"ble Administrative Inspection Judge separately. The exact words were "AAP KI IS TAKLIF SE PRASHASHAN BAHUT SHARMINDA HAL" The District Magistrate. Chamoli. Mr. Satyajit Thakur mentioned that he was very sorry for what had happened. He said that it was not intentional. He further said that he was out of Chamoli with his family and he was told that the Hon"ble Administrative/

Inspection Judge had been diverted to this camp at P.W.D. hut of village Mandal. He mentioned that this has been done by his office and his Additional District Magistrate (Planning) never knew his business.

At this he was reminded by His Lordship that he had directed in writing to the District Judge on 12.6.1995 at about 2.30 p.m. that the reservation of the Inspection Judge at the Chamoli P.W.D. Inspection Bungalow, otherwise reserved for 13, 14 and 15 June, had been cancelled and that he had also announced the cancellation of the reservation to the Chaukidar (Watchman) of the P.W.D. Inspection Bungalow, Gopeshwar. He was also reminded that he had cancelled the reservation while the Administrative/Inspection Judge had begun his inspection and was about to leave Gwaldam to begin the inspection in Garhwal. It was indicated to the District Magistrate that he had written to the District Judge, that the reservation standing in the name of the Inspection Judge, which reservation was made long ago in May by the High Court for a scheduled inspection itinerary of the Inspection Judge, had been formally cancelled under the orders of the District Magistrate. The order of the District Magistrate, in effect, read, "AARAKSHAN KO NIRASTA SAMAJHA JAI". When the District Judge asked him that where he should take the Administrative/Inspection Judge, he reminded the District Judge that the latter should find alternate arrangement himself. It was in these circumstances, that the District Judge was left with no option but to accommodate the Administrative/Inspection Judge at the P.W.D. hut of village Mandal, 5 kms. away from the village Mandal, which itself is 13 kms. away from Gopeshwar. The result of cancelling the reservation made by the High Court one month ago was in front of the eyes as both the Commissioner Incharge, Garhwal Division, and the District Magistrate, Chamoli, saw that the Administrative/Inspection Judge was living in a two-rooms hut, sharing facilities with the staff, without electricity and water, and living in candle/lantern light. The consequence of cancellation were right before the District Magistrate and that he had, thus, thwarted the inspection of the High Court, interfered with the due administration of justice in the inspection by the High Court of the subordinate courts, which is the business of the High Court under the Constitution of India, and had, thus, interfered with the administration of the High Court and his order compromised the respect of the High Court and gave an impression to the people in the small town of Gopeshwar that the District Magistrate had undermined the position of the High Court in administration. Inspection, the District Magistrate was reminded by Hon"ble Inspection Judge, could not be conducted from 20 kms. away.

The District Magistrate, Chamoli, then acknowledged that he had passed the cancellation order while he tried to say that his office had done it. He was reminded that it is for him and the Government as the Administrative/Inspection Judge was not seeking his explanation which he would have to offer to his administration. He said he was sorry that what had happened but qualified by saying that it was the result of his subordinates who had brought about the situation. He was reminded that it is a matter entirely between him and his

administration. At this the Commissioner Incharge, Garhwal Division, otherwise the District Magistrate, Pauri. interjected to say that without reservation the administration is ashamed and embarrassed that a scheduled reservation had been cancelled and this should not have been done. The latter did not speak more than this.

As it was getting to be late and the time was 10.00 p.m. and the Commissioner Incharge, Garhwal Division/The District Magistrate, Pauri, had mentioned that he had been specially directed by the Chief Secretary to call on the Inspection Judge, he was given an appointment for the next day, 15.6.1995.

15.6.1995:

Unscheduled the District Magistrate, Chamoli, arrived at about 9.30 a.m. How, he said that he had made a mistake in cancelling and for the inconvenience caused to the Inspection Judge. He was reminded by the Administrative/Inspection Judge that the events had now passed and the reason the Inspection Judge had quietly left the inspection Bungalow at Gopeshwar on being told that the reservation of the High Court had been cancelled under the orders of the District Magistrate, is that the District Judge has already briefed the Administrative/Inspection Judge that the accommodation had been blocked by the District Magistrate for the Hon"ble the Chief Minister from another State. Thus, the Administrative/Inspection Judge thought that it would be appropriate to take no issue by checking into the inspection bungalow as that would create an instance which would reflect upon the dignity, status, respect and class of the High Court in administration and notwithstanding that the District Magistrate had cancelled the long standing reservation of the High Court, it would be better to walk away to any accommodation to which the District Judge could conveniently arrange. In effect, the District Magistrate was told that the accommodation in effect now had been left for whom it had been blocked as hospitality for a visitor from an outside State.

The District Magistrate, Chamoli, said that he was very sorry. He desired that the Inspection Judge should move into the Inspection Bungalow at Gopeshwar. On this he was indicated that it would be ridiculous that once having been kicked out of the accommodation it should be occupied after a day. He was told that the Administrative/Inspection Judge will proceed to his next destination straightaway from the P.W.D. hut of village Mandal.

15.6.1995:

At 10.30 a.m. the aforesaid officer left. At about 11.45 a.m. the Commissioner Incharge, Garhwal Division and the District Magistrate, Pauri came to see His Lordship again for which he had taken appointment last evening. The District Judge, Chamoli was present. The Commissioner Incharge regretted that the Administrative/Inspection Judge has had to face the indignity of a reserved accommodation being cancelled. He categorically stated that it was a mistake and it should not have been made. He further mentioned that the Commissioner,

Garhwal Division on assuming charge of his office on 19/20 June, will call on the Administrative /Inspection Judge.

It was indicated by His Lordship to the Commissioner Incharge that the net result of interfering or cancelling a scheduled reserved accommodation of the High Court has been that the scheduled inspection was frustrated and thwarted and whatever could have been done yesterday, will not be done today or the next day. Two engagements which are traditional upon inspection, i.e.. of the Bar Association and the District Judge to meet the Administrative/Inspection Judge, have been lost. This was the consequence of cancellation of a long standing reservation by the order of the District Magistrate and cancelled by him also. The District Magistrate misplaced his power to show his strength to the High Court that an otherwise reserved accommodation made by and for the High Court was cancelled by him.

On the evening of 15th June, 1995, the S.D.M., Chamoli (Sri Abrar Husain) brought a message from the District Magistrate, Chamoli that the latter would like to see His Lordship at camp village Mandal. His Lordship indicated to the S.D.M. that the District Magistrate may do so at the Chamber of the District Judge during lunch recess when His Lordship inspects the Courts,

16.6.1995:

The District Magistrate, Chamoli meets the Hon''ble Inspecting Judge at the Chamber of the District Judge.

The District Magistrate mentioned to the Hon''ble Inspection Judge that the Inspection Judge should extend his stay at Gopeshwar and move to the P.W.D. Inspection Bungalow. On this the Inspection Judge indicated to him that he is bound by his schedule and his dates for inspecting various Judgeship are fixed. Thus, it is not possible to extend the stay merely to stay at P.W.D. Inspection House at Gopeshwar and the record would rest at its logical conclusion of locking the Inspection Judge out from the Inspection House and further going to Gopeshwar now would stand as a public joke. Thereafter the District Magistrate mentioned that he would like to give a dinner to the Inspection Judge at His Lordship''s camp at Dugalvitta. On this the District Magistrate was indicated by the Hon''ble Inspection Judge that he in the background of the circumstances had lost the opportunity when as District Magistrate he had not even called at the Inspection Judge at the Inspection House. Then the District Magistrate mentioned to the Hon''ble Inspection Judge of making arrangements of His Lordship''s visit to Kedar Nath and Badrinath; His Lordship politely declined the suggestion by mentioning to him that His Lordship came here for Court Inspection on circuit, and not on a vacation.

The District Magistrate, Chamoli, departed after fifteen minutes from the chamber of the District Judge, Chamoli.

Minutes submitted for the kind perusal of the Lordship.

(M. S. Premi) District Judge, Chamoli 16.6.95

4. The report of the District Judge, Chamoli reads thus:

On 22.5.1995 the inspection tour programme of Hon''ble Mr. Justice Ravi S. Dhavan, Inspection Judge High Court of Judicature at Allahabad was received in this Judgeship. The Inspection Judge was on inspection tour as a representative of Hon''ble High Court in the Chamoli Judgeship from 12.6.1995 to 19.6.1995 forenoon. The P.W.D. Inspection House at Gopeshwar was got reserved for the stay of Hon''ble Inspection Judge for 13.6.1995, 14.6.1995 and 15.6.1995. The District Administration issued permit of reservation of two suites in the said Inspection House, The Hon''ble Inspection Judge was to arrive at 5.30 p.m. on 13.6.1995 at P.W.D. Inspection House, Gopeshwar after completing the inspection of outlying Court of Civil Judge (Junior Division) Karanprayag on that day. The Lordship was in the District w.e.f. 12.6.1995 and had one night halt at Forest Rest House, Gwaldam. On 12.6.1995 I received letter No. Memo/V.I.P./1995. Gopeshwar dated June 12. 1995 from the office of District Magistrate. Chamoli according to which the reservation made for the Hon''ble Inspection Judge was cancelled. The photocopy of the said letter is Annexure-A. The copy of the letter was given to the Chowkidar of the P.W.D. Inspection House, Gopeshwar by the District Administration.

Just after receiving the letter of cancellation of reservation I had telephonic talk with the District Magistrate, Chamoli. The District Magistrate told me that according to the Protocol the reservation of Hon''ble Inspection Judge was cancelled on the direction of the Administration. He told that on 14.6.1995 Sri Madan Lal Khurana Chief Minister of Delhi was to stay at the P.W.D. Inspection House, Gopeshwar and all the four suites of the Inspection House were to be occupied by the Hon''ble the Chief Minister. The District Magistrate told that according to the Protocol the Chief Minister of other State was at serial number 7 in the order of preference whereas the High Court Judge was at serial number 17. It reminded to the District Magistrate, Chamoli that the Hon''ble Inspection Judge was on the inspection tour and it was not the personal visit of Hon''ble Mr. Justice Ravi S. Dhavan. I also told that not giving accommodation to a High Court Judge is bad but the cancelling of already reserved accommodation for the Administrative Judge is illegal. I reminded that the Hon''ble Inspection Judge had been exercising his Constitutional function according to Article 227 of the Constitution of India. The Inspection Judge is the High Court in circuit and the Hon''ble High Court in circuit on business the talk of Protocol is misplaced. The inspection of subordinate Courts by the Hon''ble High Court is a part of constitutional function as Superior Court of Record. The Hon''ble Inspection Judge-Administrative Judge was on scheduled circuit and the cancellation of reserved accommodation of the Hon''ble High Court may tantamount to interfere with the constitutional function of the Hon''ble High Court. I also asked him where did he expect me to lodge the Hon''ble Inspecting Judge. The District Magistrate told that the P.W.D. Inspection House, Chamoli which was occupied by

the S.D.M., Chamoli due to the reason that his house was under repair, can be partly vacated for the lodging of the Hon''ble Inspecting Judge. I inquired from the District Magistrate whether the inspection of the subordinate Courts can be effectively possible by lodging the Hon''ble Inspection Judge at a distance of 12 to 13 kilometers away from the Headquarter. The District Magistrate did not listen, paid no heed to my advice and still told me to strict on alternative arrangement.

As per scheduled programme on 13.6.1995 at about 5.15 p.m. the Hon''ble Inspection Judge reached at P.W.D. inspection House, Gopeshwar. It was heavy rain at that time and there was storm. By giving copy of the letter of cancellation of reservation to the Chowkidar P.W.D. Inspection House, Gopeshwar, the District Administration impressed upon him that the Inspection House should not be opened at the time of arrival of the Hon''ble Inspection Judge. The Chief Minister of Delhi was to stay at P.W.D. Inspection House, Gopeshwar on 14.6.1995. I was Impressed upon that the reservation for 13.6.1995 was also cancelled because the District Administration could feel difficulty in dislodging the Hon''ble Inspection Judge. The Chowkidar bluntly refused to open the Inspection House to the members of my staff in the evening on 13.6.1995 but when he was told that Hon''ble Inspection Judge was not staying there, then he opened the Inspection House at the time of arrival of the Hon''ble Inspection Judge for short stay only. The Hon''ble Inspection Judge knowing it, did not enter into the Inspection House and asked me to make some alternative arrangement.

At about 5.30 p.m. on 13.6.1995 I escorted the Hon''ble Inspection Judge to the P.W.D. Inspection House at Mandal village. The P.W.D. Inspection House at Mandal is a small Inspection Hut having only one bed room, one dining room and toilet. There is no electricity and drinkable water. In heavy rain accompanied by Hon''ble Inspection Judge and members of his family and three members of personal staff 1 reached at Mandal Inspection House. There was no security arrangement. From Mandal village I requested the S. P., Chamoli to send some security personnels to the Mandal Inspection House. The S. P., Chamoli at once sent Security Guards to the Mandal Inspection House. At the time when we reached at Mandal Inspection House there was dark due to rain and clouds and nothing was visible inside the room. Kerosene lanterns were arranged. I provided drinking water in bottles for the Lordship and the members of the family. In the evening of 13.6.1995 the District Magistrate could not be contacted. After making arrangement for the dinner of the Hon''ble Inspection Judge I returned home. I gave intimation to Sri P. N. Parasar Joint L. R. and Joint Secretary Law, Government of Uttar Pradesh, Lucknow and Sri N. S. Gahlot Registrar. High Court of Judicature at Allahabad about the inconvenience caused to the Hon''ble Inspection Judge in the night of 13.6.1995.

The act of District Administration was interference into the constitutional function of the Hon''ble High Court as enshrined in Article 227 of the Constitution of India, interference in the Administration of Justice and belittling and compromising the

dignity of the Hon''ble High Court.

On 14.6.1995 at about 8.30 p.m. District Magistrate Sri Satyajit Thakur rung me on telephone and asked "Aap kaun si ranjis nikal rahe ho". On that I inquired from him that what enmity I had got with him. He told that because he and C.J.M. Sri Ram Babu Yadav were on good terms and for that reason District Judge was annoyed with the District Magistrate. I tried to convince him that it is not so and that you had cancelled the reserved accommodation of the Hon''ble High Court and instead telling the District Judge. I told him that by cancelling the reserved accommodation of the Hon''ble Inspection Judge he did not do a right thing.

I tried to recollect why the District Magistrate said that I am taking revenge from him. I observed as follows:

(1) On 2.6.1995 the Hon''ble Chief Justice Mr. Justice A. Lakshman Rao, High Court of Judicature at Allahabad was on vacation tour of Kedarnath and Badrinath. The Hon''ble Chief Justice arrived in Chamoli District on 2.6.1995 but the District Magistrate, Chamoli first of all show the Hon''ble Chief Justice at service dinner hosted by the District Judge on 4.6.1995.

(2) I learnt that on 6.6.1995 the District Magistrate. Chamoli sought time to call on the Hon''ble Chief Justice High Court of Judicature at Allahabad at the Camp at Joshimath. The Hon''ble Chief Justice was declined to give him interview on that day at Joshimath.

(3) Sri Madan Lal Khurana the Chief Minister of Delhi was on Badrinath Yatra. He stayed at P.W.D. Inspection House, Gopeshwar on his onward Journey to Badrinath. On his back journey he was having night halt at Rudraprayag. The District Magistrate, Chamoli requested him to stay at P.W.D. Inspection House, Gopeshwar on 14.6.95 saying that Rudraprayag is very hot in comparison of Gopeshwar. In this way the District Magistrate, Chamoli deliberately invited Sri Madan Lal Khurana the Chief Minister, Delhi for a night stay at Gopeshwar on 14.6.1995.

(4) From January. 1995 to May, 1995 the District Magistrate, Chamoli developed intimacy with the then Chief Judicial Magistrate, Chamoli Sri Ram Babu Yadav after the hunting incident and he tried to help Sri Ram Babu Yadav to let down the District Judge in performance of his judicial functions also.

(5) That the District Magistrate. Chamoli issued licence of a rifle to Sri Ram Babu Yadav C.J.M. without getting his application forwarded by the District Judge and arranged to sell out a rifle from the Police Malkhana to Sri Ram Babu Yadav which was the case property and the Police Malkhana was only the bailee.

(6) The Hon''ble Inspection Judge was also to inquire Into the report of the District Judge made against Sri Ram Babu Yadav and it appears that the District Magistrate wanted to create hindrance by creating obstruction into the inspection tour so that the Hon''ble Inspection Judge could not see the files and other

records going against Sri Ram Babu Yadav.

Sri Ram Babu Yadav Chief Judicial Magistrate, Chamoli was asked by me to leave charge of his court in the forenoon of 12.6.1995. On 12.6.1995 he remained on casual leave and at station. He left charge in the morning of 13.6.1995 and remained an spectator of this total occurrence and proceeded to his new station of posting after seeing this total episode himself though he remained on station but did not dare to call on the Hon"ble Inspection Judge. It appears that he acted as an instrument in the creation of hindrance in the inspection tour of the Hon"ble High Court.

The District Magistrate Sri Satyajit Thakur was within the District in the evening of 13.6.1995 and the night in between 13.6.1995 and 14.6.1995 but he or any of his subordinate officer did not feel it necessary to call upon the Hon"ble Inspection Judge. By their act and conduct the District Administration impressed upon the Hon"ble Inspection Judge High Court of Judicature at Allahabad that the Hon"ble Inspection Judge was an unwelcomed visitor of the District.

The District Administration has shown his power by cancelling the reserved accommodation of the Hon"ble High Court, interfered into the constitutional functions of the Hon"ble High Court, interfered in the supervisory control of the Hon"ble High Court, a Court of Record having supervisory jurisdiction over the subordinate Courts of the District, belittling and compromising the dignity of the High Court. I pray that such episode should not be repeated by any District Administration in future.

Report submitted for kind perusal of the Hon"ble High Court.

Dated : Gopeshwar :

June 16, 1995

Sd./- (M.S. Premi) District Judge, Chamoli at Gopeshwar.

5. The report of the District Judge, Dehradun, excluding annexures attached thereto, reads thus:

Investigation Report by K. S. Rakhra, District Judge, Dehradun.

This report of the investigation is being submitted in compliance of the following order dated 16.6.95 of Hon"ble Mr. Justice Ravi S. Dhavan, Inspecting Judge-on-Circuit. Pithoragarh/Uttarkashi/Chamoli/Tehri and Pauri:

In this regard, the District Judge, Dehradun. shall investigate:

(a) the circumstances under which a long standing reservation for the High Court was cancelled by the District Magistrate, Chamoli, when he himself had reserved the accommodation on being intimated the tour programme of the High Court;

(b) the matters which were left for inspection and investigation by the Inspection Judge on circuit in reference to the complaints which were forwarded to the High

Court in relation to the then Chief Judicial Magistrate, photocopies of which are marked to the Investigating Officer; in this regard. All other allied matters, papers and records in matters relating to the then Chief Judicial Magistrate, Chamoli, will be handed over by the District Judge to the Investigating Officer otherwise District Judge, Dehradun." (pages 6 and 7 of paper No. 1 in File I annexed to this report).

A copy of the above order was delivered to the Reporting Officer on 2.7.1995 by Sri M. S. Premi. District Judge, Chamoli. The Reporting Officer left Dehradun on 8.7.95 for investigation and reached Chamoli the same day and inspected the P.W.D. Inspection House at Gopeshwar where Hon"ble Mr. Justice Ravi S. Dhavan was to stay for inspection of Judgeship. On 9.7.95, the Reporting Officer visited the P.W.D. Hut at Mandal village in which His Lordship Hon"ble Justice Ravi S. Dhavan was made to stay during the inspection of Chamoli Judgeship on account of cancellation of the reservation in P.W.D. Inspection House at Gopeshwar. Statement of 16 witnesses were recorded between 10.7.95 and 11.7.95. P.W.D. Inspection House at Chamoli was also visited on 11.7.1995. Another Inspection House of Irrigation Department at Kuthalsain situated about 8 kms. from Gopeshwar Head Quarters has also been visited on 12.7.95.

FACTS:

The facts relating to the present investigation are that Hon"ble Justice Ravi S. Dhavan was on an Circuit Inspection of Pithoragarh/ Chamoli/Uttarkashi/Tehri and Pauri Districts in June, 1995. His Lordship had sent the inspection programme well in advance and the inspection of Chamoli Judgeship (Headquarters, Gopeshwar) was to be done from 12.6.95 to 19.6.95. Two suits in the P.W.D. Inspection House at Gopeshwar were got reserved by the District Judge, Chamoli for His Lordship's stay on 13.6.95, 14.6.95 and 15.6.95. On 12.6.95, the District Magistrate, Chamoli cancelled the reservation of the suites in P.W.D. Inspection House, Gopeshwar booked in the name of Hon"ble Inspecting Judge and by a letter informed the District Judge, Chamoli that on account of visit of the Hon"ble Chief Minister of Delhi, the reservation in the name of the Hon"ble Inspecting Judge be deemed to have been cancelled as all the 4 suites in the Inspection House have been reserved for the visiting Chief Minister. On this, the District Judge, Chamoli immediately had a telephonic talk with the District Magistrate and apprised him of the difficulty and questioned the propriety of the cancellation of the reservation already done for the Hon"ble Inspection Judge. The District Magistrate justified the cancellation on the ground that a visiting Chief Minister from outside State was higher in Protocol list than the High Court Judge. He did not agree with the view of the District Judge that in the inspection by the High Court Judge, Constitutional obligation of the High Court of supervision and control over the subordinate courts was to be achieved and, therefore, it was not proper to cancel the reservation for the Hon"ble Inspecting Judge. On being asked for an alternative accommodation, the District Magistrate told the District Judge that another P.W.D. Inspection House at

Chamoli, at a distance of about 13 kms. from the Head Quarter and which was occupied by S.D.M., Chamoli could be partially vacated for lodging the Hon''ble Inspecting Judge. The District Judge expressed the view that inspection would not be possible from such a distant place.

On 13.6.95 at about 5.15 p.m. when it was raining heavily, Hon''ble Inspecting Judge accompanied with His Lordship's wife and daughter besides 3 personal Secretaries/Private Assistants and driver and orderly arrived at the Inspection House at Gopeshwar. He came to know that the Chaukidar of P.W.D. Inspection House, Gopeshwar to whom a copy of the order of cancellation passed by the District Magistrate had been sent, had refused to open the suites for His Lordship when the Civil Court staff required him to do so. The Chaukidar, however, agreed to open the Inspection House for brief stay for His Lordship. In view of these developments, Hon''ble Inspecting Judge did not think it proper to occupy Gopeshwar Inspection House. The District Judge had to then take His Lordship along with family and staff party to village Mandal at a distance of about 19 kms. where they were lodged in a small hut comprising of one bed room. The place had no electricity nor drinking water facility and was repleted with leeches.

The District Judge, Chamoli on 13.6.95, informed His Lordship that the reservation made for the Hon''ble High Court for 13.6.95 to 15.6.95 has been cancelled by the District Magistrate, Chamoli and after endorsing the copy of the cancellation order, to Chaukidar of the Inspection House, the District Magistrate was not available at the station and was reported to have left for unknown destination. This report of the District Judge is paper No. 3 in File I annexed to this report. Hon''ble Inspecting Judge then passed an order requiring the District Judge to give a detailed report of the circumstances in which the cancellation was done without reasonable prior information to the High Court. The District Judge then gave a report to the Hon''ble Judge on 16.6.95, a copy of which is paper No. 5 in File I annexed to this report. In this report the District Judge also mentioned that on 13.6.95 itself after leaving the Hon''ble Judge and his family and staff team at Mandal he informed the Ragistrar of the Hon''ble High Court and also the Joint Secretary in the Law Department of the Government. The District Judge in his report also mentioned that the Hon''ble Inspecting Judge was to enquire into the complaints sent by him against Sri Ram Babu Yadav, the then Chief Judicial Magistrate and the District Magistrate, Chamoli was friendly to the Chief Judicial Magistrate and it appeared that the District Magistrate wanted to create hindrance by creating obstruction into the inspection tour, so that Hon''ble Judge could not see the files and other records going against the Chief Judicial Magistrate. He further mentioned that the Chief Minister of Delhi had initially no programme to stay at Gopeshwar Inspection House on 13th, 14th and 15th June, 1995 but it was only on the deliberate suggestion by the District Magistrate and on his request to the Chief Minister to stay at Gopeshwar on 14.6.95 that the programme of the Chief Minister was -- later on changed. The District Judge also mentioned some circumstances on the basis of which he felt that it was deliberate act of the District Magistrate to prevent effective inspection by the

Hon''ble Judge.

On the above report dated 16.6.95 of the District Judge. Chamoli, Hon''ble Justice Ravi S. Dhavan passed a detailed order (paper No. 1 of File I annexed with this report) and appointed this Reporting Officer to investigate into the matter. In this order Hon''ble Inspecting Judge has observed that the result of cancellation of the accommodation for inspection is that the inspection has been frustrated and it amounts to interference with the course of administration of justice and also function of the High Court in exercising control and supervision over the Subordinate Courts. His Lordship has felt that the purpose apparently has been that the Hon''ble Inspecting Judge could not be able to carry out the inspection.

On certain complaint against Sri R. B. Yadav the then Chief Judicial Magistrate, Chamoli, the matter was considered by the Administrative Committee of the Hon''ble High Court in its meeting dated 25.5.1995 and an adverse entry was directed to be recorded against Mr. Yadav and the present Reporting Officer has also been appointed to enquire into certain matter. The resolution of the Administrative Committee is quoted below:

27(a) Considered the reply dated 5/9.1.95 submitted by Sri R. B. Yadav, Chief Judicial Magistrate, Chamoli to the show cause notice issued by this Court. Resolved that the following adverse entry be recorded in his character roll:

He made representation against Sri Bhanwar Singh, the then Registrar and sent a copy thereof directly to the Government of Uttar Pradesh and another copy of that representation to an association of Scheduled Caste, Scheduled Tribes and Backward Classes of Garhwal and thereby committed an act of insubordination, unbecoming of a judicial officer.

It is further resolved that a regular departmental enquiry be held against Sri R. B. Yadav, the Chief Judicial Magistrate. Chamoli in respect of the allegations mentioned by the District Judge, Chamoli in his report dated 8th March, 1995 and the language used in his explanation/reply dated 5/9.1.95 submitted in reply to the show cause notice issued by this Court and the other representations made by him either to this Court or to the Government. Sri K. S. Rakhra, District Judge, Dehradun is appointed as Enquiry Officer.

It appears that before the Hon''ble Justice Ravi S. Dhavan, Inspecting Judge of the region left for Circuit inspection tour, certain other complaints too had been received in the Hon''ble High Court against Sri R. B. Yadav. These matters had already engaged attention of the Hon''ble Inspecting Judge and His Lordship had referred the same to Hon''ble the Chief Justice. It appears that the Hon''ble Inspecting Judge was intending to enquire into those matters relating to the then Chief Judicial Magistrate Sri Yadav, during the above inspection. His Lordship has observed that an enquiry on these matters has been bogged and clearly interfered with by cancellation of reservation of P.W.D. Inspection House at Gopeshwar.

In view of the above circumstances and report of the District Judge, Chamoli, Hon"ble Inspecting Judge has directed an investigation into the circumstances in which the reservation of the suites in the Inspection House at Gopeshwar was cancelled and also directed this Reporting Officer to investigate the matters which were left for inspection and investigation by the Hon"ble Inspecting Judge in reference to the complaints which were forwarded to the Hon"ble High Court in relation to the then Chief Judicial Magistrate, Chamoli. The District Judge, Chamoli was directed by His Lordship to deliver copies of all those complaints etc. to the Reporting Officer for investigation.

During the course of investigation, the Reporting Officer has also seen the relevant records and obtained copies and also had a talk with the District Judge, Chamoli on the entire field of investigation.

This report is accordingly being submitted. For the convenience it has been splitted into 3 parts. Part I relates to circumstances under which the reservation for the High Court was cancelled and whether there was any necessity or Justification for the same. Part II relates to the allegations against Sri R. B. Yadav, the then Chief Judicial Magistrate and Part III deals with whether cancellation of the reservation of the Inspection House was an intentional act designed to frustrate an enquiry into the complaints against Sri Yadav the then Chief Judicial Magistrate.

PART I

Whether the cancellation of reservation of the suites in P.W.D. Inspection House at Gopeshwar for the Hon"ble Inspecting Judge without reasonable prior notice was proper and Justified.

Reservation of 2 suites for the Hon"ble Inspecting Judge in P.W.D. Inspection House. Gopeshwar was done by the District Magistrate vide allotment slip No. 377, dated 1.6.95 and allotment slip No. 447, dated 11.6.95. The allotment slip No. 377 was for 14.6.95 and 15.6.95 whereas by the other slip reservation was done on 13.6.95. Paper No. 3 in the File Annexure II with his report would show that the original programme of Hon"ble the Chief Minister of Delhi issued on 7.6.95 did show night halt of the Chief Minister at Gopeshwar on 12.6.95 only. On 13.6.95 he had no engagement at Gopeshwar and on 14.6.95 he had to arrive at Gopeshwar at 12.00 noon and to depart from Gopeshwar at 3.00 p.m. with night halt at Srinagar. The District Magistrate Chamoli has informed this Reporting Officer on 11.7.95 that this programme of the Chief Minister was revised and the Private Secretary to the Chief Minister on 12.6.95 had written to the District Magistrate, Chamoli informing that the Chief Minister would be making a night halt at Gopeshwar instead of Srinagar. A copy of the hand written letter of Private Secretary to the Chief Minister is Paper No. 6 in the File Annexure II. This paper was endorsed by the District Magistrate to V.I.P. clerk in the Collectorate and consequently letter of cancellation of the reservation for the Hon"ble Inspecting Judge was issued from the office of the District Magistrate.

Chamoli. This cancellation letter, copy of which is enclosed with the report (paper No. 5 of Annexure File I) of the District Judge, Chamoli says that with reference to allotment slip No. 377, reservation for the Hon''ble Inspection Judge is cancelled. This clearly means that reservation for 14th and 15th June, 1995 was cancelled.

In this regard, it may be noticed that when the Chief Minister was to make a night halt at Gopeshwar only on 14th June, 1995 there should have been no reason for cancelling the reservation of 13th June and 15th June, 1995. The District Magistrate, however, cancelled the entire reservation and even the Chaukidar of P.W.D. Inspection House, Gopeshwar was issued instructions not to permit occupation of the Inspection House by His Lordship even on 13.6.95. The Chaukidar of the Inspection House was given in writing to this Reporting Officer that he had refused the occupation of the Inspection House on 13.6.95. Sri Balwant Singh Negi, a clerk in the civil courts has given statement that the Chaukidar had refused to permit occupation and refused to open the Guest House on 13.6.95 even on showing the permit slip by saying that this has been cancelled by the District Magistrate. The District Judge, Chamoli in his report (paper No. 5 in File Annexure I) had said that he was told that reservation for 13.6.95 too has been cancelled because the District Administration could feel difficulty in dislodging the Hon''ble Inspecting Judge if he did not vacate the premises on 14.6.95. The statement of the Chaukidar of the Inspection House also shows that he opened the Inspection House only few minutes before the arrival of the Hon''ble Inspecting Judge at Gopeshwar and that too after seeking further instructions from the V.I.P. clerk of the Collectorate. The District Judge also reported to the Hon''ble Inspecting Judge after issuing the cancelling order and sending its copy to the Chaukidar of the Inspection House, District Magistrate, Chamoli was not available at the station and was reported to have left for unknown destination. From the above it is clear that though on 13.6.95, the reservation for the Hon''ble Inspecting Judge was not specifically cancelled but it was factually cancelled and the accommodation was blocked to prevent occupation by the Hon''ble Inspecting Judge. It is further indicated from the fact that on 13.6.95, from the office of the District Magistrate an allotment slip No. 462 was issued reserving 2 suites for the Hon''ble Inspecting Judge: for 13.6.95 and 14.6.95 at Inspection House Chamoli at a distance of 13 kms. from the District Head Quarters. As would be indicated later, this accommodation was wholly unfit for being occupied for the purpose of inspection. The fact, however, remains that the reservation for 13.6.95 at P.W.D. Inspection House, Gopeshwar for the Hon''ble Inspecting Judge was in fact cancelled. As stated above, it was also specifically cancelled for 15.6.95 too. The letter of the District Magistrate (paper No. 1 of File Annexure II) to this Reporting Officer suggests that the reservation for 14.6.95 only was cancelled but it is not in conformity with the communication dated 12.6.95 received by the District Judge, Chamoli from the office of the District Magistrate, Chamoli by which it was stated that the reservation vide reservation slip No. 377 stood cancelled. The V.I.P. clerk Sri Om

Prakash and the Administrative Officer Sri Ranjit Singh Bhandari of the Collectorate however, tried to say that there was clerical mistake in the letter as it should have been only for 14.6.95.

The fact, however, remains that the reservation for the Hon''ble Inspecting Judge at Inspection House, Gopeshwar was cancelled for 13.6.95 and 15.6.95 without any pretext or Justification.

Now the question is about the cancellation of reservation for 14.6.95. As seen above, earlier there was no programme of the Chief Minister to make a night halt at Gopeshwar. It is said that the Private Secretary to the Hon''ble Chief Minister gave a hand written letter to the District Magistrate, Chamoli on 12.6.95 indicating that the Chief Minister would like to stay at Gopeshwar in the night of 14.6.95. The District Judge. Chamoli in his report dated 16.6.95 to the Hon''ble Inspecting Judge (paper No. 5 for Annexure I) has opined that the District Magistrate, Chamoli wanted to create hindrance in the enquiry against Sri R. B. Yadav, Chief Judicial Magistrate by creating obstruction into the inspection tour of the Hon''ble Judge. He has further said that the District Magistrate, Chamoli himself requested the Chief Minister to stay at P.W.D. Inspection House, Gopeshwar on 14.6.95 suggesting that Rudraprayag where the night halt of Chief Minister was scheduled was hotter in comparison to Gopeshwar.

This Reporting Officer had visited various Inspection Houses to find out if the cancellation of two suites'' reservation in P.W.D. Inspection House at Gopeshwar in the name of the Hon''ble Inspecting Judge was necessary even if the Chief Minister of Delhi had to make night halt and the Administration wanted to accommodate him. It was found that there was a very good Irrigation Inspection House hardly 8 kms. from Gopeshwar on way from Chamoli to Gopeshwar. This Inspection House is in very good condition and has proper furnishing. It is located at Kothalsain and is on the bank of river, approachable by motor car and was fully safe and befitting the status of any high dignatary. It has 3 suites with attached latrine, bathroom and a dinning hall with a kitchen. It also has 3 separate rooms with toilet facility for the staff. This Inspection House is ideally located between the hills and has a beautiful site. It appears to be fully safe from all point of view. The District Administration at Chamoli could not have therefore any difficulty in arranging the stay of Hon''ble the Chief Minister of Delhi at the said Kothalsain Irrigation Inspection House. No reason has been disclosed why this Inspection House within the municipal limit of Gopeshwar was not made use of.

Even if the District Administration was particular in lodging the Chief Minister of Delhi at P.W.D. Inspection House. Gopeshwar itself, it could have used 2 of the 4 suites in the said Inspection House which were still available as only 2 suites at Gopeshwar had been booked for the Hon''ble Inspecting Judge. The extra persons accompanying the party of the Chief Minister could be lodged in the 4 additional rooms in the adjoining block of the building which is the part of the P.W.D. Inspection House and appears to be meant for the staff. This

accommodation also appears to be reasonably good for the persons accompanying the V.I.P. The District Administration was asked why the Chief Minister could not be accommodated in the 2 suites of the P.W.D. Inspection House wherein the remaining 2 were reserved for the Hon"ble Inspecting Judge. They have informed that the reservation was cancelled in view of the security of the Chief Minister and his family and the staff. The Chief Minister was reported to be in "Z" category of security. It has also been informed that the Chief Ministers of the other States rank higher in order, in the rank and the precedence of the persons, according to protocol. This stand of the District Administration does not appear to be sound because the rank and precedence protocol relied upon by the District Administration is meant for ceremonial occasions and has no application in day to day work.

Hon"ble the Inspection Judge is a Constitutional Authority and was making inspection as High Court, in discharge of constitutional obligations of control and supervision over the Subordinate Judiciary. According to the High Court Circular No. 118 dated 15.9.75, if any Inspection House other than Circuit House is reserved in connection with the visit of Administrative Judges, the whole of the Inspection House should be reserved. In case of Circuit House, the best available suite should be reserved. In the instant case, the District Administration had reserved only 2 of the 4 suites in the P.W.D. Inspection House at Gopeshwar and that too was cancelled on the ground of visit of the Hon"ble the Chief Minister of Delhi on the ground of order of preference.

So far as security is concerned, Hon"ble the Inspecting Judge being a High dignitary and the constitutional authority, no less security was required for him than the security for any other person. The Administration should not have felt any difficulty in accommodating both the V.I.Ps. giving 2 suites to each at P.W.D. Inspection House at Gopeshwar and making suitable security arrangement.

Not only this, if the District Administration in fact felt any difficulty on account of shortage of accommodation for the V.I.P. guest from the other State, the propriety and dignity demanded that they should have approached the Hon"ble Inspecting Judge with their problem and a request for some adjustment. This was not thought proper and nobody from the District Administration contacted His Lordship either before His Lordship's arrival at Gopeshwar Guest House on 13.6.95 or at Gopeshwar Guest House itself when His Lordship arrived there.

In fact these circumstances show that the District Administration paid no importance at all to the requirement of the Hon"ble Inspecting Judge for the purposes of inspection and casually treated the request of the District Judge suit suitable accommodation for His Lordship in view of the last moment's developments. This is indicated from the fact that without any rhyme or reason, the reservation for 13.6.95 was cancelled and while the District Administration claims that they intended to cancel the reservation for 14.6.95 alone, nobody bothered to see that letter of cancellation was issued with respect to both dates i.e., 14.6.95 and 15.6.95. Not only this, nobody in the District Administration

thought it proper or applied its mind to see that in case of cancellation of the reservation at P.W.D. Inspection House at Gopeshwar. the best alternative accommodation should be offered to make the inspection possible, though little inconvenience. As an alternative they should have offered atleast Irrigation Inspection House at Kuthalsain about 8 kms. from Gopeshwar Headquarters to His Lordship as there were 3 suites with separate accommodation for the staff and it was properly furnished, well maintained and situated on the site of the river in ideal location. Instead of doing that they wanted to send him to Chamoli Guest House 13 kms. from the Gopeshwar Headquarters on a difficult road route and where the accommodation had to be shared with the S.D.M. with no provision for the stay of the staff, with very low voltage of electric current. The motor car had to be left about 100 ft. below the Inspection House on the road, from where the Inspection House could be approached on foot and there were no stairs and no pucca path. Only stones had been laid as path for reaching the Guest House. The Guest House itself was not in good condition and not properly furnished. The Administrative Officer and the S.D.M., Chamoli occupying a portion of this Chamoli Guest House had informed this Reporting Officer that this Guest House is not regularly used for the V.I.Ps. It is only occasionally reserved. In the month of May, 1995 when the tourist season was at its peak, only 2 suites in this Guest House were reserved for guests on 13th to 17th May and 24th to 26th May, 1995 and a single suite was reserved on 27.5.95. Similarly in June, 1995 also, 2 suites in this Inspection House were reserved on 3. 5 and 7th June, 1995 only. This shows that this Inspection House was not considered suitable for the stay of the guests. In these circumstances, and also knowing fully well that the Inspection of Chamoli Judgeship could not be carried out from such a distant place where it was not possible to keep the staff around, the suggestion of the District Administration that the District Judge may take the Hon"ble Inspection Judge to the said Inspection House was wholly improper, unjustified and unreasonable. Not offering the second best accommodation available with the District Administration, indicates that they were bothered least or intended that the inspection may frustrate. This incident was highlighted in the local press and has the effect of undermining the dignity of the Constitutional Authority of the Hon"ble High Court.

PART II

Allegations of misuse of power and doubtful integrity of Sri R. B. Yadav, the then Chief Judicial Magistrate, Chamoli.

The District Judge, Chamoli vide his confidential D.O. Letter No. 30 of 1995 dated 5.5.95 (paper No. 6 of file Annexure 1) addressed to the Registrar of Hon"ble High Court complained that there are instances of misuse of power by Sri R. B. Yadav and that his integrity is doubtful. The District Judge, Chamoli requested that Sri Yadav be transferred from Chamoli and a Vigilance enquiry be conducted. Along with this D.O. letter the District Judge enclosed extracts from records and relevant correspondence to highlight this point. A copy of this D.O.

letter along with relevant material too was delivered to the Reporting Officer by District Judge, Chamoli. The Reporting Officer has seen the relevant records and also examined as many as 12 witnesses including the Secretary and President of the Bar Association and several senior Advocates, D.G.C. (Civil), D.G.C. (Criminal), prosecuting Officer Station Officer, police station Gopeshwar, D.P.O. Sri Kamlesh Kumar, Sri Tara Dutt Pant. Assistant Engineer. U.P. Jal Nigam. Sri Mohd. Ahsan, Sri Harshpati Chamoli, Arms Clerk, Central Nazir of the Collectorate and also the statement of Than Singh, Pradhan of village Irani. Statement of Sabar Singh Kunwar, Advocate with whom the then Chief Judicial Magistrate Sri Ram Babu Yadav is alleged to have some unholy nexus too was recorded.

Sri Sabar Singh Kunwar, Advocate is the person whose name has been highlighted by the District Judge, Chamoli and also the members of the Bar as being closely associated with the Chief Judicial Magistrate Sri Yadav and enjoying undue favour in Judicial matters from the Court of Chief Judicial Magistrate. Sri Sabar Singh Kunwar, Advocate in his statement before Reporting Officer said that he is also Block Pramukh of Block, Dasholi and village Irani, falls within his area. He has tried to conceal his special contacts with Than Singh, village Pradhan of Irani but this Than Singh told this Reporting Officer that Sabar Singh Kunwar, Advocate is his Advocate in a controversial case lodged by Than Singh against D.P.O. Sri Kamlesh Kumar. Sri Sabar Singh Kunwar, Advocate denied that he had any special acquaintance with Sri R. B. Yadav, Sri Satendra Singh Bartwal, Secretary of the Bar Association and Sri V. S. Rawat President Bar Association, Chamoli who also happened to be D.G.C. (Civil) have alleged that Sabar Singh Kunwar, Advocate had undue intimacy and closeness with Sri Yadav. Sri R. B. Yadav proclaimed himself to be some relation of the then Chief Minister Sri Mulayam Singh Yadav of Samajwadi Party and Sri Sabar Singh Kunwar. Advocate has also contested M.L.A.'s election from Samajwadi Party ticket. The Secretary Bar Association alleged that Sri R. B. Yadav was so much interested in Sabar Singh Kunwar, Advocate that he used to tell clients in the open court to engage Sabar Singh Kunwar, Advocate and there was general impression in the people that they would get a soft dealing from the Chief Judicial Magistrate if they engaged Sri Sabar Singh Kunwar, Advocate. In some cases Sabar Singh Kunwar, Advocate filed his vakalatnama at middle stage of the case. In some of his cases, the Chief Judicial Magistrate showing undue soft corner sentenced the accused on confession to imprisonment till rising of the court. The Bar Association being aggrieved by unfair attitude of Sri R. B. Yadav passed a resolution against him on 16.5.95, a copy of which has been submitted by the President, Bar Association to this Reporting Officer in the course of this enquiry. The Secretary, Bar Association further alleged that Sri Sabar Singh Kunwar, Advocate and the Chief Judicial Magistrate Sri Yadav were often seen moving together in social gatherings and they had visiting terms with one another.

As reported by the District Judge, Chamoli the Secretary Bar Association also said that Sabar Singh Kunwar, Advocate had gone to forest along with the son

and nephew of Chief Judicial Magistrate Sri Yadav for hunting. They were checked by D.F.O. Kedarnath and his staff. A challani report was registered by the forest officials. As a counter action the Chief Judicial Magistrate Sri Yadav taking suo motu cognizance registered a case against D.F.O. Kedarnath under Arms Act showing Sabar Singh and Than Singh, village Pradhan of Irani, as witnesses. This Than Singh was also accompanying Sabar Singh Kunwar, Advocate at the time of the above instance of hunting.

The President Bar Association Sri V. S. Rawat making similar complaint informed that Chief Judicial Magistrate Sri Yadav had attended the engagement ceremony of nephew of Sabar Singh Kunwar, Advocate in village Irani and had stayed at the house of village Pradhan Than Singh. Sri Yadav had also gone to Almora on official vehicle to attend the marriage of the brother of his clerk Sri Rajendra Lal Shah in April, 1995 and Sri Sabar Singh Kunwar, Advocate had accompanied him. On his return Sabar Singh Kunwar, Advocate had also stayed at the residence of Sri Yadav at Gopeshwar. Sri Sabar Singh Kunwar, Advocate again returned with Chief Judicial Magistrate Sri Yadav to Gopeshwar on another occasion after attending "at home" of the marriage of the brother of clerk Rajendra Lal Shah at Chamoli and in the night the Chief Judicial Magistrate Sri Yadav and Sabar Singh went together towards the house of Chief Judicial Magistrate instead of parting for going to their own houses. This President has given some other instances where Sri Sabar Singh Kunwar, Advocate had accompanied Chief Judicial Magistrate Sri Yadav on public functions and they have been visiting together the house of the then District Magistrate Sri Thakur. Sri Sabar Singh Kunwar, Advocate has denied these allegations and has also denied that he went to Almora to attend the marriage of the brother of clerk Rajendra Lal Shah and also denied his participation in the "At home" given by Sri Shah at Chamoli after the marriage. He denied that he never visited District Magistrate along with Chief Judicial Magistrate. He denied that Chief Judicial Magistrate Sri Yadav had participated in the engagement function of his nephew in village Irani.

The circumstances, however, show that Sri Sabar Singh Kunwar, Advocate was not speaking the truth and tried to conceal his association with Sri Yadav, the then Chief Judicial Magistrate and there are several circumstances which would indicate that the two of them had deep closeness. Sri G. S. Farswan, Advocate is in practice since 1978 and he also said that Chief Judicial Magistrate Sri Yadav was not fair and used to favour some of the lawyers. This witness said that he had attended Shah's brother's marriage at Almora and also subsequent "At home" of it at Chamoli and that Chief Judicial Magistrate Sri Yadav in the company of Sri Sabar Singh Kunwar, Advocate, had participated both these functions. After "At home" Sri Sabar Singh Kunwar, Advocate, who is resident of Chamoli had come to Gopeshwar along with this witness and another in the jeep of Chief Judicial Magistrate Sri Yadav at Gopeshwar. Sabar Singh Kunwar, Advocate and Chief Judicial Magistrate Sri Yadav parted with this witness and went together.

Sri B. K. Bhatt, D.G.C. (Crl.) also stated that there was general complaint that Sri Yadav used to favour some Advocates and that Sri Yadav had frequent visits at the place of D. M. Sri Thakur.

Sri Govind Singh Mirola also made similar complaint against the Judicial work of Sri Yadav. He specifically said that there was general impression that Sri Yadav claimed himself to be the relation of the then Chief Minister and used to do favour in the cases conducted by Sri Sabar Singh Kunwar, Advocate.

The President of the Bar Association also gave a list of several cases in which it was alleged that Sri R. B. Yadav the then Chief Judicial Magistrate passed discriminatory orders and also showed undue favour to Sri Sabar Singh Kunwar, Advocate. The perusal of these files showed that in 1. Crl. Case No. 440 of 1993 State v. Nadim Ahmad u/s 279/427, I.P.C. decided on 12.1.95, 2. Crl. Case No. 643 of 1990 State v. Munshilal u/s 279/427, I.P.C, 3. Crl. Case No. 228 of 94 State v. Mohd. Islam u/s 279/337/304A, I.P.C. and 4. Crl. Case No. 60 of 92 State v. Ghananand u/s 279/304A, I.P.C. Sri Sabar Singh Kunwar, Advocate appeared for the accused. The accused confessed and the Chief Judicial Magistrate Sri Yadav sentenced the accused to the imprisonment till rising of the court only.

In Crl. Case No. 643 of 90, State v. Munshi Lal referred to above, the case was pending since 1987 and the accused had not been turning up since the beginning. The court had declared him absconder and had also recorded in the evidence in the absence of the accused u/s 299, Code of Criminal Procedure. However, on 9.5.95 all of sudden the accused appeared through Sri Sabar Singh Kunwar, Advocate and made an application for confession. The confession was recorded on 10.5.95 and taking undue lenient view, he was sentenced to imprisonment till rising of the court only. The sentence was unduly light because by his conduct the accused who had been absconding for 8 years, did not deserve to light treatment.

In Crl. Case No. 288 1994 State v. Mohd. Islam, u/s 279/337/304A, I.P.C., the accused moved an application through Sri Sabar Singh Kunwar. Advocate before the date fixed and on the same day he was sentenced to imprisonment till rising of the court only.

In Crl. Case No. 386 of 94 State v. Vinod Bhatt, u/s 147/503/506, I.P.C., the police had submitted final report against the accused but the Magistrate decided to summon the accused. The accused appeared on 19.4.95, through Sri Ranbir Singh Pushpwan, Advocate and moved an application for being admitted on bail. The Chief Judicial Magistrate Sri Yadav directed that the accused be taken into custody and fixed 24.4.95 for hearing of his bail application. The accused then engaged Sri Sabar Singh Kunwar, Advocate and moved another application on the very next day i.e., 20.4.95 and succeeded in getting the bail order from the Chief Judicial Magistrate Sri Yadav on 20.4.95 itself. This is a clear case of undue favour in the cases of Sri Sabar Singh Kunwar, Advocate.

In Crl. Case No. 601 of 92 State v. Ghananand u/s 304A, I.P.C., the counsel was Sri Sabar Singh Kunwar, Advocate. The accused had been contesting the case and the witnesses of the prosecution have been examined. Later on the accused expressed his desire to confess and moved an application on 3.1.95 which was not the date fixed. The file was summoned on the same day. Confession was recorded by way of statement u/s 313, Code of Criminal Procedure and sentence till rising of the court was passed. The reason given for such a light punishment was that the age of the accused was 55 years and the monthly income was Rs. 1,800. The sentence passed in this case also appears to be unduly light.

From the above facts it appears that Sri Sabar Singh Kunwar was shown soft corner by the then Chief Judicial Magistrate Sri Yadav.

The District Judge, Chamoli in his D.O. letter addressed to the Registrar, Hon'ble High Court (paper No. 6 in File Annexure 1) has referred to some instances where the then Chief Judicial Magistrate Sri Yadav showed judicial impropriety. Two of these instances required further probe and have been probed by this Reporting Officer. They are of special significance.

The first of the instances is that there were allegations that the son and nephew of the Chief Judicial Magistrate Sri Yadav in the company of Sri Sabar Singh Kunwar, Advocate and Than Singh, village Pradhan of Irani had gone to the forest for hunting. They were checked by the forest officials who challaned them by recording a report in Register : Form No. H-2 showing Than Singh and Sabar Singh Kunwar, Advocate as main accused and also showing the presence of the son and nephew of the Chief Judicial Magistrate. It was alleged that Than Singh without authority had killed a bird. In reply to this 2 cases have been initiated against the forest officials. One is a complaint filed by Than Singh in the Court of the Chief Judicial Magistrate Sri Yadav on 9.1.95 u/s 392/504/506, I.P.C., against Sri Kamlesh Kumar, D.F.O. Kedarnath Circle and Sri Diwan Singh Kanderi, a subordinate official of D.F.O. It has been alleged that on 8.1.95 the D.F.O. and the said official had snatched Rs. 2,000 from Than Singh, complainant at Gopeshwar near petrol pump. Two persons have been cited as witnesses. They are Khusal Rana and Maheshwar Singh. This Maheshwar Singh incidently happens to be a peon in the court of the Chief Judicial Magistrate. No F.I.R. was lodged by the complainant on 8.1.95 nor any medical was done. The Chief Judicial Magistrate who has been recording the statement of witnesses u/s 202, Code of Criminal Procedure in other cases normally after few days in this case showed undue haste. The statement of the complainant and one witness Khusal Singh u/s 202, Code of Criminal Procedure was recorded on the same day. Incidently Sri Sabar Singh Kunwar, Advocate happens to be the counsel for the complainant.

It appears that the forest officials had reported the matter to their superior officers and the Chief Forest Conservator, Uttarakhand, No. 1 Nainital on 21.1.95 sent a complaint to the Hon'ble Inspecting Judge, Mr. Justice Ravi S. Dhavan which was marked to the District Judge, Chamoli. He treated it as a revision

petition and transferred the case to the Munsif Magistrate, Karanprayag. The Chief Judicial Magistrate had issued a summoning order on 12.1.95 but the District Judge, Chamoli found it proper to direct the Munsif Magistrate. Karanprayag to record the statement of all the witnesses u/s 202, Code of Criminal Procedure and commit the case for trial to the Court of Sessions if the prima facie case was made out.

It appears that on seeing that the case was taken out from his hand, the Chief Judicial Magistrate initiated another proceedings and too suo motu cognizance u/s 190(1)(c). Code of Criminal Procedure u/s 25/27 of the Arms Act and registered a case against D.F.O. Sri Kamlesh Kumar, his wife and his driver. While passing this order, Chief Judicial Magistrate Sri Yadav alleged and observed that on 8.1.95 his son and niece had hired a Car No. U.M.X. 251 and had gone to village Mandal along with owner of the vehicle Sri Mohd. Ahsan to see the first snow fall of the season. The licence gun of the Chief Judicial Magistrate along with 6 live cartridges were allegedly given by him to Sri Mohd. Ahsan aforesaid along with an authority letter u/s 3 of the Arms Act. Sri Yadav in his order observed that on their return Sri Mohd. Ahsan had told him that D.F.O. Sri Kamlesh Kumar along with 2 ladies and a driver had checked them in the forest and have taken away the gun. The D.F.O. did not recognise the authority given u/s 3 of the Arms Act and destroyed the said authority letter later. The gun was thus detained by the D.F.O. The Chief Judicial Magistrate Sri Yadav further mentioned in his order that he called Sri P. S. Baliyan. Station Officer of P.S. Gopeshwar and sent him along with another Sub-Inspector to search out his gun and 6 live cartridges which D.F.O. Sri Kamlesh Kumar had snatched from the children. The Chief Judicial Magistrate further claims that after sometime the S.O. Sri Baliyan brought back gun with 5 cartridges after having recovered the same from Sri Kamlesh Kumar In the presence of a respectable citizen. He further claims that the Station Officer told him that one shot has been fired by D.F.O. Sri Kamlesh Kumar from the gun. In his order the Chief Judicial Magistrate further mentioned several things making undue comments against his District Judge and his relations with S. P. and D. F. O. This cognizance was taken on 4.2.95 and the order of the Chief Judicial Magistrate is item No. 10 along with the report of the District Judge, Chamoli (paper No. 6 in File Annexure I). The Chief Judicial Magistrate felt it necessary to explain the delay in taking cognizance by mentioning that Sri Ashok Kumar, the then S. P. Chamoli who was friendly to D. F. O. could have adversely affected the proceedings. Since the said S. P. had been transferred, and has further ceased to have influence on the District Judge, Chamoli, therefore, cognizance was taken on 4.2.95.

The D.F.O. has complained that all these proceedings were motivated because on the incident of 8.1.95, the forest officials have lodged a report in Register H-2 of the Forest Department against Than Singh and Sabar Singh Kunwar, Advocate showing presence of the son of Chief Judicial Magistrate and his nephew in the forest for unauthorised hunting.

The perusal of the record shows that here again Sri Sabar Singh Kunwar, Advocate has been cited by Sri Yadav, Chief Judicial Magistrate as a witness of recovery of the gun by S. O. Sri Baliyan from D.F.O. The statement of Sri Baliyan, S.O. Gopeshwar was recorded by this Reporting Officer. He stated that there was no case or crime registered nor the Chief Judicial Magistrate had asked him to make any recovery. He had, however, called the S.O. and asked him to go to D.F.O. to bring back the gun without disclosing any other fact relating to it. The S. O. Sri Baliyan says that he went and brought the gun back. At that time he was not accompanied by Sabar Singh, Advocate or any other persons except the Sub-Inspector who was accompanying him. He denied all other allegations of the Chief Judicial Magistrate in his order by which he took cognizance against D.F.O. his wife and his driver. To the contrary Sabar Singh Kunwar, Advocate in his statement before the Reporting Officer said that he had accompanied S. O. Sri Baliyan to the house of D.F.O. and had taken the gun from the wife of D.F.O. Sri Mohd. Ahsan who has been mentioned by the Chief Judicial Magistrate Sri Yadav in his order as the main person giving information to him about the incident on 8.1.95 with regard to the seizure of the gun by D. F. O. says that he had taken the children of Chief Judicial Magistrate for snow seeing the forest of Mandal. They were checked by forest officials. The witness however, clearly denied having seen any gun in the car or seizure of the gun by the forest officials. He specifically denied that Chief Judicial Magistrate had delivered him the gun with an authority letter to carry it along with the children, to the forest. He further denied that he even showed the authority letter to D. F. O. and the latter had destroyed the same.

From the above facts and circumstances, it is very clear that there is force in the allegation of the D.F.O. that he and his wife have been unnecessarily harrassed by Sri Yadav, the Chief Judicial Magistrate by initiating baseless criminal proceedings directly or through persons under his influence. This is highly improper for any Judicial Officer.

There is yet another serious charge against Sri Yadav, the then Chief Judicial Magistrate that he demanded Rs. 20,000 from an Assistant Engineer of Jal Nigam for admitting him to bail and on his refusal to do so, he was taken into custody, handcuffed that sent to jail along with his Junior Engineer and that they could get their release on the next day on making some petition before the Sessions Judge, Chamoli. The District Judge, Chamoli has mentioned this matter also in his D.O. Letter dated 5.5.95 to the Registrar, Hon"ble High Court. The enclosures along with his D.O. Letter shows that in CrI. No. 2 of 1991 under Sections 409/420/468 and 147, I.P.C. in the matter of allegation of fake payment by accused persons, final report was submitted in the year 1992. On 20.5.94 the Chief Judicial Magistrate Sri Yadav rejected the final report and directed that summons be issued. This was done without any protest petition from anybody. It appears that the courts remained closed on account of the lawyers' strike for few months and on 25.4.95 Sri Tara Dutt Pant Assistant Engineer in Jal Nigam and his Junior Engineer appeared in the court and moved an application that they

may be admitted to bail. The Chief Judicial Magistrate Sri Yadav did not dispose of the bail application on the same day. He directed them to be taken into custody and adjourned the hearing to 27.4.95. Not only this, he on the same day sent a letter to the Superintending Engineer concerned requiring him to suspend the two Government officials immediately and inform the Court of Chief Judicial Magistrate. After getting their release on bail next day Sri Tara Dutt Pant, Assistant Engineer sent a complaint to Hon"ble the Chief Justice that the Chief Judicial Magistrate had taken this action because his demand of Rs. 20,000 was not fulfilled.

Sri Tara Dutt Pant was also examined by this Reporting Officer and says that the Chief Judicial Magistrate was not inclined to pass any order on his bail application dated 25.4.95 and the counsel hinted him that he might have to go to Jail. In this circumstances he met the Chief Judicial Magistrate in his chambers in the afternoon and pleaded with him that he is a Government servant and therefore should be given bail. The Chief Judicial Magistrate then demanded Rs. 20,000 from him. He could not agree to tills and came out. As soon as he came out, the case was called and he was taken into custody and handcuffed and sent to jail. The witness said that, he had to suffer humiliation and indignity by this action of the Chief Judicial Magistrate.

The perusal of the facts relating to this case also show that the action of the Chief Judicial Magistrate was not proper at all. Firstly there was no protest petition against the final report. Secondly the final report had been submitted 2 years ago. Thirdly the officials were Government servants. One of them was holding Gazetted post and there could not have been any chance of their evading trial. Fourthly the entire material was available before the Chief Judicial Magistrate in the final report and the bail application could have been disposed of on the same day giving chance to the accused to move, the higher court in case his bail was rejected. In view of these circumstances, the allegation of Sri Tara Dutt Pant that the Chief Judicial Magistrate wanted money cannot be brushed aside as baseless.

The propriety of the Chief Judicial Magistrate's action in writing a D.O. letter to Superintending Engineer of Jal Nigam to suspend the two Government officials is also questionable. Rule 14 of the General Rules (Crl.) deals with the arrest of the Government Servant. It reads as follow:

Rule 14. When the circumstance permit notice of the intended arrest of the Government servant shall be given to the Head of the office in which the Government servant is working...so as to allow proper arrangement to be made to have such person relieved, deferring arrest until he is relieved.

The purposes of this Rule is that the Government work should not suffer and Government should be able to make alternative arrangement for the discharge of their function in the absence of the person intended to be arrested. The Rule on the other hand requires that the arrest should be deferred until the Government

servant sought to be arrested had been relieved.

The Chief Judicial Magistrate Sri Yadav wholly mis-interpreted it and without any justification or propriety sent letter to the Superintending Engineer to suspend Sri Tara Dutt Pant, Assistant Engineer and his Junior Engineer after they had already been arrested. This action of Sri Yadav also give strength to the accusation made against him by Tara Dutt Pant.

All these facts and circumstances establish the allegation of District Judge, Chamoli in his D.O. Letter dated 5.5.95 to the Registrar, Hon''ble High Court that Sri Yadav the then Chief Judicial Magistrate mis-used his power and he lacked integrity. Again in his subsequent D.O. Letter dated 17.6.95, the District Judge, Chamoli reported to the Registrar, Hon''ble High Court several other instances wherein Sri Yadav had been writing to various Government authorities to suspend the Government officials. He wrote such letters to Chief and Medical Officer and District Magistrate, Chamoli, In one matter Sri Yadav wrote directly to Sri R. K. Chaudhary, Transport Minister, U.P., Lucknow complaining that Sri D.D.S. Khati, A.R.T.O. Enforcement Garhwal does not know the law relating to Transport. He further suggested that a refresher course be arranged for the Regional Transport Officers to train them in Transport law. He also suggested that persons like A.R.T.O. Sri Khati be called back to the Head Quarters and sent back only after the training. This letter also shows the working of the Chief Judicial Magistrate Sri Yadav. He transgressed the limit of propriety in writing such letter to the Minister in the Government without routing it through or getting an approval from the Hon''ble High Court.

Part III

Whether the cancellation of reservation of the Inspection House was an intentional act designed to frustrate an enquiry into the complaints against Sri R. B. Yadav.

As stated above, the allegation against Sri R. B. Yadav were of very serious nature and were sound. There is a possibility of any person expecting some strong action if the allegations were substantiated. This could definitely motivate the Chief Judicial Magistrate Sri Yadav or his some friend to stall the inspection or frustrate the same. Sri Yadav did not show the courtesy of calling on the Hon''ble Inspection Judge when His Lordship was there. The District Magistrate, Chamoli also did not call on till the episode of cancellation of the reservation gathered heat and there was a direction from the High-ups in the State Government. The statement of the witnesses recorded by this Reporting Officer also suggests that the Chief Judicial Magistrate Sri Yadav had special intimate terms with the District Magistrate Sri Thakur. The District Judge, Chamoli in his report (paper No. 5 in Annexure File I) has said granted time upto August. 1995 to Sri Yadav to purchase a fresh weapon on the aforesaid licence. The grant of licence in January. 1995, purchase of rifle by Sri Yadav on 14.2.95 from a person who had deposited the rifle in Nazarat Malkhana since 1989 and the sale being for a petty

amount of Rs. 6,000 and Sri Yadav again seeking permission to sell the same within a week of the purchase, supports the suggestion of the District Judge. Chamoli that District Magistrate, Chamoli had helped Sri R. B. Yadav in this matter.

The evidence collected by this Reporting Officer further shows that in December, 1994, the forest officials had caught some persons during unauthorised hunting in the forest and had seized their guns. It is alleged that one of the guns carried by them belonged to the then District Magistrate Sri Thakur. The persons so apprehended allegedly compounded the offence and paid the penalty. It appears that the number of the gun was recorded in the forest records. This was felt inconvenient by the District Magistrate. Chamoli and a notice was got sent to the concerned Forest Officer from the persons apprehended in the forest to the effect that there had been no compounding and that the forest officials have made false entries in their record. Sri V. P. Bhatt, D.G.C. (CrI.) has said that there was common knowledge that the Chief Judicial Magistrate had been visiting District Magistrate's place frequently. He has told that he himself met the Chief Judicial Magistrate at the place of District Magistrate, Chamoli on one or two occasions. This witness has further said that Sri Pangti. D.F.O. of Nandan Devi Ban Prabhag had come to him to consult for a reply to the notice of an Advocate sent on behalf of some man of the District Magistrate questioning the compounding of the aforesaid matter. D.F.O. Sri Kamlesh Kumar of Kedarnath Ban Prabhag also stated about the aforesaid apprehension of the person and seizure of the guns in December, 1994 by the subordinate of the D.F.O. Nandan Devi Ban Prabhag. He has also said that subsequently it was revealed that the culprits were the employees of the District Magistrate and they had used the gun of the District Magistrate, Chamoli. The District Magistrate Chamoli had terminated the services of them after the incident. In order to meet the situation the said employees had served notice u/s 80, CPC to D.F.O. Nandan Devi Ban Prabhag saying that no compounding had been done and no fine have been paid (Attempt was made to call D.F.O. Nandan Devi Ban Prabhag or record from his office but no record could be made available as the D.F.O. was out of station upto 16th July, 1995).

These circumstances could have further brought the Chief Judicial Magistrate and the District Magistrate. Chamoli closer and there could be reasonable apprehension in the mind of the District Magistrate, Chamoli that if the probe in the complaint against the Chief Judicial Magistrate by the forest officials is made, the incident relating to his gun might also come into light embarrassing his position.

All these circumstances in light of the fact that District Magistrate, Chamoli without sufficient or good cause cancelled the reservation for the Hon'ble Inspection Judge in P.W.D. Inspection House. Gopeshwar and his failure to offer next best possible Guest House, i.e., Irrigation Guest House at Kothalsain 8 kms. from Gopeshwar Head quarters, wanting to send Hon'ble Inspecting Judge to 13 kms. away in ill maintained P.W.D. Inspection House at Chamoli partially

occupied by S. D. M., Chamoli and his family, without any facility for the stay of the staff only leads to logical conclusion that the cancellation of the reservation for Hon''ble Inspecting Judge was intentional there was an attempt to frustrate the inspection.

The complaints sent by the District Judge, Chamoli to the Registrar, Hon''ble High Court, the report dated 16.6.95 of the District Judge to the Inspecting Judge regarding cancellation of reservation and the order passed by the Hon''ble Judge are contained in file Annexure 1st. The report of the District Magistrate, Chamoli containing copy of the tour programme of Chief Minister of Delhi, copy of the letter dated 12.6.95 of private Secretary to the Chief Minister addressed to the District Magistrate, Chamoli copies of the reservation slips etc. and the statements of the witnesses relating to the reservation matter are contained in file Annexure IIInd. The statement of the witnesses relating to the work, conduct and integrity of the then Chief Judicial Magistrate Sri R. B. Yadav are contained in file Annexure IIIrd. All these files are enclosed along with this report but a detailed reference in this report to each paper in these files has been avoided in order to prevent this report being more bulky. These papers can be perused wherever the situation so demands. The report is submitted to Hon''ble Mr. Justice Ravi S. Dhavan Inspecting Judge for Pithoragarh/Uttarkashi/ Chamoli/ Tehri and Pauri Garhwal.

(K.S. Rakhra) H.J.S. 13.7.95 Investigating Officer/ District Judge, Dehradun at Gopeshwar.

Encl. As above

6. On 26th February, 1996 the letter dated 19th July, 1995 of Hon''ble Mr. Justice Ravi S. Dhavan addressed to Hon''ble the Chief Justice along with the investigation report dated 13.7.95 of Sri K. S. Rakhra, District Judge. Dehradun along with the documents appended thereto were put on before us for our consideration in the direction of the Hon''ble the Chief Justice.

7. Having perused the letter the investigation report and the documents appended thereto we, vide our order dated 26.2.1996 initiated proceedings in contempt against Respondent Nos. 1 and 2 observing as follows:

The office has put up this matter before us on the direction of the Hon''ble Chief Justice. From the letter dated 19th July. 1995 of Hon''ble Justice Ravi S. Dhavan addressed to the Hon''ble Chief Justice and the Investigation report dated 13.7.95 of Sri K. S. Rakhra. District Judge, Dehradun alongwith the documents appended thereto, we are prima facie satisfied that the then District Magistrate, Chamoli whose name appears to be Satyajeet Thakur (presently posted as District Magistrate, Saharanpur) in collusion with the then C.J.M., Chamoli, Mr. R. B. Yadav (now Civil Judge, Pauri), Head Quarter Pauri, District Pauri (under suspension) has committed gross contempt of the Court of Hon''ble Mr. Justice Ravi S. Dhavan. Inspecting Judge of the aforementioned district by interfering with his administration of Justice vested in him by virtue of Article 235 of the

Constitution of India when Hon"ble Mr. Justice Dhavan had proceeded to have a circuit of the Districts of Pithoragarh/Uttarkashi/Chamoli/Tehri and Pauri and was allotted an accommodation mentioned in the aforementioned letter and enquiry report, which was deliberately cancelled by the former in collusion with the latter and render themselves guilty of contempt of court under Article 215 of the Constitution of India.

Accordingly, we exercising jurisdiction under Article 215 of the Constitution of India direct them to appear in person before this Court on Friday at 10.00 a.m. on 11th March, 1996, alongwith their show-cause, if any. We also direct the Chief Secretary of this State as well as the Registrar of this Court to serve the notices alongwith copy of the aforementioned documents on them fixing 11th March, 1996 for date of hearing of this contempt proceeding. Notice to issue forthwith.

8. On 11.3.1996 the case was again put up and we had proceeded to pass the following order:

The contemner No. 1 Satyajeet Thakur is present. Also present is contemner No. 2 R. B. Yadav. A prayer for adjournment is sought for on their behalf on the ground that contemner No. 1 received notice on 7.3.96 and that contemner No. 2 received notice only Yesterday. Put up this matter again on the Board on 18.3.96. Copy of the show cause of the contemnors must be served on Sri B. S. Misra. the learned Government Advocate, representing the court by 15.3.96. We also impleaded the State of U.P. through its Chief Secretary as opposite party No. 3 so that in the event of any need it may come up for our assistance forthwith.

Later on that very day we had passed the following order:

Mr. Pushkar Mehrotra, learned Counsel appears for the opposite party No. 1.

A petition has been filed on behalf of opposite party No. 1 praying to grant exemption from his personally appearance till further orders of the Court and to grant him some reasonable time to submit his reply alongwith their application the opposite party No. 1 has also filed an affidavit stating, inter alia, that he undertake to be present whenever this Court shall direct, that he tenders his unconditional apology to this Court and seeks pardon for the acts of omission alleged against him, that he has highest respects and regards for this Court and that he never thinks to commit contempt.

When we pointed out to the learned Counsel for the opposite party No. 1 that the second prayer has already been allowed, learned Counsel stated that this application and the affidavit be kept on the record. Accordingly, the aforementioned applicant on and the affidavit are kept on the record for their consideration on the next date, if pressed.

9. On 18th March, 1996 we had passed the following orders:

It appears that the correct name of the opposite party No. 1 is Satyajeet Thakur and not Satyajeet Thaker. We direct the office, thus, to rectify the

aforementioned in the record.

A grievance has been made by the contemnors-opposite parties that they have not been given copy of the enclosures attached with the report of the District Judge. We accordingly direct the office to supply copies of the enclosures to the contemnors in course of the day. We also direct the office to supply a copy each to Mr. Misra, learned Counsel appearing for the High Court and the Chief Standing Counsel appearing on behalf of the State of U.P. in course of the day. As desired by the contemnors, put up this matter again on the Board on Ministry dated 25.3.1996. Copy of the proposed supplementary counter affidavit show cause must be handed over to Mr. Misra as well as chief standing counsel by Saturday dated 23.3.1995. We also direct the State of U.P. to produce before us its Protocol Rule and the Rules governing allotment of Circuit House, P.W.D. 1. As alongwith its authenticated English version.

We, in the interest of Justice, also direct the opposite party No. 3 State of U.P. to produce before us the entire original records in relation to the allotment and its cancellation of the rooms in question to Hon"ble Mr. Justice R S. Dhavan.

Let a copy of his order be handed over to the learned chief standing counsel in course of the day.

10. Vide his petition dated 25th March, 1996 opposite party No. 1 prayed that he be discharged of notice calling upon him as to why he should not be convicted along with his affidavit and further praying that he alternatively prays to summon the then District Judge, Chamoli, Mr. Premi, the Administrative Officer Collectorate, Chamoli Mr. Ranjeet Singh Bhandari, V.I.P. Clerk Collectorate, Chamoli, Mr. Om Prakash and the clerk. Civil Court, Chamoli Mr. Balwant Singh Mg. Along with this application opposite party No. 1 really filed counter-affidavit stating to the following effect : On the basis of the enquiry report dated 13th July, 1995, held behind his back and the letter of Justice Dhavan, charge cannot be framed nor on the basis of evidence collected by the District Judge, Dehradun which was behind his back and there will not be a fair trial, the proceeding under contempt being quasi judicial procedure adopted is to be fair; in his letter Justice Dhavan has stated facts which were hear-say except that he had overheard the chaukidar who informed about the cancellation of the accommodation, that whatever written therein is based to the information given by the District Judge Mr. Premi, besides Justice Dhavan himself was not sure as to what was the purpose of cancellation of the reserved accommodation and to ascertain which he wanted that enquiry be made; that he cannot be punished on the materials collected behind his back inasmuch as if he so punished that would be on the basis of unfair trial, that the materials got collected by Mr. Rakhra or his report could at the most become basis to issue notice of show cause as to why proceedings in contempt be not initiated, that Mr. Rakhra had also relied upon two reports of the District Judge, Chamoli prepared on 16.6.95 one submitted by him before Justice Dhavan and other to this Court on which no reliance can be placed unless he is given an opportunity to cross-examine Mr. Premi, that the

order passed by the Inspecting Judge might have been influenced the minds of Mr. Rakhra inasmuch as the Inspecting Judge had himself drawn a conclusion that the entire purpose of cancellation was that we may not be able to carry out inspection, which amounted to interference of Judicial parametrix comparing with the C.J.M. of aided who was handcuffed, that Mr. Premi, who was at all time present with the Inspecting Judge, knew on 12.6.95 (wrongly mentioned as 1965) of the cancellation and allotment of Inspection House for stay of the Chief Minister of Delhi which was the only Inspection House at Gopeshwer; that inspection could have been carried from the Inspection House at Chamoli which was reserved for Justice Dhavan, that an impression was created in the minds of Justice Dhavan that the reservation was cancelled on 13.6.95 itself; it also appears that for the first time Justice Dhavan might have known for the cancellation of Inspection House when he reached Gopeshwar in the evening of 13.6.95 when it was raining heavily; that Justice Dhavan was deliberately taken along with his wife and family members which was infested with he has which stung the members of his family and his accompanying staff which was due to mistake of the District Judge and he (opposite party No. 1) had no hand, there is likelihood that Mr. Rakhra might have been influenced by the observations of Justice Dhavan made in his order dated 16.6.95.

11. On 25.3.1996 we had proceeded to pass the following order:

Learned chief standing counsel prays for adjournment of this case for 10 days as he could not collect the entire original records in relation to the allotment and cancellation of the rooms in question as well as the rules governing the allotment of Circuit Houses, P.W. 1, as alongwith their authentic English version.

Sri U. N. Sharma, learned Counsel for the contemner No. 2 states that no further counter-affidavit will be filed on his behalf. A further counteraffidavit has been filed by the contemner No. 1 with consent, put up on 8th April, 1996 for production of the records etc. by the State of Uttar Pradesh opposite party No. 3.

From the statements made in the short counter-affidavit of contemner No. 1 it appears that he has come up with defence, inter alia, that it was the then A.D.M. (Protocol), who had cancelled the reservation to accommodate the then Chief Minister of Delhi on the basis of notification dated 26.7.79 issued by the presidential Secretariat, New Delhi. On a question put by us to Sri Jain, learned Counsel representing contemner No. 1 as to what action contemner No. 1 took against the A.D.M. (Protocol) in this regard, he answered that no action in writing was taken. We, accordingly, consider appropriate to initiate proceedings in contempt against the then A.D.M. (Protocol), Mr. Rama Kant Pandey also who is added as opposite party No. 4. But he filed his show cause, if any, as to way he should not be convicted of committing contempt of this Court, as from the defence of the contemner No. 1 it appears that prior reservation of rooms for Hon"ble Mr. Justice R. S. Dhavan was cancelled by him so as to obstruct his administration of justice, by 10.00 a.m. of 8th April, 1996.

Let notice issue to him through the Chief Secretary of this State alongwith a copy of this order, the order dated 26.2.96 and the letter dated 19th July, 1995 of Hon"ble Mr. Justice Ravi S. Dhavan alongwith documents appended thereto.

The contemnners need not present themselves on the next date as they have undertaken to produce themselves whenever the court desires. Following the course adopted by the Hon"ble Supreme Court In re: Vinay Chandra Mishra (the alleged contemner), , we direct the Registrar to place the entire records before Hon"ble Mr. Justice Ravi S. Dhavan for his comments, if any, in regard to the affidavits filed by the contemnners. Let a copy of this order be served on the learned chief standing counsel forthwith.

12. On 8th April, 1996 we had passed the following order:

Learned chief standing counsel states that unfortunately the direction of this Court in regard to production of documents etc. have not been complied with and the State of Uttar Pradesh may be given one more opportunity.

The Addl. District Magistrate (Protocol), Chamoli is present in court. He states to us that the stand of the then District Magistrate, Chamoli is false. He also initially prayed for grant of some time to enable him to file his show. cause, which has already been prepared the awaiting his swearing before the Oath Commissioner pointing out further that his learned Counsel Sri U. N. Sharma will be arriving at shortly.

After few minutes on behalf of the A.D.M. (Protocol) a show cause has been filed.

Mr. Ravi Kiran Jain, learned Counsel appearing on behalf of the then District Magistrate, Chamoli prays to give him some time so that he could go through the show-cause of the A.D.M. (Protocol), and if necessary, file a reply thereto.

We are ambit handicapped in the absence of production of documents etc. by the State of U.P., as earlier commanded, in appreciating one of the defence taken by the then District Magistrate, Chamoli that the Rules relating to allotment of Circuit Houses, were not applicable to the allotment of P.W.D. Inspection Houses at Gopeshwar.

In the larger interest of justice, we adjourn this case to Monday dated the 15th April, 1996 for further hearing with this clearcut understanding that no further adjournment will be granted to one or the other parly and that whatever further counter, or any document on which they intent to rely, and such documents which were commanded to be produced before this Court, are peremptorily filed by 11.4.96 with copy of all concerned.

As prayed for by Mr. U. N. Sharma, In view of his undertaking that the opposite party No. 4. A.D.M. (Protocol) will produce himself whenever in future the court desires, his appearance on the next date is dispensed with.

In view of the involvement of very delicate issues, constitutional and otherwise in regard to the protocol etc. of the sitting High Court Judges, we require the

assistance of the Advocate General/Addl. Advocate General on behalf of the Court.

Let a copy of this order to be communicated to the Advocate General of this State forthwith.

13. On 15.4.96 opposite party No. 1 filed an application for drawing proceedings under Article 215 of the Constitution against the District Judge, Chamoli Mr. Premi stating as follows : Hon"ble Mr. Justice Dhavan had chosen not to make any comments in regard to the affidavits filed by the contemnors; that it is apparent that the interference and obstruction was caused in the administration of justice by the then District Judge, Chamoli Mr. M. S. Premi; that the District Judge was informed on 12.6.95 itself about the cancellation of reservation of P.W.D. Inspection House for Justice Dhavan; that the District Judge, Chamoli concealed the fact of allotment of Inspection House at Gopeshwar as also did not inform of the cancellation of reservation of Inspection House at Gopeshwar till the chaukidar informed about it at about 6 p.m. on 13.6.95; at Gopeshwar itself accommodations were available to the Guest House of Garhwal Vikas Manda) as well as at old and new buildings of the District Judgeship but the District Judge gave an impression to the Inspecting Judge that he had no option but to stay at Inspection House at Mandal.

14. On 15.4.96 we had passed the following order:

Heard in part the learned Government Advocate. We may put on the record that as soon as the hearing commenced a prayer for adjournment was made on the ground that the Advocate General of this State is busy in connection with the hearing of Ram Janam Bhumi matters at Lucknow Bench. One of us (Binod Kumar Roy), is to go on circuit at Lucknow which in the very next week and hence it was not possible to adjourn this case which was heard in part earlier. As the hearing is likely to take some time, in the absence of the Advocate General one or the other Addl. Advocate General may assist us. He may also indicate that we will like to know in clearest terms from the State of U.P. as to whether any disciplinary proceedings or any enquiry was initiated against the then District Magistrate, Chamoli before issuance of the warning to him in regard to the incident in question as the materials are lacking before us to infer that the warning was issued after conducting any such enquiry against the then District Magistrate, Chamoli. He also directed the Registrar of this Court to ascertain the fact from the then District Judge, Chamoli as well as the present District Judge, Chamoli as to whether the then Chief Judicial Magistrate, Chamoli was informed in writing or otherwise of the tour programme of Justice Dhavan about which he has taken a defence that he was not at all aware of the tour programme of Justice Dhavan? The Registrar will try to contact the aforesaid District Judges on telephone and submit a report during further hearing of this case tomorrow. We also put on the record the stand of Sri S. N. Sharma, learned Counsel appearing on behalf of the then C.J.M., Chamoli, that in regard to the alleged forest incident this Court on its administrative side had asked the District Judge, Meerut treated

on enquiry and that consequent to the report has been submitted to this Court. The Registrar will apprise us as to whether such a report has been submitted by the District Judge, Meerut or not?

Put up tomorrow for further hearing from 10.00 a.m.

15. On 16.4.96 we had passed the following order:

No sooner than the further hearing commenced today Mr. Ravi Kiran Jain, learned Counsel for the contemner No. 1 filed an application for grant of time till Monday next to file affidavit and in the meantime for passing orders on an application filed yesterday for initiating proceedings in contempt against M. S. Premi, the then District Judge. This application contains two prayers by filing the court fee stamps of Rs. 5. Two prayers in the application cannot be made. However, we do not want to reject this application on the ground of technicality and permit the learned Counsel for the contemner No. 1 either to confine this petition to the prayer or to pay additional court fee.

Put up this application after compliance of our direction. In the meantime we proceed to hear the contempt proceedings further. We also put on record that this application which was filed yesterday was not pressed yesterday. Be that as it may, suitable order will be passed when this application shall be pressed.

He also put on record that pursuant to our command, the Registrar of this Court has submitted a report, the relevant part of which reads thus:

...the Incharge District Judge has informed that the Chief Judicial Magistrate. Ram Babu Yadav was informed in writing as is evident from endorsement dated 26.5.95 about the programme of Hon"ble R. S. Dhavan, J...the District Judge. Meerut was also contacted on phone, who informed that the enquiry report is under preparation and will be submitted very soon...

He may also mention that the Registrar of this Court has also put up before us a Fax message sent by the then District Judge, Chamoli, stating to the following effect:

(i) The Hon"ble Inspecting Judge had directed that no officer or member of the staff should be granted leave during his inspection period.

(ii) In May, 1995 he had received the Inspection Tour programme of the Hon"ble Inspecting Judge Mr. Justice R. S. Dhavan.

(iii) He informed the Presiding Officer of all Courts at Chamoli including the Chief Judicial Magistrate, Chamoli and Munsif Magistrate, Karan Prayag in respect of the tour programme of Hon"ble Inspecting Judge.

(iv) Chief Judicial Magistrate, Ram Babu Yadav, was transferred from Chamoli to Pauri and was asked to handover charge on 12.6.95 but he handed over the charge in the morning of 13.6.95. However, after handing over his charge in the forenoon of 13.6.95, Ram Babu Yadav stayed at Gopeshwar District Head Quarter

of Chamoli upto 15.6.95 and that had full knowledge of the tour programme of Hon"ble Inspecting Judge.

Later:

Admidst further hearing Mr. Jain informs us that he has made the deficiency of the court fee good and, therefore, requests to pass appropriate orders on the same.

In the affidavit sworn by the Deputy Secretary (Department of Appointment) Government of Uttar Pradesh no new fact has been staled so far as Contemner No. 1 is concerned. It merely refers to the Rules, the warrants of precedence, original letter dated 1.6.95 of the District Judge, Chamoli sent to the District Magistrate, Chamoli, the hand written note dated 12.6.95 of the personal secretary of the then Chief Minister of Delhi and the letter dated 12.6.95 which are already on the record from before. Thus, we do not want to postpone our further hearing. The Contemner No. 1, however, if he feels that it is imperative for him to file a further affidavit then nothing steps him in doing so or to tell us which rule really applies at the time of allotment and/or cancellation of the reservation in question.

The application filed today is disposed of accordingly so far as prayer No. 1 is concerned. So far as prayer No. 2 is concerned, as we are in the midst of hearing, it will be open for the contemner No. 1 to press that prayer when his turn comes.

Later:

Amidst hearing a further controversy has cropped up namely whether K. S. Rakhra, the District Judge, Dehradun, who was earlier holding enquiry against R. B. Yadav, the then Chief Judicial Magistrate, Chamoli was transferred as an Enquiry Officer on the representation of the Chief Judicial Magistrate, Chamoli or not? Accordingly, we direct the Registrar to place before us relevant minutes of the meetings of Administrative Committee held on 26.5.95 and 23.8.95.

The chief standing counsel informs us that he has received a letter from the Deputy Secretary (Department of Appointment), Government of Uttar Pradesh in regard to allotment of Inspection Houses of the Irrigation Department, Forest Department etc. by the District Magistrate, Chamoli.

Let him serve copies of this letter alongwith annexures on the learned Counsel for the contemnners No. 1 to 3 and file two copies thereof for our perusal.

Later:

During further hearing many questions cropped up but either due to non-continuance of the presence of one or the other learned Counsel for the contemnners the learned Counsel could not give any reply and accordingly we consider imperative on our part now to direct the contemnners, as per their own undertakings to be present during further hearing of this proceedings so that we

could understand such questions or even those which may crop up subsequently.

We put on the record that the Registrar has placed on the record copy of the minutes alongwith the decisions of the Administrative Committee held on 20.5.95, 26.5.95 and 23.8.95 and the chief standing counsel has served copies of the letter of the Deputy Secretary on all concerned and has also filed two copies thereof for us.

Since no time is left now the further hearing will resume tomorrow at 10 a.m..

16. On 17.4.96 we had passed the following order:

At the very beginning Sri Ravi Kiran Jain, learned Counsel for the contemner No. 1 (Respondent No. 1) and Sri U. N. Sharma, learned Counsel for the contemnners No. 2 and 3 (Respondents No. 2 and 4) informed us that contemnners have been contacted but because of distance it was not possible for them to reach Allahabad and consequently pray that they may be permitted to appear tomorrow in person. We consider this prayer as Just and accordingly allow it. Let the contemnners appear in person tomorrow for the reasons already stated by us in our order dated 16.4.96.

Later:

As the arguments remained inconclusive, put up tomorrow for further hearing, which will commence from 10 a.m.

17. On 18.4.1996 we had passed the following order:

We have had the advantage of the submissions of Sri Dwivedi. learned Additional Advocate General. The contemnners, however, are not present before us. The learned Counsel for the contemner No. 1 informs us that even though he had proceeded for Allahabad, due to sudden eye-ailment had to cancel his further journey at Lucknow. Learned Counsel for the contemner No. 2 takes up a stand that because of repeated attacks of vomiting he has become sick. In regard to the contemner No. 3 it has been stated that as he happens to be the Deputy Election Officer, Chamoli. hence unfortunately could not leave the headquarter. Learned Counsel for the contemner No. 1 prays to adjourn this case as he has to leave Allahabad to see his brother-in-law who unfortunately met an accident yesterday. The learned Counsel for the contemnners No. 2 and 3 pray that they may be heard in the last since so far as contemner No. 2 is concerned the charge is that he has committed contempt in collusion with contemner No. 1 and that contemner No. 3 is before this Court because of the defence taken by contemner No. 1. In the aforementioned backdrop we are left with no option but to accede to the request for adjournment. One of us, however, will not be available as he has to sit. at the Lucknow Bench of this Court from Monday dated 22nd April, 1996 to Friday dated 17th May, 1996. Accordingly, we adjourn this case for further hearing to 10 a.m. of 20th May, 1996 and production of the entire documents by the State.

However, we also put on record the assurance of the learned Additional Advocate General to the chief standing counsel both that further appropriate rules are under contemplation of the Government to ensure the Court that in future such an unfortunate incident of cancellation of reserved allotment of any Government accommodation will not take place. At this stage we need not remind the Government of its duty enshrined under Article 50 of the Constitution of India which according to the Apex Court is the very conscience of the Constitution. By that Article the Founding Fathers of the Constitution intended to separate judiciary from the Executive and Legislature. The aforementioned Article in its draft form required the aforementioned separation within three years but on the second day of the deliberations Dr. Ambedkar came with an amendment suggesting dropping of the three years. Thereafter the then Prime Minister of Government of India Pandit Jawahar Lal Nehru assured the Constituent Assembly but intimating that the Government desires to implement this immediately. Had the desire of the Founding Fathers of the Constitution been fully fulfilled, no scope would have been left for the district administration of Chamoli to cancel the reserved allotment of the Inspecting Judge of this Court who was on circuit half way in due performance of his constitutional duties mandated under Article 236 of the Constitution of India.

Let a copy of this order be handed over to the learned Additional Advocate General for follow up action in the meantime.

18. On 20th May, 1996 we had passed the following order:

The contemners present themselves. The State of Uttar Pradesh files certain documents alongwith a list but unfortunately for reasons unknown to us, we are pained to point out, that the entire documents have not been filled by it. We, accordingly, give last indulgence to State of Uttar Pradesh to produce before us all the documents in relation to the unfortunate incident, as also the proceedings in which, after some inquiry, warning was issued to contemner No. 1. We remind the State of Uttar Pradesh that any failure to obey our command would be viewed seriously. He also put on record that relevant Rules are still under contemplation.

We have proceeded to hear arguments of Mr. Jain in part only because of paucity of time.

Put up tomorrow for further hearing as the first case on the bears even amongst unlisted cases. Amidst hearing a petition has also been filed by U.P. I.A.S. Association, Lucknow. Keep it on record. The same will be considered, when pressed.

19. On 21.5.96 following order was passed by us:

Heard arguments of Mr. Jain further. No time left. Accordingly we direct further hearing of this case again tomorrow putting it even amongst unlisted cases.

On 22.5.96 the following order was passed by us:

Any part of the proceedings of this Court of today shall not be printed in any newspaper whatsoever and if anyone does so, he will be doing it at the cost of committing grossest contempt of this Court in defiance of the orders of this Court.

Put up tomorrow for further hearing even amongst unlisted cases.

20. On 23rd May, 1996 opposite party No. 1 filed an application for summoning the District Judge, Dehradun along with his affidavit. In his affidavit he stated that during the course of hearing a copy of the G.D. of 1984 was produced in Court of which he was not aware rather he saw its contents for the first time; that over all responsibility of the District administration is of course his but in the District Chamoli there was the post of A.D.M. (Protocol) and the work of reservation and cancellation of Inspection House for V.I.Ps. at the relevant point of time was entrusted to A.D.M. (Protocol) Sri A. K. Pandey; that he has already stated that unless Mr. M. S. Premi, the then District Judge is not cross-examined it is not possible for him to make comments on the two reports submitted by him; that Mr. M. S. Premi was highly prejudicial to him; that he has been advised to state that the reports submitted by Sri Rakhra (the then District Judge) cannot be looked into for the following reasons : (i) the enquiry on the basis of which the report has been prepared was held behind his back about which he came to know for the first time after he had received notice to appear in this case, (ii) In the said report reliance has been placed on the two reports of Mr. Premi submitted on 16.6.95 who was prejudicial against him, and as Sri Premi has not been cross-examined by him, reliance placed by Sri Rakhra on them is a fact which impels him to submit that the report of Sri Rakhra should also be ignored. (iii) The report is based on impressions, imaginations, hearsay evidence and many of the conclusions drawn up have no basis; that he had obtained permission on telephone for Joint out (from Chamoli) from the afternoon of 13.6.95 upto 16.6.96; the leave application was left at the district headquarters; on 13.6.95 upto 1 p.m. the deponent had remained at Gopeshwar and thereafter returned (? went) to Dugalbitta within the district; on coming to know of the inconvenience caused to Justice Dhavan he left Tehri at 1 p.m. on 14th June. 1995 and returned back to Gopeshwar and in the aforesaid circumstances did not press his leave application and despatched to the Commissioner; that he has given warning dated 5.4.96 by the Government on some recommendation of the Commissioner without freeing any opportunity against which he proposed to make representation. In the document through which recommendation was made by the Commissioner it has been wrongly alleged that some notice was given to him but despite that he did not submit any reply, which is absolutely false; that in his minutes dated 16.6.95, the District Judge, Chamoli Mr. Premi has falsely observed that he had gone out of Chamoli with his family and that the entries relating to 13th June and 14th June, 1995 in the log book contains the purpose of using vehicle on tour problem of villagers and on account of visit of the Inspecting Judge.

Vide petition dated 23rd May, 1996 opposite party No. 1 prayed to record what

had actually happened at 4 p.m. on 22.5.96 in court along with an affidavit in which he stated that as we abruptly arose those facts could not be recorded in the proceedings through directing not to publish any part of the proceedings of that date by the Media and if anyone does so he will be at his own peril.

On 23.5.1996 we had passed the following order:

A petition has been filed praying to record in our order-sheet as to what actually had happened at 4,00 p.m. yesterday. This petition has been pressed by Mr. Jain, learned Counsel appearing on behalf of contemner No. 1.

Heard him.

We reserve orders. After we reserved our orders Mr. Jain insisted that we should note his submissions to which we pointed out that whatever submissions he has made we will deal with the same at the time of pronouncement of our orders and we do not consider it necessary, nor is there any law, that we must note his submission in writing in our order-sheet.

Later on:

A petition has been filed for summoning Sri K. S. Rakhra by contemner No. 1. Contemner No. 1 through Sri Jain, followed up by Sri Giri, was already heard and arguments on his behalf were concluded yesterday and thereafter amidst hearing Sri U. S. Sharma who made submissions to some extent on behalf of contemner No. 3, the Addl. Collector (Protocol), Chamoli we had arose for the day. Keep it on record and put up when it is pressed.

Mr. Sharma, appearing on behalf of the Addl. Collector (Protocol) states that he presses the unqualified apology on his behalf withdrawing his earlier arguments. He also submits that he has instructions from the then C.J.M., Chamoli to press only his unqualified apology and leading loss.

At this stage Sri R. K. Jain, learned Counsel appearing on behalf of contemner No. 1, prays that the contemnors intend to beg unqualified apology to Hon"ble Mr. Justice Ravi S. Dhavan also expressing sincere regrets and for that purpose the further hearing be adjourned.

We may put on the record that after the close of arguments of Mr. U. N. Sharma, learned Addl. Advocate General was to begin his reply but in view of the request made he has got no objection to the short adjournment prayed for on his behalf.

Since the prayer is joint, we accede to the request, clarifying that this order shall not be construed to met in any way whatsoever that he take to interfere, even remotely, with the administration of justice by Hon"ble Mr. Justice Ravi S. Dhavan and that we will take up this matter for further hearing after lunch today.

No part of the proceedings conducted in Court today also shall be printed and/or publicise by anyone in any manner reminding that any violation of this mandate shall constitute Contempt of Court and the contemner will be severally dealt with.

(After lunch)

A prayer for adjournment has been made on behalf of the contemnors through Sri Girdhar, learned senior counsel appearing on behalf of contemner No. 1. to adjourn this further hearing of this proceeding after summer vacation since tomorrow will be the last working day of the Court. Learned chief standing Counsel also Joins in the prayer which is not opposed either by Mr. Misra or Mr. Dwivedi, learned Addl. Advocate General.

We, accordingly adjourn the further hearing of this proceeding to 12.7.96 on which day under the rules of the Court generally tied up matters are taken up. This direction we have made as we are not sure of the roster constituted by Hon"ble the Chief Justice. If, however, Hon"ble. the Chief Justice continues our Bench, in that event this case will be listed even amongst unlisted cases for further hearing on 1.7.96. The other part of our direction that no part of this proceeding will be published in any newspaper continues save and except that further hearing of this contempt proceeding has been adjourned to the date accordingly. As requested the personal presence of the contemnors is dispensed with, in view of their earlier undertakings, till further orders to the contrary.

21. On 24th May, 1996 opposite party No. 1 had also filed an application along with an affidavit to take notice of the facts stated in the accompanying affidavit while disposing of his application dated 23.5.96.

22. In his affidavit dated 12th July, 1996 opposite party No. 1 stated, inter alia, that he made efforts to tender unqualified apology and express sincere regret to Hon"ble Mr. Justice Ravi S. Dhavan but could not find way so as to reach him and therefore he could not tender apology.

23. On 12th July, 1996 we had passed the following order:

An affidavit has been filed by contemner No. 1 at 10.45 p.m. after we had resumed further hearing but serving its copy only on Sri Harihar Prasad Tripathi, standing counsel on behalf of the chief standing counsel. Copy of this affidavit has, however, not been served on other learned Counsel. Mr. Rakesh Dwivedi, learned Addl. Advocate General informs us that he is not aware of the latest position in regard to the amendment in the Rules and/or Government Orders in regard to allotment of Government accommodation to the visiting Judges/visiting retired Judges of this Court and other High Courts, Hon"ble Supreme Court and the Hon"ble Chief Justice of India, we, however, direct the office to put up this case on Friday next when as will be sitting together in relation to other cases to know the positive action of the State Government in regard to the accommodation of Government accommodation mentioned as above which has really given rise to the present unfortunate controversy.

Mr. Jain will file a receipt showing service of copy of the affidavit by Friday next when we propose to resume further hearing to hear learned Counsel including the learned Addl. Advocate General the remaining legal position emerging out of

the withdrawal of the defence by contemner Nos. 2 and 3 and pressing of only their unqualified apologies vis-a-vis the contemner No. 2.

24. On 19th July, 1996 we had passed the following order:

Heard further Mr. R. K. Jain, learned Counsel appearing on behalf of the contemner No. 1, Mr. Misra, learned Counsel appearing on behalf of the Court as well as Mr. Rakesh Dwivedi learned Addl. Advocate General. Having regard to the peculiar facts and circumstances and bulky records of this case and arguments made at a considerable length, we fix 13th August, 1996 for pronouncement of our judgment.

We command the contemnors, reminding their own undertaking given to this Court that they shall appear in person on that day. We also put on record the oral information given to us by the learned Additional Advocate General that His Excellency the Governor was apprised of the proceedings of this Court and desirability of the changing of the Rules but his Excellency had informed him that since the Governor's Rule is in existence, it may be proper that the Rules be framed in consultation with the Council of Ministers and therefore, some time will take place in amending the Rules.

25. On 13.9.96 we had passed the following order:

This case was heard by us and we had reserved judgment on 19.7.1996. In the meantime one of us was shifted to Lucknow Bench of this Court and hence could not complete our deliberations. This proceeding in contempt was initiated taking into account also the report of Sri K. S. Rakhra, District Judge, Dehradun submitted to Inspecting Judge Hon"ble Mr. Justice R. S. Dhavan on being asked by him pertaining to refusal of the district administration to accommodate him in P.W.D. Inspection Bungalow, Chamoli even though it was reserved for him by the district administration itself.

One of the grounds submitted by Sri R. K. Jain, learned Counsel appearing on behalf of the then District Magistrate, Chamoli, contemner No, 1, was that the report of Sri K. S. Rakhra is violative of principles of natural Justice Inasmuch as it was submitted behind the back of the contemnors no notice of any kind was issued by the enquiring officer to them in any mode whatsoever.

In course of our hearing reliance was also placed on Delhi Judicial Service Association, Tis Hazari Court, Delhi Vs. State of Gujarat and others, . From paragraph 6 of this judgment of the Apex Court it appears that Hon"ble Mr. Justice R. M. Shahi (as then was) of this Court was appointed to enquire into the incident and submit report to the Court who held an enquiry on behalf of the Apex Court and submitted a report after inviting affidavits/statements and examining witnesses including the police authorities against whom the allegations were made and after affording full opportunity to all concerned including the State Government. Police Officers and lawyers to lead evidence and to cross-examine the witnesses. Following the course adopted, in the peculiar

facts and circumstances of the instant case, we direct further enquiry by Sri K. S. Rakhra. District Judge, Dehradun and submit a fresh report to this Court after affording to all concerned. We remind that this direction is being made under Article 215 of the Constitution of India and all the authorities who are required to assist Sri Rakhra shall lend their assistance without any hitch or murmur. For the aforesaid purpose we also direct the officer to communicate this order immediately to Sri K. S. Rakhra along with the records which were submitted by him to the Inspecting Judge, who shall complete the enquiry expeditiously and submit back his report before 1.11.1996. The contemners as well as their learned Counsel are present in Court and we give liberty to the contemners to contact Sri Rakhra immediately. It is needless to point out that Sri Rakhra will submit his report on the entire materials, as directed by us, uninfluenced by any of his earlier findings.

We put a note of our anguish against the State of U.P. We had tried to tell the State of U.P. as well as the learned Addl. Advocate General who had appeared before us during hearing, the constitutional position of the Judges of this Court in relation to allotment of Government accommodations throughout the State. We were assured that the unfortunate incident will never occur. However, the Court on its administrative side has experienced otherwise. One of the Hon'ble Judge when visited District Etawah, his reserved accommodation was interfered with at the instance of the district administration. The matter was reported to the Government. The Government merely contended itself by recording displeasure against the Deputy Collector Sri Yashveer Singh. On the day on which we had reserved the judgment we were informed that since a popular Government is not there, therefore, the Governor is feeling difficulty in making appropriate rules in regard to provision on accommodation in Government premises during visits of Judge of this Court. Now the process for choosing a popular Government is on and we expect a popular Government very short. We hope and trust that the State Government will appreciate the difficulties of the Judges of this Court in due discharge of their administration of justice and frame appropriate rules and spare us from issuing a mandamus commanding them to frame appropriate rules.

Put up this matter on Friday dated 15.11.96 for further hearing, as usually on Friday the time up matters of the Bench are taken up.

The office will also serve a copy of this order on the learned chief standing counsel Mr. Gaur as the learned Addl. Advocate General is not present in court, reported to be on his legs in a Full Bench.

The contemners, who are present in court, need not be present on 15.11.1996, but shall present themselves if we order accordingly.

(26) Mr. Rakhra submitted his report dated 28.11.1996 which reads thus:

This enquiry report is being submitted in pursuance of order dated 13.9.96 and subsequent order dated 15.11.96 of the Hon'ble High Court passed in Criminal Contempt Petition No. 13/95.

2. The facts relating to the subject matter of this enquiry are that Hon''ble Justice Ravi S. Dhavan, Inspecting Judge for Pithoragarh, Chamoli, Uttarkashi, Tehri and Pauri was on inspection tour of these districts in June, 1995. His Lordship was to inspect Chamoli Judgeship from 12.6.95 to 19.6.95. Two suites in P.W.D. Inspection House at Gopeshwar which is the headquarter of Chamoli were get reserved by the District Judge, Chamoli for His Lordship's stay on 13.6.95, 14.6.95 and 15.6.95. One day before His Lordship's arrival at Gopeshwar, on 12.6.95 the District Magistrate, Chamoli cancelled the reservation of the two suites in P.W.D. Inspection House, Gopeshwar booked in the name of Hon''ble Inspecting Judge. The District Judge, Chamoli was informed that on account of visit of Hon''ble Chief Minister of Delhi, the reservation of suites for Hon''ble Inspecting Judge be deemed to have been cancelled as all the four suites in the Inspection House have been reserved for the visiting Chief Minister. The District Judge, Chamoli claims that he immediately had a telephonic talk with the District Magistrate and apprised him of the difficulty and also questioned the propriety of cancellation of the reservation for Hon''ble Inspecting Judge. The District Magistrate informed the District Judge that this was done keeping in view the order of precedence and protocol in which the Chief Minister of an outside State ranks at serial No. 8 while the puisne Judge of the High Court comes at serial No. 17. The District Judge claims that he emphasized that Hon''ble Inspecting Judge was on the inspection tour and not giving accommodation to a High Court Judge for such purpose is illegal. It was impressed upon by the District Judge that Hon''ble Inspecting Judge was exercising his constitutional function according to Article 227 of the Constitution of India and was the High Court in circuit. The talk of protocol was thus misplaced. The District Judge claims that despite his clearly talking the District Magistrate (Sri Satyajeet Thakur) that the cancellation of the reserved accommodation for the Hon''ble High Court may tantamount to interference with the constitutional function of the Hon''ble High Court, the District Magistrate did not listen to it. He instead told the District Judge that Hon''ble Inspecting Judge could be accommodated in Chamoli P.W.D. Inspection House which was at the relevant time occupied by S.D.M. Sri Abrar Ahmad, by getting it partly vacated. The District Judge further claims that he tried to convince the District Magistrate that inspection of the Judgeship would not be effectively possible by lodging the Hon''ble Inspecting Judge at a distance of 12 or 13 kms. away from the Headquarter but the District Magistrate was not prepared to listen.

3. On 13.6.95 at about 5.15 p.m. Hon''ble Inspecting Judge accompanied with His Lordship's wife and daughter besides 3 personal secretaries/private assistants, driver and orderly arrived, at the Inspection House at Gopeshwar as per programme. His Lordship came to know that the Chowkidar of the P.W.D. Inspection House, Gopeshwar had refused to open the suites when the civil court staff required him to do so. The chowkidar had told the civil court staff that the reservation in the name of Hon''ble Judge had been cancelled. The chowkidar, however, agreed to open the Inspection House for brief stay for His Lordship.

Hon"ble Inspecting Judge, however, did not think it proper to occupy Gopeshwar Inspection House in the aforesaid circumstances. His Lordship and accompanying party was then taken by the District Judge, Chamoli Sri M. S. Premi to an Inspection hut within the limits of village Mandal. All of them were lodged there in a small hut comprising of one bed-room and the place had no electricity nor drinking water facility and was repleted with leeches.

4. On 13.6.95 itself District Judge, Chamoli at Gopeshwar gave a handwritten report to His Lordship informing that the District Magistrate, Chamoli had by his order dated 12.6.95 cancelled the reservation of the 2 suites at P.W.D. Inspection House at Gopeshwar made for the Hon"ble High Court from 13.6.95 to 15.6.95. It was further reported that after endorsing a copy of the order to chowkidar of the Inspection House The District Magistrate, Chamoli was not available at station and is reported to have left for unknown destination. This report (Annexure 1) appears to have been submitted to His Lordship immediately after Hon"ble Inspecting Judge had arrived at Gopeshwar. The District Judge reports that he was trying to make immediate alternative arrangements.

5. On the above report. His Lordship, the Inspecting Judge required the District Judge to give detailed report of the circumstances in which this had happened without reasonable prior information to the Hon"ble High Court.

6. On this the District Judge submitted a report on 16.6.95 which is Annexure 2 to this report. It appears from this report that on receiving letter from the District Magistrate's office on 12.6.95 about cancellation of accommodation against permit No. 337 issued for His Lordship, the District Judge immediately contacted the District Magistrate questioning the propriety of this cancellation and impressing upon him that Hon"ble Inspecting Judge was High Court on circuit inspection and cancellation of reservation would amount to interference in the constitutional function of the Hon"ble High Court. The District Magistrate appears to have suggested that P.W.D. Inspection House at Chamoli could be partly vacated to accommodate Hon"ble Inspecting Judge but the District Judge did not agree to his suggestion by saying that inspection was not possible from such a distant place which was 12 or 13 kms. away from the Headquarters. The report further suggested that the District Judge and the District Magistrate could not arrive at a consensus. On 13.6.95 Hon"ble Inspecting Judge with his party arrived at Gopeshwar Guest House as per schedule. It was raining heavily. The District Judge further reported that though Hon"ble Chief Minister of Delhi was to make a night halt as per altered programme, on 14.6.95, therefore, there was no point in cancelling the reservation for His Lordship for 13.6,95. The report of the District Judge, however, suggests that he was told that the reservation for 13.6.95 too was cancelled because the district administration could feel difficulty in dis-lodging the Hon"ble Judge after he once occupies the Guest House. The report of the District Judge to Hon"ble Inspecting Judge further shows that the Hon"ble Judge was taken by the District Judge to Mandal village and lodged in a small inspection but with no facility of drinking water and electricity. There was

no security arrangement. The District Judge further stated in the report that in the event of 13.6.95 District Magistrate could not be contacted. After making necessary possible arrangements at the aforesaid Inspection hut at Mandal, the District Judge immediately informed the Joint L. R. and Joint Secretary, Government of U.P. Sri P. N. Parashar and also Sri M. S. Gahlot, Registrar of the Hon"ble High Court of Judicature at Allahabad about the incident in the night of 13.6.95 itself.

7. In his report Annexure 2, the District Judge further suggested that the cancellation of reservation for Hon"ble Inspecting Judge was an intentional act on the part of the District Magistrate, Sri Thakur who wanted to create hindrance and obstruction in the inspection tour so that the Hon"ble Inspecting Judge could not see the files and other records going against Sri Ram Babu Yadav, the then C.J.M. with whom the District Magistrate had intimacy. The District Judge further mentioned some instances which led him to draw such a conclusion. The report of the District Judge further suggested that Sri Ram Babu Yadav, the then C.J.M., Chamoli had received transfer orders and was required by the District Judge to handover charge in the noon on 12.6.95. The officer, however, proceeded on casual leave on 12.6.95 and handed over charge in the morning of 13.6.95 remaining a spectator to all this occurrence. He also did not call on the Inspecting Judge. The District Judge further says in the report that none of the officers from the district administration called on the Inspecting Judge on 13.6.95 and showed that Hon"ble Inspecting Judge was an unwelcomed visitor.

8. The District Judge Sri M. S. Premi further prepared a memorandum of the incidents from 14.6.95 to 16.6.95. Copy of this is Annexure 3. This was submitted for His Lordship's perusal and bears an endorsement of His Lordship of 16.6.95 itself of having perused the same. This was also forwarded to the Enquiry Officer by District Judge, Chamoli.

9. His Lordship, the Inspecting Judge then passed a detailed order on 16.6.95 itself. Copy of which is Annexure 4. Hon"ble Inspecting Judge has observed that the result of cancellation by the District Magistrate of the accommodation in favour of the High Court is that inspection of the High Court has been frustrated and amounts to interference with judicial parametrix of administration of the subordinate courts, a function attributed to the High Court under the Constitution. It was further observed that the entire purpose, apparently, has been that the Inspecting Judge should not be able to carry out the inspection. The Hon"ble Inspecting Judge had come to know that the present Enquiry Officer was entrusted with an enquiry against Sri R. B. Yadav, the then C.J.M. by the administrative committee of the Hon"ble High Court. His Lordship intended to enquire into some other complaints against Sri R. B. Yadav during the inspection in question and observed that since the inspection has been bogged and interfered with, those complaints may be looked into by the present Enquiry Officer. In this back-ground, the order passed by Hon"ble Inspecting Judge directed that the present Enquiry Officer shall investigate the circumstances

under which a long standing reservation for the High Court was cancelled by the District Magistrate while he himself has reserved the accommodation on being intimated the tour programme of the High Court. The Enquiry Officer was further required by Hon''ble the Inspecting Judge to investigate into the complaints against Sri R. B. Yadav which were forwarded to the High Court and which were supposed to be looked into and reserved for enquiry during the aforesaid inspection. The District Judge. Chamoli was directed by His Lordship to handover and relevant papers to the present Enquiry Officer.

10. Since the matter entrusted to the present enquiry officer by Hon''ble Inspecting Judge required investigation only, this enquiry officer visited District Chamoli and made necessary investigation and also examined many witnesses and perused records and also made spot inspection. A detailed report was then submitted by the enquiry officer on 13.7.95 to His Lordship Hon''ble Justice Ravi S. Dhavan.

11. It appears that Hon''ble Justice Ravi S. Dhavan had forwarded this report to Hon''ble the Chief Justice along with His Lordship's letter dated 19.7.95. On this Hon''ble The Chief Justice directed that the matter be placed before appropriate Bench of the High Court. Being prima facie satisfied from the report of the Enquiry Officer and the letter dated 19.7.95 of Hon''ble Mr. Justice Ravi S. Dhavan to Hon''ble The Chief Justice that District Magistrate. Chamoli, Sri Satyajeet Thakur in collusion with the then C.J.M., Chamoli Sri R. B. Yadav has committed gross contempt of the court of Hon''ble Mr. Justice Ravi S. Dhavan, inspecting Judge by interfering with his administration of justice vested in him by the virtue of Article 235 of the Constitution of India by deliberately cancelling the reserved accommodation have committed Contempt of the Court. Criminal contempt No. 13 of 1995 was thus registered in the Hon''ble High Court and notices were issued to Sri Satyajeet Thakur and Sri R. B. Yadav. Later on Sri Ramakant Pandey, the then A.D.M., Chamoli was also issued notice.

12. It appears that before the Hon''ble High Court the contemnors took a stand that the report of the investigation conducted by the undersigned Enquiry Officer cannot be read against them as they were not provided any opportunity and the report was submitted at their back. On this, Hon''ble High Court passed an order dated 13.9.96 directing the present Enquiry Officer to make further enquiry into the matter and submit a fresh report to the court after affording opportunity to all concerned. The records which were submitted by the present enquiry officer along with earlier investigation report were also directed to be sent back to the Enquiry Officer. The Enquiry Officer has been directed to submit report on the entire materials uninfluenced by my earlier findings. This is how the matter has again come before me for report.

13. After the matter thus came before the Enquiry Officer afresh, Sri Satyajeet Thakur made an application before the Enquiry Officer stating that he does not know what is the scope of the enquiry. He took the stand that the charge against him in the Hon''ble High Court was framed on the basis of report dated 13.7.96

of the Investigating Officer and letter dated 19.7.95 of Hon''ble Justice Ravi S. Dhawan, to Hon''ble The Chief Justice. His contention that the cognizance could not be taken on these two matters has been accepted by the Hon''ble High Court and, therefore, the scope of the enquiry is not clear. At the very first opportunity on 15.10.1996, the Enquiry Officer after considering the objection made it clear that the scope of the enquiry was same as it was before in so far as it relates to cancellation of reservation in P. W. D. Inspection House at Gopeshwar. It may be mentioned here that the Administrative Enquiry which was separately entrusted to the present Enquiry Officer against Sri R. B. Yadav, the then Chief Judicial Magistrate, Chamoli by Resolution of the Administrative Committee, has since been withdrawn and entrusted to the District Judge, Meerut. The scope of the present enquiry was thus detailed as follows:

1. To investigate into the circumstances under which reservation was cancelled and to examine the propriety of the action.
2. If the cancellation was improper and unjustified, to fix the responsibility for the same, and
3. To examine whether the act of cancellation was a simple lapse or negligence or it was a calculated step to frustrate the inspection of the subordinate court by Hon''ble High Court.
14. Sri Satyajeet Thakur further sought permission to engage a lawyer of his choice to represent his case in the enquiry. This permission was granted, although he did not engage any lawyer for this enquiry and appeared in the proceedings in person and availed full opportunity to cross-examine the witnesses examined in the course of this enquiry.
15. Similarly, opportunity was given to Sri R. B. Yadav and Sri M. S. Premi as well as Sri Ramakant Pandey. Sri Abrar Ahmad, the then S.D.M., Chamoli was also offered opportunity to cross-examine Mr. Premi. All the persons concerned were given full opportunity to make their submissions.
16. Statements of Sri Satyajeet Thakur, the then District Magistrate, Chamoli, Sri Ramakant Pandey, the then Addl. District Magistrate, Chamoli, Sri R. B. Yadav, the then C.J.M., Chamoli, Sri Shiv Prasad Pant, Steno to D. M., Chamoli, Sri Om Prakash, V.I.P. Clerk, Collectorate Chamoli, Sri Ranjit Singh Bhandari, Administrative Officer, Collectorate Chamoli, Sri Bhupendra Singh, the then District Magistrate Pauri and Incharge Commissioner Garhwal on the relevant day, Sri Abrar Ahmad, the then S.D.M., Chamoli, Sri Balwant Singh Negi, the then Record Keeper of Chamoli Judgeship, Sri K. S. Adhikari, the then Central Nazir of the said Judgeship, Sri Satya Prasad Dimri, II Clerk of the Judgeship and the statement of Sri M. S. Premi, the then District Judge, Chamoli have been recorded in this enquiry. Necessary records too have been examined. I also had a telephonic talk with Sri Subhas Kumar, the Commissioner of Garhwal Division as he also had met Hon''ble Justice Ravi S. Dhawan in connection with the above matter at Dehradun at the time of His Lordship's departure.

17. The first point to be considered is to examine the propriety of cancellation of the reservation. There is no dispute now that two suites for Hon''ble Justice Ravi S. Dhavan were reserved at Gopeshwar P.W.D. Inspection House for 13th, 14th and 15th June, 1995. In fact reservation for 14.6.95 and 15.6.96 was confirmed on 1 6.95 itself vide reservation slip No. 377 issued on 1.6.96. A copy of this slip is enclosed as Annexure-V. On the same day reservation of two suites at Gwaldam for 12.6.95 and 13.6.95 was done by slip No. 376 (in the same Annexure). In both these slips the Hon''ble Judge has been described as The Administrative Judge, Allahabad." Sri M. S. Premi witness No. 12 in his statement has mentioned that initially he had sent request for allotment of accommodation in the inspection House on 1.6.95 on the basis of tentative programme. But subsequently he had consulted Hon''ble the Inspecting Judge and that the final programme was chalked out on 10.6.95 or 11.6.95 at Kosani. It was thereafter that a final programme was circulated showing the stay of his Lordship at Gwaldam on 12.6.96, arrival at Karanprayag on 13.6.95 from Gwaldam for inspection of the court and departure for Gopeshwar on the same day in the evening at 4 p.m. and night halt at Gopeshwar P.W.D. Inspection House. Final programme of His Lordship showed stay and inspection at Gopeshwar on 14.6.95 and 15.6.95 and departure from Gopeshwar for Dogalvitta on 16.6.95 at 3 p.m. and night stay at Dogalvitta. A copy of the final tour programme as well as tentative programme submitted on 1.6.95 is annexed with the statement of Sri. M. S. Premi recorded in this enquiry. On the basis of this changed programme, reservation slip No. 447 was issued from the office of the Collector on 11.6.95 reserving two suites at Gopeshwar Guest House for His Lordship Hon''ble Justice Ravi S. Dhavan for 13.6.95. A copy of this reservation slip is enclosed as Annexure VI.

18. On 12.6.95 a letter (enclosed with Annexure-2 at the end) was issued from the office of the District of the District Magistrate and was addressed to District Judge. Chamoli, The letter which was issued under the signature of the Administrative Officer, mentioned that on account of the visit of Sri Madan Lal Khurana, Hon''ble Chief Minister of Delhi, all the four suites in P.W.D. Inspection House at Gopeshwar have been reserved for Sri Khurana and the reservation for his Lordship Hon''ble Justice Ravi S. Dhavan vide reservation slip No. 377 be treated as cancelled. There is no dispute that Sri Madan Lal Khurana, Chief Minister of Delhi had stayed at Gopeshwar P.W.D. Inspection House on 12.6.95 and as per original schedule of his programme, he was to leave Gopeshwar on 13.6.95 at 8 a.m. for Joshimath. On 14.6.95, Sri Khurana was to return Gopeshwar from Badrinath at 12 noon and again depart for Srinagar at 3 p.m. He had to make night halt at Srinagar on 14.6.95. A copy of the programme of Sri Khurana is enclosed as Annexure-VII. It is said that on 12.6.95 at Gopeshwar Guest House, the Private Secretary to Sri Khurana sent a hand written letter to District Magistrate, Chamoli indicating change in programme of Hon''ble Chief Minister and suggesting that on 14.6.95 Sri Khurana would arrive at Gopeshwar at 5 p.m. and will make a night halt there. A copy of the letter is enclosed

Annexure-VIII. It was in this connection that cancellation letter was issued from the office of the District Magistrate, Chamoli on 12.6.95 cancelling reservation for Hon"ble the Inspecting Judge done against slip No. 377.

19. It is significant to note that although reservation slip No. 377 Annexure-V) was for 14.6.95 and 15.6.95, only the accommodation was blocked and was not permitted to be occupied by Hon"ble the Inspecting Judge even on 13.6.95 for which a separate reservation slip No. 447 Annexure-VI) had been issued. Since Hon"ble Sri Khurana was to make stay at Gopeshwar only on 14.6.95, there appears to be no justification for cancelling the reservation of accommodation for His Lordship the Inspecting Judge for 13.6.95 and 15.6.95. There is no dispute that in fact the total reservation for Hon"ble the Inspecting Judge at Gopeshwar from 13.6.95 to 15.6.95 was cancelled. The witness No. 1 Sri Satyajeet Thakur, the then District Magistrate, Chamoli, in his statement before the Enquiry Officer has admitted that even in view of the programme of the Chief Minister of Delhi, there was no necessity for cancelling the reservation for Hon"ble the Inspecting Judge for 13.6.95 and 15.6.95. Witness No. 5 Sri Om Prakash, V.I.P. Clerk of the Collectorate has stated that though it was intended to cancel the reservation for 14.6.95, but by clerical mistake, the cancellation of the reservation for the entire period was mentioned in the letter.

20. It appears that what this clerk Sri Om Prakash (V.I.P. Clerk. Collectorate), has stated about the intended cancellation for 14.6.95 only is not correct. The chowkidar of the P.W.D. Inspection House, Gopeshwar says that the Civil Court employees had approached him on 13.6.95 with reservation slip No. 147 (Annexure-VI) and required him to open the Inspection House. But he had refused to open the Inspection House by saying that this reservation had been cancelled. He ultimately agreed to open the Inspection House for a short while after seeking instructions from the clerk in the Collectorate. Witness No. 9 Sri Balwant Singh Negian official of the Chamoli Judgeship says that he had been sent to have the Gopeshwar Inspection House opened on 13.6.95 at about 3.30 P.M. When he showed that reservation permit to the Chowkidar, he refused to open the Inspection House. It is significant to note that the copy of the letter by which the reservation was cancelled on 12.6.95 was marked to the Chowkidar of the Inspection House. These facts clearly show that the District Administration was not inclined to permit occupation of the Inspection House by His Lordship on 13.6.95, although there was valid reservation slip which had not been cancelled.

21. The District Judge on receiving letter dated 12.6.95 about the cancellation of reservation immediately contacted the District Magistrate on telephone and wanted to know about this cancellation and also alternative arrangement which the administration may be proposing. It is significant to note that although Hon"ble Justice Ravi S. Dhavan was on an inspection tour and it was mentioned in the reservation slips that the reservation was for the Administrative Judge, nobody in the district administration bothered to see that simultaneous alternative reservation be done in case the Guest House at Gopeshwar was to be

spared for Hon"ble the Chief Minister of Delhi. The letter sent to the District Judge simply mentioned that the reservation for Hon"ble the Inspecting Judge Sri Ravi S. Dhavan be deemed to be cancelled. Thus, the District Judge was left to approach the district administration afresh for alternative arrangements. Since the reservation was for Hon"ble the Inspecting Judge, this attitude on the part of the district administration was wholly deplorable.

22. Witness No. 1 Sri Satyajeet Thakur has taken stand that the reservation of and cancellation of the Inspection House for V.I.Ps. was never dealt by him as Sri Ramakant Pandey A.D.M. Protocol was specially appointed for this job and these reservation matters were routine matters to be dealt with at the office level. This may be true, but the question for consideration is as to what the District Magistrate should have done on being contacted by the District Judge in this situation.

23. The District Magistrate Sri Thakur has taken stand that during talk with the District Judge Sri Premi on the subject various proposals were considered and it was at the suggestion of Mr. Premi that alternative accommodation at P.W.D. Inspection House, Chamoli was reserved for Hon"ble the Inspecting Judge. It has come in the statement of Mr. Thakur as well as Mr. Premi that a portion of P.W.D. Inspection House at Chamoli as in occupation of Sri Abrar Ahmad. S.D.M., Chamoli who was living there for quite sometime as his house was under construction or repair. It is also admitted by Sri Thakur as well as Sri Premi that the District Judge had objected to the proposal of sharing accommodation at Chamoli Guest House by His Lordship the Inspecting Judge with the S.D.M. The District Judge had, however, suggested that if the whole of the Inspection House at Chamoli could be made available, the question of lodging Hon"ble the Inspecting Judge at Chamoli may be considered. Sri Thakur has stated that he had assured that S.D.M. Sri Abrar Ahmad would vacate the room in his occupation and consequently it was vacated on 12.6.95 itself and reservation slip No. 462 was issued on 13.6.95. He has further stated that the District Judge Sri Premi was duly informed of this in the night of 12.6.95 itself. The District Judge Sri Premi to the contrary says that this was not done and Sri Abrar Ahmad continued to occupy a room in the Chamoli Guest House. He has further said that he was reluctant to take the Inspecting Judge to Chamoli but had agreed to do so if Sri Abrar Ahmad vacated the same. This proposal of the District Judge was rejected by the District Magistrate by saying that where can he move the S.D.M.? Sri Premi says that Sri Thakur had suggested to him that Hon"ble Inspecting Judge may share kitchen with the S.D.M. and one room in the Inspection house may be made available for the Hon"ble Judge. Sri Premi did not agree to this proposal. He says that there was no dialogue of him with the District Magistrate thereafter as the District Magistrate was not available and Mr. Premi remained waiting for some alternative reservation from the side of the Collector. He denies that the District Magistrate had told him on telephone in the night that S.D.M. has fully vacated the Inspection House.

24. Mr. Premi says that it was only on 13.6.95 in the evening shortly before the arrival of the Inspecting Judge at Gopeshwar that he came to know that reservation for the Hon"ble Inspecting Judge has been done at Chamoli Guest House. The reservation slip No. 462 Annexure-IX is dated 13.6.95. Witness No. 11 Sri Satya Prasad Dimri who was Second Clerk of Chamoli Judgeship and was assigned the duty of collecting reservation slip says that he has been running for the alternative reservation slip since morning of 13.6.95 but could procure reservation slip No. 462 in the evening at about 5.00 p.m. He says that till 2 O'clock on 13.6.95 it was not clear as to where the alternative reservation is being done by the Collectorate. He says that since the time was short, the civil court staff apprehended that Hon"ble the Inspecting Judge may straight away arrive at Gopeshwar as per prior reservation. Therefore, all of them waited for His Lordship at Gopeshwar. No staff was sent to make arrangement for His Lordship at Chamoli Guest House. The witness had said that the difficulty in accommodating Hon"ble the Inspecting Judge at Chamoli was that the Inspection House there was partly occupied by S.D.M. He says that he remained in contact with V.I.P. Clerk Collectorate on 12.6.95 but was given to understand that the alternative accommodation would be reserved after seeking instructions from the officers. He remained in contact upto 4.00 p.m. with Collectorate people. Witness No. 10 Sri K. S. Adhikari who was then Central Nazir of Chamoli Judgeship says that he was running a mobile kitchen with the party of Hon"ble Inspecting Judge and that he had no information at all that reservation for Hon"ble Inspecting Judge has been changed to Chamoli Guest House. No staff was sent to Chamoli to make any arrangement. He says that it was only when he arrived at Gopeshwar Inspection House that he came to know that reservation at Gopeshwar has been cancelled. As mentioned earlier, witness No. 9 Sri Balwant Singh Negi, an official of Chamoli Judgeship says that on 13.6.95 at 3.00 p.m. he was sent by the Sadar Munsarim to Gopeshwar Guest House along with reservation slip to have the Inspection house opened. All this clearly shows that reservation slip No. 462 dated 13.6.95 reserving 2 suites for Hon"ble the Inspecting Judge for 13.6.95 and 14.6.95 at Chamoli was issued at very late hours and there was not sufficient time to pass message and divert His Lordship to Chamoli Guest House after he had left Karanprayag.

25. Sri Premi witness No. 12 says that he himself was not aware till 5.00 p.m. about the alternative reservation at Chamoli Guest House and therefore he was waiting for His Lordship at Gopeshwar Inspection House and received the Hon"ble Inspecting Judge at about 5.00 p.m. at Gopeshwar.

26. The version given by Sri Premi and by the civil court staff of Chamoli Judgeship about the alternative reservation at Chamoli on 13.6.95 inspires confidence and it appears that this reservation slip Annexure-IX was not issued in time so as to divert Hon"ble the Inspecting Judge in the way itself towards Chamoli Guest House.

27. In the circumstances mentioned above marking of alternative reservation

could not have been a secret and the members of the staff who were running for the alternative accommodation and alternative reservation slip would definitely know when it is issued. In these circumstances it is difficult to believe that the District Judge would not take suitable action in time and would intentionally put the Inspecting Judge to trouble and embarrassment. The suggestion of Sri Satyajeet Thakur that despite alternative reservation being made in time, the District Judge purposely directed Hon''ble Inspecting Judge to Gopeshwar to make him angry towards district administration, has no force.

28. It appears to me that District Magistrate Sri Thakur even after being approached by the District Judge on 12.6.95 on telephone in connection with the cancellation matter and even on being requested to make alternative accommodation available, made no effort to do so in time. At this stage the question of reservation being routine work of A.D.M. and office and not of the Collector, loses significance. It was expected that having been apprised of the situation, District Magistrate Sri Thakur should have taken appropriate steps and ensured proper timely action. It appears that the total attitude of district administration including the District Magistrate has been very casual and none of them bothered to see that reservation, if necessary, ought to have been cancelled only for 14.6.95 or that the accommodation should not have been blocked on 13.6.95 for which there was existing valid reservation slip. Nobody bothered to extend courtesy of offering alternative accommodation in the letter of cancellation dated 12.6.95. The reservation slip No. 462 dated 13.6.95 was not issued in time and the District Magistrate being apprised of the situation did not bother to make necessary arrangements. It appears that it was considered by the district administration to be the headache of the District Judge to make necessary arrangement for Hon''ble Inspecting Judge.

29. Various inconsistent and un-convincing explanations have been offered by Sri Thakur and the officers and officials of the Collectorate with regard to the matter in controversy. Witness No. 5 Sri Om Prakash V.I.P. Clerk, Collectorate says that the Memo to the District Magistrate had marked letter dated 12.6.95 Annexure VIII of P.S. to Hon''ble Chief Minister of Delhi and this clerk had discussed the matter with his Administrative Officer without any reference to the A.D.M. or the District Magistrate. These clerks on the basis of the order of precedence thought it proper to cancel the reservation of accommodation at Gopeshwar for Hon''ble Inspecting Judge and make it available for the Chief Minister of Delhi. He says that the A.D.M. was not available and in order to ensure that the District Judge gets sufficient time to make alternative arrangements, the cancellation was issued hurriedly under the signatures of the Administrative Officer. This cancellation was issued at about 3.30 p.m. on 12.6.95. Although the cancellation was intended only for 14.5.95 but by clerical mistake it was cancelled for the entire period. The clerk says that he was called by the District Magistrate in the evening of 12.6.95 and was asked about the alternative accommodation for the Hon''ble Inspecting Judge. He told the District Magistrate that the Inspection house was occupied by the S.D.M. which shall have got to be vacated. The

District Magistrate then replied that he will talk to the S.D.M. The conversation finished at this. The V.I.P. clerk says that on 13.6.95 the civil court staff had come to him for reservation slip and he rang up Chamoli to find out if the S.D.M. had vacated. After he came to know that the S.D.M. had vacated in the previous evening itself, he issued the reservation slip without referring the matter to the A.D.M. His statement suggests that the District Magistrate had not given clear cut instructions to him on 12.6.95 for making reservation at Chamoli Inspection House and issuing necessary reservation slip.

30. As against this Sri Ramakant Pandey the then A.D.M. Chamoli who was Incharge of Protocol and was responsible for making reservation in the Inspection houses for V.I.P. says that on receiving the modified programme of Chief Minister of Delhi he had discussed the matter with the District Magistrate Sri Thakur before the cancellation order was issued. He says that it was only after deliberation with the District Magistrate that a decision was taken to make all the suites of Gopeshwar Inspection House available for the Chief Minister of Delhi in preference to Hon"ble the Inspecting Judge. He says that there V.I.P. clerk was called and instructed to cancel the reservation in the name of Hon"ble Inspecting Judge and he was further instructed to make alternative reservation at Chamoli Inspection House for the Hon"ble Judge. Witness No. 1 Sri Thakur says that he had instructed the A.D.M. Protocol to reserve whole of Chamoli Inspection House and Kuthalsain Inspection House for Hon"ble Inspecting Judge after His Lordship's reservation at Gopeshwar was cancelled, witness No. 2 Sri Ramakant Pandey the then A.D.M. Chamoli to the contrary says that Kuthalsain Inspection House was not proposed to be reserved for Hon"ble Inspecting Judge as only Chamoli Inspection House was decided to be reserved in pursuance to the dialogue between the District Magistrate and the District Judge. The A.D.M. as well as the District Magistrate have tried to take a stand that they were not aware that Hon"ble Justice Ravi S. Dhavan was on inspection tour. They claimed that they were under the impression that Hon"ble Justice Dhavan was on a pleasure trip. This stand is patently wrong, for the District Judge in his communication dated 1.6.95 had mentioned that the reservation was sought for the Inspecting Judge and in fact the reservation slip No. 377 dated 1.6.95 described the Hon"ble Judge as Administrative Judge. The A.D.M. Sri Pandey then says that he had not gone through the contents of the letter of the District Judge and did not notice that Hon"ble Justice Dhavan was on inspection tour. This is difficult to believe.

31. Similarly the stand taken by Sri Thakur that he was not aware of Justice Dhavan being Inspecting Judge is not believable because the District Judge had sent a D. O. letter on 12.6.95 to Sri Thakur stating that the Hon"ble Judge shall be visiting the district on his inspection. Copy of the final tour programme was enclosed. This D.O. letter was entered in the despatch register and was delivered in the office of the District Magistrate on 12.6.95 through Dak Bahi. Photocopies of the D.O. letter, tour programme, despatch register and Dak Bahi extracts are enclosed with the statement of witness No. 12 Sri Premi. Further it is difficult to

believe that when the reservation for the Inspecting Judge was cancelled, the District Judge would not tell the District Magistrate in his conversation on the subject that the Hon''ble Judge was coming on inspection and therefore reservation was necessary.

32. It appears that in order to establish that he is innocent, Sri Thakur has given various suggestions blaming Sri Premi for having taken the Hon''ble Judge to Mandal Inspection hut. He has gone to the extent of suggesting that the Hon''ble Judge could have been better lodged at the residence of Superintendence of Police instead of taking to Mandal because Superintendent of Police was living alone in his house. He has also suggested that the Hon''ble Judge could have been taken to new civil court building where one room was converted into a sort of Guest House. I can only say that the suggestion of lodging the Hon''ble Judge and his family at a public place in a room in civil court compound itself indicates how much respect Sri Thakur has for an Inspecting Judge of the High Court. Sri Premi witness No. 12 in reply to a question put by Mr. Thakur had admitted that on two occasions some High Court Judges from outside the State on their pleasure trip had dropped in at late night hours and had made a night halt in the said room but they had left early in the morning before the court started functioning. Clearly this would not mean that the place is suitable for lodging the Inspecting Judge and his family when he is on inspection tour. In fact this enquiry officer had used that room for the purpose of conducting investigation in July. 1995 and has direct knowledge that it is not fit for the said purpose. The said room is in the open and the adjoining varendah is used throughout the day by the lawyers and the litigants. Sri Premi has further explained that the old building of the Judgeship could not be used for lodging the Inspecting Judge because it was condemned building having no water or light connection and a part of it was used as residence by two Chaprasis of the Judgeship. Sri Premi was further suggested that the Hon''ble the Inspecting Judge could have been lodged in Garhwal Mandal Vikas Nigam Guest House. He has stated that the accommodation was not available there and in any case the district administration could have requisitioned the said Guest House to make it available for the Hon''ble Judge.

33. Sri Thakur has further tried to say that the reservation for Hon''ble the Inspecting Judge at Gopeshwar was not a long standing reservation. It appears that the argument has been raised for the sake of argument only because the reservation slip No. 377 (Annexure V) which was cancelled by letter dated 12.6.95 was issued on 1.6.95 which clearly shows that it was long standing reservation. It is another thing that on 11.6.95 reservation was further sought for 13.6.95 but there was no specific cancellation of this subsequent reservation (vide slip No. 447).

34. Sri Abrar Ahmad witness No. 8 who was S.D.M., Chamoli was occupying P.W.D. Inspection House since April, 1995. Sri Ranjeet Singh Bhandari, Administrative Officer of the Collectorate in his previous statement Annexure No.

X recorded on 11.7.95 had stated that the S.D.M. Sri Abrar Ahmad was in occupation of Chamoli Inspection House and was living there with his family and household goods. He had further said that it is for this reason that the said Inspection House was not used to be reserved to others. This Inspection house has 3 suites. The witness was recalled and was examined afresh during the present enquiry but he was not challenged by Sri Thakur, Sri Pandey or Sri Yadav, the then C.J.M. about the abovementioned facts. Similarly the statement of V.I.P. Clerk Sri Om Prakash was recorded on 11.7.1995 on the previous occasion, a copy of which is Annexure XI. He had said that Chamoli Inspection House has got only 2 suites and both of them were reserved for Hon"ble Justice Ravi S. Dhavan vide reservation slip No. 462 and the S.D.M. had vacated both of them. Sri Abrar Ahmad as well as Sri Thakur has stated that the S.D.M. had vacated the Inspection House at Chamoli. The District Magistrate says that on 12.6.95 at about 8.30 p.m. he had asked the S.D.M. to wholly vacate the Inspection House at Chamoli and the S.D.M. after sometime rang him back that the Inspection House had been vacated and then the District Magistrate had informed the District Judge that the Inspection House had been vacated and reserved for Hon"ble Inspecting Judge.

35. This version of Sri Thakur does not inspire confidence because firstly it was not possible for the S.D.M. to vacate the Inspection house within an hour when the whole of it was in his occupation since last 2 months where he was living with his family and household effects. Secondly the request of the District Judge in his letter dated 1.6.96 for reservation of accommodation was for 3 suites at P.W.D. Inspection House, Gopeshwar. If the District Judge had given his consent to lodge Hon"ble Inspecting Judge at Chamoli Guest House only on the condition that it is wholly vacated by the S.D.M. and if the S.D.M. had vacated as is claimed by Sri Thakur and the S.D.M. Sri Abrar Ahmad, the reservation slip No. 462 ought to have been issued for all the 3 suites and not for 2 suites as has happened.

36. Further the reservation for Hon"ble the Inspecting Judge at Gopeshwar was cancelled for three days for 13th, 14th and 15th June, 1995. The alternative arrangement vide slip No. 462 dated 13.6.95 (Annexure IX) shows that only two suites at Chamoli for 13.6.95 and 14.6.95 were booked. There is no explanation on record why no reservation was done for 15.6.95. Additional District Magistrate Sri Pandey witness No. 2 was specifically asked about this and he says that he does not remember why it was not reserved for 15.6.95. Then added that for 14.15 and 16.6.95 reservation was at Badrinath as well. This explanation is not acceptable, because, after the final programme circulated on 12.6.95 His Lordship was to remain at Gopeshwar and make inspection of the Judgeship and there was no programme of going to Badrinath. Witness No. 5 Sri Om Prakash V.I.P. Clerk says that he was under the impression that Hon"ble the Inspecting Judge would shift to Gopeshwar Inspection House on 15.6.95 and, therefore, the reservation at Chamoli Inspection House was not done for 15.6.95. It is also in consistent with the statement of witness No. 1 Sri Satyajeet Thakur who has

admitted that reservation for 15.6.95 at Gopeshwar also cancelled. The above facts show that no body took any interest in issuing proper reservation slips reserving accommodation for three days at Chamoli Inspection House. This was despite the fact that the matter had generated heat and had been discussed amongst the District Judge, District Magistrate and Addl. District Magistrate.

37. In the light of this discussion, the contention of Sri Premi that after receiving cancellation order he had a talk with the District Magistrate in the afternoon which remained inconclusive and the District Magistrate was not available thereafter, appear to be reliable. If the District Magistrate and the District Judge had finally talked on 12.6.95 in the night at 9.30 p.m. as is claimed by Sri Thakur and the reservation at Chamoli had been finalised, there would have been no confusion and mistake issuing the reservation slip No. 162 and the slip must have been issued on 12.6.95 itself or in the early hours of 13.6.95. The statement of Sri Abrar Ahmad witness No. 8 that civil court employees had gone to Chamoli Guest House to make arrangement for Hon''ble Justice Ravi S. Dhavan and remained there upto 5 p.m. does not inspire confidence, because, as is indicated earlier, the reservation slip No. 462 was itself issued at about 5 p.m. In view of this and also because even the District Judge himself kept waiting at Gopeshwar there was no question of civil court staff being present at Chamoli Guest House in the noon of 13.6.95 to received Hon''ble the Inspecting Judge.

38. The above discussion would show that although the District Administration had cancelled the long standing reservation of two suites at Gopeshwar Inspection House for Hon''ble the Inspecting Judge, no timely alternative arrangement was made despite the facts having come to the notice of the District Magistrate and Addl. District Magistrate. It was left to be dealt with by the office of the District Magistrate.

39. The above conclusion is strengthened from Annexure I which is the report dated 13.6.95 given by District Judge Chamoli to His Lordship at Gopeshwar Guest House itself. At the very first opportunity the District Judge had mentioned that the District Magistrate was not available at Station after having cancelled the reservation vide order dated 12.6.95 and is reported to have left for unknown destination. The District Judge further mentioned in this report that he was trying to make immediate alternative arrangement. This definitely indicates that the District Judge till then was not aware of reservation slip No. 462 winch was issued in connection with alternative arrangement. The District Judge also immediately informed the Registrar of the Hon''ble High Court as well as Joint L. R. and Joint Secretary in law Department of the Government of Uttar Pradesh. This is an admitted fact that on 14.6.95 Sri Thakur District Magistrate who had left the station on 13.6.95 for visit to Yamnotri, received information at Tehri about this episode. He was informed by his office that he is immediately required and should come back. Witness No. 7 Sri Bhupendra Singh. Incharge Commissioner of Garhwal Division also received direction from Commissioner Sri Subhas Kumar on 14.6.95 to proceed to Chamoli and contact Hon''ble the

Inspecting Judge and express regrets in person and proper arrangement for the stay of his Lordship be made. He was further informed that the instructions have been issued by the Chief Secretary, Sri Bhupendra Singh Immediately left for Chamoli and on his way Sri Satyajeet Thakur, who was returning to his Head Quarter also met him and they both came to Chamoli together. At about 8 p.m. they met His Lordship at Mandal Inspection Hut and regretted for the inconvenience caused to the Hon"ble Judge. Incharge Commissioner stated before Hon"ble the Inspecting Judge that "Is SAMPURAN PRAKARAN KE LIYE PRASHASHAN SHARMINDA HAI". Sri Singh stated in the enquiry that he expressed regets on behalf of the Chief Secretary as well. Hon"ble the Inspecting Judge was requested to shift to Chamoli Inspection House, but his Lordship did not agree. It appears that Sri Thakur who was accompanying Sri Bhupendra Singh, tried to convince His Lordship that alternative reservation had been done in consultation with the District Judge and the Hon"ble Judge had observed that whosoever is found guilty shall be proceeded against. The Incharge Commissioner again met His Lordship on 15.6.95 and expressed regets once again requesting His Lordship to shift to Gopeshwar Inspection House.

40. Sri Premi witness No. 12 has admitted that even on the next day Sri Thakur met His Lordship and tendered apology. Even the present District Magistrate Sri Chander Singh had given a letter to the Enquiry Officer on 13.7.95. a copy of which is Annexure XII. Through this letter the District Magistrate again tendered apology on behalf of his predecessor-in-office giving assurance that such mistakes would not be repeated.

41. The present Commissioner Sri Subhash Kumar had also met Hon"ble the Inspecting Judge Justice Ravi S. Dhavan and expressed regets on behalf of (he administration. All these facts in light of the discussion made above, clearly establish beyond doubt that inconvenience was caused to Hon"ble the Inspecting Judge on account of no alternative accommodation being made available in time for His Lordship, who was on inspection of the Subordinate Courts.

42. In view of the above conclusion, although now it is not necessary to examine whether the Chamoli Inspection House was not good in comparison to Kothialsain Inspection House, but the fact remains that the Kothialsain Inspection House was much better. The enquiry officer had personally visited all these Inspection Houses and found that Chamoli Guest House was not properly maintained. It is constructed at a height of about 100 ft. from the road. The motor car does not go upto the Inspection House and one has to climb quite a distance for reaching in the Inspection House. There was no provision for lodging the staff and the Inspection House is about 12 or 13 kilometers from Gopeshwar Headquarter. As compared to this Kothialsain Inspection House was only 8 kms. from Gopeshwar Head Quarter and was very well maintained and ideally located with sufficient provision for lodging of the stall

43. Sri Thakur has tried to say that Chamoli Guest House is better than Kothailsain Inspection House. But this fact is not true. Even witness No. 2 Sri

Ramakant Pandey, Addl. District Magistrate has admitted that Chamoli P.W.D. Inspection House is quite far from the main road and mostly the people do not like to stay there, and the people go there only when no other alternative accommodation is available. He was asked as to why alternative accommodation at Kothailsain Inspection House was not offered in preference to Chamoli Inspection House, the witness said that he does not know the reason as the matter had been discussed between the District Magistrate and the District Judge.

44. Thus clearly the Inspection House at Kothailsain would have been more convenient and was definitely better.

45. Although the Kothailsain inspection House was reserved for Hon"ble Justice Palok Basu of the Allahabad High Court for 13.6.95 but it is admitted by Sri Abrar Ahmad that Hon"ble Justice Basu had stayed at Chamoli Inspection House.

46. As I had mentioned in my earlier report, Hon"ble the Inspecting Judge being a Constitutional Authority was not less than a person requiring high grade security and the Gopeshwar Inspection House has four suites. Only two of the suites had been reserved for Hon"ble the Inspecting Judge and the remaining two could be used for Hon"ble Chief Minister. The Chief Minister of Delhi could be conveniently lodged at Kothailsain Inspection House also. Even if the District Administration was particular in lodging the Chief Minister of Delhi at P.W.D. Inspection House, Gopeshwar itself and it was not possible to accommodate both the V.I.Ps. at that Inspection House, the propriety demanded that looking to the status of Hon"ble the Inspecting Judge, he should have been approached by the District Administration to make slight adjustment by making variation in the programme in order to accommodate the guest from outside. Instead of doing that, the matter was left to be dealt with by the clerks who issued cancellation letter without suggesting or offering alternative accommodation.

47. On the basis of the above discussion, it is concluded that the cancellation of reservation for Hon"ble the Inspecting Judge at Gopeshwar Inspection House for 13th, 14th and 15th June, 1995 was not absolutely necessary and it was cancelled without proper application of mind not confining it to 14.6.95 only. The cancellation was done in improper and disrespectful manner telling the District Judge that reservation may be deemed to have been cancelled without offering any alternative accommodation in the cancellation letter itself. The District Magistrate Sri Thakur, Addl. District Magistrate Sri Pandey were also negligent in not ensuring alternative reservation within time despite being apprised of the difficulty by the District Judge.

48. The District Judge Sri Premi had recorded the memorandum of the events from 14.6.95 to 16.6.95 for the perusal of Hon"ble the Inspecting Judge. This memorandum which is Annexure III bears the endorsement of Hon"ble the Inspecting Judge of having seen the memorandum on 16.6.95 itself. The memorandum gives a picture of what talks had taken place between the District Magistrate and Hon"ble the Inspecting Judge on 14.6.95 in presence of Incharge

Commissioner Sri Bhupendra Singh. Even the contents of this memorandum would support the above conclusion. Mr. Premi has said this memorandum was prepared on the Information received from Hon"ble the Inspecting Judge.

49. Mr. Thakur has tried to shift the blame on to Mr. Premi by suggesting that Sri Premi had ample opportunity to inform His Lordship in advance that the reservation at Gopeshwar had been cancelled. He also suggested that after receiving intimation of cancellation on 12.6.95 Mr. Premi from his own side made no effort to find out what alternative arrangement has been made and also made no effort to make alternative arrangement at his own level. His argument is that Mr. Premi is responsible for taking His Lordship Hon"ble Justice Dhavan to Mandal knowing fully that it was the worst place and thus wilfully adding to the inconvenience to His Lordship.

50. In this regard witness No. 12 Sri Premi has made the position clear by saying that his staff has been running throughout and contacted the Collectorate people to find out what alternative arrangement had been made. He himself tried to contact the District Magistrate who was not available. Mr. Premi then talked with A.D.M. Protocol who also pleaded ignorance about the alternative arrangement. Mr. Premi has clearly stated that he remained under the impression that district administration would make some alternative arrangement and when till the last moment no alternative arrangement was made, he had no option but to take His Lordship to Mandal hut. Mr. Premi has further stated that he had never been to Mandal hut from before although he had seen it from outside. He was not aware that the said Mandal hut had no electric or water connection.

51. Another important relevant point in this regard is that on 13.6.95 despite all this, nobody from the district administration contacted the Hon"ble Inspecting Judge. Witness No. 2 Sri Ramakant Pandey says that on 13.6.95 neither he nor any of his subordinate officer met the Inspecting Judge. The A.D.M. Sri Pandey in the capacity of Incharge District Magistrate had sent a report to the Commissioner, Garhwal Mandal on 14.6.95 copy of which is enclosed with the statement of witness No. 2 Sri Pandey. In para 5 of this letter of Sri Pandey, he mentioned that on 13.6.95 at about 9.00 p.m. the District Judge had informed him on telephone that on account of cancellation of reservation at Gopeshwar, Hon"ble Inspecting Judge has cancelled his inspecting programme and the District Judge suggested that if A.D.M. thinks proper, he may meet the Inspecting Judge in the morning of 14.6.95 on 13.6.95 itself at 10.30 p.m. the staff officer of Chief Secretary as well as the Law Secretary in the U.P. Government informed the A.D.M. on telephone that the Hon"ble Judge was very much displeased on account of cancellation of reservation for 14.6.95. The A.D.M. was asked to contact the Hon"ble Judge and sort out the matter. The A.D.M. further mentioned in the aforesaid letter that the District Judge similarly asked the S.D.M., Chamoli on telephone on 14.6.95 to go and see the Hon"ble Judge at Mandal and express regret. On this the A.D.M. along with S. P. and District Judge went to Mandal on 14.6.95 and the Hon"ble Inspecting Judge

refused to meet the A.D.M.

52. Although the S.D.M. Sri Abrar Ahmad witness No. 8 says that on 13.6.95 itself he had gone to Mandal Inspection hut to meet the Hon''ble Judge but could not have a meeting as the staff told him that the meeting would be possible only on the next morning. There is, however, no corroborative evidence and the District Judge Sri Premi who had remained at Mandal Inspection hut till 11.00 p.m. in order to ensure necessary arrangements says that he had not seen S.D.M. there. Thus, the version now developed that the S.D.M. had gone to see the Hon''ble Inspecting Judge on 13.6.95 at Mandal Inspection hut is not believable. The fact that the A.D.M. having been apprised of the situation on 13.6.95 itself and getting direction from the Government did not go to see the Hon''ble Judge shows their attitude, carelessness and negligence on the part of the local district administration.

53. Now let us see whether the cancellation of reservation and blocking of the accommodation at Gopeshwar reservation and blocking of the accommodation at Gopeshwar Guest House reserved for Hon''ble the Inspecting Judge was a calculated step to frustrate the inspection of the subordinate court by the High Court.

54. Sri Premi in his report Annexure II had suggested that it was a calculated move to frustrate the inspection. According to him the District Magistrate, Chamoli had purposely requested the Chief Minister of Delhi to make a night halt on 14.6.95 at Gopeshwar instead of Rudraprayag or Srinagar by saying that Gopeshwar would be colder than those places. It was further suggested by Sri Premi in the aforesaid report Annexure II that the District Magistrate had developed intimacy with the C.J.M. Sri Yadav after the hunting incident and had tried to help Sri Yadav to let down the District Judge. The District Magistrate also issued a licence of a rifle to Sri Yadav and arranged the sale of such a rifle which was deposited in the police Malkhana. It was further suggested by Sri Premi that the District Magistrate knew that Hon''ble Inspecting Judge would be making the enquiry into certain complaints against C.J.M. Sri Yadav and in order to protect Sri Yadav, the District Magistrate intended to frustrate the inspection. Sri Premi witness No. 12 was cross-examined on this aspect by Sri Satyajeet Thakur as well as Sri R. B. Yadav. He reiterated that Sri Thakur and Sri Yadav had developed intimacy. About the sale of rifle from Malkhana to Sri Yadav, Sri Premi further stated that he had just heard about it that a rifle worth Rs. 45,000 was sold for Rs. 6,000. Sri R. B. Yadav witness No. 3 has further stated that the said Italian rifle was a Junk and was wholly corroded and only ribbed cartridge could be used it. Such cartridges are not manufactured in India and are not easily available. Thus according to him the rifle was not worth more than Rs. 6,000. He subsequently sold it to one of his relations for Rs. 45,000. The fact, however, remains that shortly after purchasing the rifle from Malkhana of Collectorate, Sri Yadav sold it to some-one else. The direct role of the District Magistrate in this could only be with regard to issuing licence of the rifle and there is no material

on record to prove that Sri Thakur had used his influence to pressurise the owner of the rifle to sell it to Sri Yadav. It was not a case property.

55. As regards the involvement of the District Magistrate in purposely planning a change in the programme of the Chief Minister of Delhi and suggesting him to stay at Gopeshwar Guest House on 14.6.95, Sri Premi witness No. 12 says that he has no personal knowledge in the matter and he had only heard about it. Witness No. 3 Sri Abrar Ahmad, S.D.M. says that the letter Annexure VIII was given to him at Gopeshwar Guest House by the Private Secretary of the Chief Minister and he delivered the said letter to the office of the District Magistrate. There is nothing on record to establish that the Chief Minister had changed his programme at the suggestion of Mr. Thakur.

56. About the hunting incidents, Sri Thakur witness No. 1 admitted that some of his employees had taken his gun and was caught by forest officials and was challaned. The gun was, however, returned to him when forest official came to know that it belonged to the District Magistrate. Similarly Sri Yadav witness No. 3 the then C.J.M. had also admitted that some incident had taken place and in the cross-examination of witness No. 12 Sri Premi it has come that the C.J.M. had taken cognizance of some crime against D.F.O. and his wife and that there was complaint from the side of the forest officials and the matter was taken up to Hon"ble High Court also. Thus, the possibility of the District Magistrate and C.J.M. coming closer to each other on account of forest incidents cannot be ruled out but there is no evidence to show that they had definitely come so close that the District Magistrate would plan to frustrate the inspection of the High Court in order to save Mr. Yadav. The evidence on record only shows that there can be a possibility of Mr. Thakur purposely frustrating the inspection but there is not sufficient evidence on record to establish the same.

57. I am, therefore, of the opinion that the reservation at Gopeshwar Inspection House for Hon"ble Inspecting Judge on 13.6.95, 14.6.95 and 15.6.95 was cancelled without sufficient reason and it was done in most inappropriate manner without offering alternative accommodation simultaneously. The District Magistrate and the A.D.M. even after being approached by the District Judge did not make the position clear nor offered any alternative accommodation within time. The reservation slip No. 462 offering accommodation at Chamoli inspection house was issued on 13.6.95 at very late hours not leaving sufficient time to communicate the change to His Lordship and divert him to Chamoli Inspection House. The A.D.M. even after being informed of the situation and receiving instructions from the Government did not bother to see the Hon"ble Inspecting Judge on 13.6.95. There was thus gross and wilful negligence on the part of the District Magistrate and the A.D.M. in dealing with the situation and this has resulted into the inspection being frustrated. Hon"ble the Inspecting Judge has himself observed that the net result of the cancellation of the accommodation in favour of the High Court is that the inspection has been frustrated and it amounts to interference with the Judicial paramelrix of the administration of the

subordinate courts, a function attributed to the High Court under the Constitution.

58. The report is accordingly submitted for the perusal of the Hon"ble High Court. The entire record of the enquiry is also being submitted for perusal. For the convenience, the statement of the witnesses recorded in this enquiry are being kept with the enquiry report itself.

Sd/. K.S. Rakhra District Judge/ Enquiry Officer, Dehradun. 28.11.1996.

27. The state also got an affidavit filed on its behalf through its Deputy Secretary (Department of Appointments). The said affidavit, however, talks of only various Rules and the letter dated 1.6.1995 sent by the District Judge, Chamoli to the District Magistrate, Chamoli seeking reservation of accommodation for Hon"ble Mr. Justice Dhavan and talks of sanctioning of allotment on it under the signature of the A.D.M. (Protocol) upon a note submitted to him by the V.I.P. Clerk, the factum of communication in regard to cancellation of reservation vide letter V.I.P./95/Gopeshwar, dated June 12, 1995 and the note dated 12.6.95 of the Private Secretary to the Chief Minister of Delhi addressed to the District Magistrate, Chamoli. This affidavit, however, significantly does not mention of the factum of allotment of reserved accommodation in P.W.D. Inspection House, Gopeshwar for 13th June, 1995.

28. We also gave opportunity to the contemnors to file any objection to the aforesaid report.

29. In his affidavits the contemner No. I has stated, inter alia, to the effect that we have passed our order dated 13.9.96 by accepting the arguments made on his behalf that the enquiry report dated 13.7.95 held behind his back and the letter dated 19.7.95 of Hon"ble Mr. Justice Ravi S. Dhavan cannot legally be made a basis to frame charges nor the evidence collected by Mr. Rakhra behind his back be taken into account for framing (sic) inasmuch as if such a material is collected behind his back and is made basis of the charge there will not be a fair trial whereas this proceeding being quasi Judicial, procedure has to be fair; the order dated 16.6.95 passed by Hon"ble Mr. Justice R. S. Dhavan is based upon two reports submitted by Sri M. S. Premi (the then District Judge, Chamoli) which are in violation of the principles of natural Justice and cannot be relied upon; that as the court has accepted the submission that the entire report dated 13.7.95 has to be discarded, the effect would be that the charge framed on 26.2.1996 goes and falls to the ground; the proceedings after the order dated 13.9.96 were held in absence of a charge in view of the decision of the Bombay High Court In re: Vallabh Das ILR 27 Bom 394 and a decision of Rangoon High Court in AIR 1926-Rangoon 180. which has been approved by the Supreme Court in AIR 1954 SC186; in his letter dated 19.7.95 of Hon"ble Mr. Justice R. S. Dhavan to Hon"ble the Chief Justice reliance was also placed on the report dated 13.7.95 of Sri Rakhra and thus is liable to be ignored by which Hon"ble Mr. Justice R. S. Dhavan did not intend to draw proceedings in contempt and instead made a request to put up the matter before the full court; that one of his

submissions was that since Hon''ble Mr. Justice R. S. Dhavan did not exercise his powers under Article 215 of the Constitution placing of his letter along with the report dated 13.7.95 of Mr. Rakhra on the judicial side by Hon''ble the Chief Justice was misconceived; that after passing of our order on 13.9.96 the earlier report of Sri Rakhra was discarded and consequently the charge framed having become nonexistent, the fresh enquiry by Mr. Rakhra had to start de novo from a clear slate; in view of the aforementioned facts and circumstances he filed an affidavit before the enquiry officer and inviting his attention to the same and requested the latter to make clear the scope of his enquiry and inform him of the materials against him; the enquiry officer on 9.10.96 passed an order from which it appears that the enquiry officer was to give an opportunity to cross-examine the witnesses examined during his investigation if they so like and also give a evidence, if need be by the deponent; the then District Judge, Chamoli, the then A.D.M., Chamoli, the then C.J.M., Chamoli so that they may file their written statement/objection/their affidavits; it further appears that the enquiry officer was of the opinion that the enquiry was directed not only against the deponent but also the then A.D.M. the then C.J.M. and the then District Judge : that the deponent filed an application dated 14.10.96 before the enquiry officer informing that he has filed two copies of his affidavit filed in the High Court and that the then District Judge, Chamoli be cross-examined by the enquiry officer himself in the light of the stand taken by him in his aforementioned affidavit but the enquiry officer did not cross-examine Mr. M. S. Premi as requested; that on the basis of his affidavit the enquiry officer passed an order dated 9.10.96; that the deponent appeared before the enquiry officer on 15.10.96 and submitted that he was not aware of the scope of the enquiry which should have been made clear to him; that the enquiry officer passed an order on 15.10.96 taking the view that he was to investigate only regarding the circumstances under which a long standing reservation for High Court was cancelled and that he changed his view from one which he had taken in his order dated 9.10.96; that the reports submitted by Mr. Premi to Hon''ble Mr. Justice Dhavan are in violation of the principles of natural Justice and thus cannot be relied upon; that since the deponent had made serious allegation of mala fide against Mr. Premi and since it appears that by his conduct of creating mis-understanding in the mind of Hon''ble Mr. Justice Dhavan between 13.6.95 to 16.6.95 that Justice Dhavan had no option but to stay at Mandal; the said reports are vitiated and liable to be ignored; See S.R. Bommai and others Vs. Union of India and others etc. etc., ; Institute of Chartered Accountants of India Vs. L.K. Ratna and Others, (paragraphs 11. 13 and 18); that on 15.10.1996 an application was filed by the deponent before the enquiry officer requesting that the materials likely to be used against him be furnished so that the reply and the statement be filed by which he passed an order which shows that he still wanted to place reliance on his earlier report as well as the letter dated 19.7.95 of Hon''ble Mr. Justice R. S. Dhavan to the then Hon''ble the Chief Justice; that from perusal of the documents sent by the Enquiry Officer it does not appear as to where is the list containing the documents bearing serial Nos. 11 to 21/2; that in all fairness the

deponent ought to have supplied by the Enquiry Officer the copy of the materials like to be used against him and thus in view of the decision in Dattaraya Tawalay Vs. Shaikh Mahboob Shaikh Ali and Another, and Kashinath Dikshita Vs. Union of India (UOI) and Others, . the entire enquiry stands vitiated; that the deponent incurred lot of expenses during the enquiry; that the deponent was being treated by the Enquiry Officer as to be the only person against whom the enquiry was to proceed and thus unfairness is writ large; that the deponent was not cross-examined by Mr. Premi; that the earlier charge against him that there was a collusion between him and the then C.J.M., Chamoli R. B. Yadav but no evidence worth the name has come on the record to prove any collusion between them; that R. B. Yadav cross-examined Mr. M. S. Premi from which it appears that Mr. Premi was prejudiced against Sri Yadav and that Mr. Premi had admitted that he had made arrangements for the stay of the enquiry officer in the new building of the court and further that he was informed on 12.6.95 of the cancellation of the Gopeshwar Dak Bungalow and that alternative arrangement at Chamoli Dak Bungalow could be made and thereby fully proved that Mr. Premi did not suggest Hon"ble Mr. Justice R. S. Dhavan to stay at Chamoli Guest House rather on account of his suggestion Justice Dhavan had to stay at Mandal; that there was no basis for Mr. Premi to allege that it was the deponent who suggested Mr. Madan Lal Khurana (the then Chief Minister of Delhi) to stay at Gopeshwar on 14.6.95 instead of Rudra Prayag/Srinagar and that the statement made by Mr. Premi against him on material points are not reliable. It is not believable that atleast till whatever Justice Dhavan met Mr. Premi at Gopeshwar in the evening, Mr. Premi was not aware of alternative arrangement made for the stay of Justice Dhavan at Chamoli; that many alternatives other than Mandal were available but it was a deliberate act of Mr. Premi to give an impression to Justice Dhavan that no option was left but to go to Mandal; that as the deponent was not cross-examined either by Mr. Premi or Mr. Pandey and thus his statement in the absence of any cross-examination by the aforementioned two contemnors be accepted in toto that Mr. Premi has not cross-examined any other witness also that the enquiry officer was not inclined to summon Sri Abrar Ahmad S.D.M. despite his request to ascertain as to whether he had vacated the Inspection bungalow at Chamoli after it was reserved for Justice Dhavan and as to what is the extent of the accommodation in that Inspection House; that his prayer was disposed of by the enquiry officer vide his order dated 15.10.96 and it does not appear necessary at this stage as the extent of the accommodation was examined by the enquiry officer personally and thereafter the deponent had to move an application for examination of Abrar Ahmad on which he was called; that without giving any opportunity to the deponent to file objection against his earlier investigation report yet he has placed reliance on the same in his report dated 28.11.96; that the enquiry officer has not cared to find facts as to whether Mr. Premi was responsible for causing interference in the smooth functioning of the Administrative Judge during his inspection; that the report of the enquiry officer may not be considered as finding and the materials collected as evidence by him be examined to arrive at an independent finding without examining the

findings given by the enquiry officer; and as held by the Apex Court in *Institute of Chartered Accountants of India Vs. L.K. Ratna and Others*, , the conclusions of the enquiry officer is only his conclusions which are tentative and cannot be regarded as findings and it is actually for this Court to find the deponent is actually guilty of committal of contempt; that the enquiry officer has wrongly rejected the application of the deponent filed on 22.11.96; that the subsequent enquiry report submitted by Mr. Rakhra along with other papers be placed before Justice Dhavan for his comments as done by the Apex Court in *V.C. Mishra* case; and that before taking up the matter on merits the application filed for issuing notice to Mr. Premi be disposed of. It has also been stated in the end of this affidavit what the counsel for the deponent has said when we had passed our order dated 13.9.96.

30. Contemner No. 1 Satyajeet Thakur on 6.12.96 filed an application praying to the following effect; He be discharged and the proceedings against him be dropped. Alternatively, in case prima facie material is found against him he be informed of the charges against him and be given an opportunity before framing of the charges. In the case the proceedings are not dropped and the charges are framed he be given an opportunity to meet the charges. As prayed in paragraphs 70 and 71 of the accompanying affidavit he be permitted to file his affidavit in support of his application to record as to (sic) what had happened at 4.00 p.m. in course of the hearing on 22.5.96. The record of the enquiry officer be sent to Hon"ble Mr. Justice R. S. Dhavan for his comments before the matter proceeds further on merits. In his affidavit dated 6.12.96 the contemner No. 3 has made certain statement as to what had happened in the court room between 3 p.m. and the rising of the court. The contemner No. 1 has not come up with any insinuation and/or allegation in his affidavit aforementioned that Hon"ble Mr. Justice R. S. Dhavan either tried to influence us or that was stood disqualified from proceeding further in regard to hearing of this case. We have been informed that all happened due to some wrong report of the Head Bench Secretary of the Court. We can all say with great humility that this Court was aware, in the event of any need, to appoint a Commission for the evidence of Hon"ble Mr. Justice R. S. Dhavan. Least said is better in this regard but we express our anguish that even though we had reserved our verdict earlier in regard to a request made by the contemner No. 1 through a petition that we must bring on record what had happened on that day and had reserved orders but since the contemner No. 1 himself has now come up with affidavit, which is on record, we do not consider necessary to loath our judgment by bringing anything further on the order-sheet/judgment. In fact during hearing of the petition dated 6.12.96 Mr. Jain very early did not press this prayer when we observed that it will amount to making a mountain of a mole.

31. In his affidavit dated 8th April. 1996 the contemner Ramakant Pandey. Additional District Magistrate (Protocol), Chamoli states, inter alia, that he had no intention either to show any kind of disrespect to the Hon"ble Judge or to deliberately cancel the allotment made in his favour and in any case he tenders

unqualified and unconditional apology for any kind of act or omission; that the Commissioner, Garhwal Division directed him to submit a report on the entire episode on which he submitted his report on 14.6.95 (Appended as Annexure-1); that the District Judge was apprised of the fact that the stay of the Hon"ble Judge has been arranged in Inspection Bungalow, P.W.D. at Chamoli; at a distance of 12.13 kms.; that he was informed by the District Magistrate sometime in the afternoon that it was suggested to the District Judge that the Hon"ble Judge can be accommodated in the Guest House of Garhwal Mandal Vikas Nigam located at Gopeshwar itself but the District Judge flatly refused and suggested that the Hon"ble Judge will stay only in Inspection Bungalow of the P.W.D. at Chamoli and that the Chief Minister may be accommodated at Garhwal Mandal Vikas Nigam Guest House : that the District Headquarter did not receive any official programme of the Hon"ble Judge or schedule of inspection to be carried out directly rather the office of the district administration was only informed through the District Judge, Chamoli that the Hon"ble Judge will be visiting Gopeshwar for inspection of the Judgeship and holy shrines at Badrinath and Kedarnath through his letter already filed as Annexure-I to the affidavit of the District Magistrate; that on 12th June, 1995 the District Magistrate called him and asked for the Protocol Rules on the subject which were placed before him; that it is respectfully submitted that he as Additional District Magistrate (Protocol) feels that the entire district administration has to collectively own the responsibility of cancellation of reservation though in fact he was never entrusted to pass final order by any authority in regard to cancellation; that he has already explained the entire situation in his reports dated 14.6.95 and 27.7.1995 to the Commissioner, Garhwal Division.

32. On 10.1.1997 contemner No. 3 Ramakant Pandey filed an application for condoning his absence on 6.12.96. In the affidavit attached with this application Sri Pandey has stated, inter alia, that he was under a wrong impression that he is not required to be personally present on 6.12.96 and therefore he failed to attend the court but the same was bona fide and not deliberate and in the interest of justice and equity his absence of 6.12.96 be condoned.

In his affidavit dated 15th March, 1996 the contemner No. 2 has stated, inter alia, that he has the highest regard and respect for the courts of law and therefore tenders full and unconditional apology for any inconvenience that has been occasioned on account of inadvertence on his part; that he was transferred as Civil Judge (Senior Division) Pauri vide transfer order dated June 7, 1996 pursuant to which he handed over charge in the forenoon of June 14, 1995. that on 12th June, 1995 he had submitted an application for grant of casual leave which was sanctioned; that he joined at Pauri on 15.6.95; that on 8.3.1995 the District Judge, Chamoli has made some complaint against him and accordingly vide resolution of dated May 25, 1995 the Administrative Committee of the Court had framed charges against him and he was pleaded under suspension vide order dated August 26, 1995; that the District Judge, Dehradun vide resolution dated May 25, 1995 was appointed as Enquiry Officer but since he had no hope

in getting Justice from him he requested the court for a change which was conceded and the enquiry was entrusted to the District Judge, Meerut; that he was surprised and deeply shocked to know of the reference made by Hon"ble Mr. Justice Ravi S. Dhavan, Inspecting Judge on the report of the District Judge, Dehradun submitted in compliance of the order dated June 16, 1995 passed by Hon"ble Mr. Justice Dhavan; that he has no friendly relation with the District Magistrate as indicated in the report of the District Judge, Dehradun rather being a link officer as Chief Judicial Magistrate has got only acquaintance with the District Magistrate; that the deponent was not aware of the programme of the Inspecting Judge because he was himself under transfer and had handed over charge of his office in the forenoon of 13th June. 1995 nor has District Magistrate, Chamoli issued any order, direction or instruction to him intimating about the programme of the Inspecting Judge and therefore could not attend him at his arrival at Chamoli; that he was not aware of any reservation of Bungalow at P.W.D. Inspection House nor has any relation with the cancellation; nor was he aware of any enquiry in contemplation against him at that very time; that in his report the District Judge, Dehradun has not specified as to how he was having friendly relation with the District Magistrate and the finding in this regard is beyond truth and not based on any evidence rather it was only personal Impression of the District Judge and his enquiry is ex parte as his statements were not recorded during enquiry besides the finding recorded by the District Judge, Dehradun is subject matter of the enquiry by the District Judge, Meerut which has been completed and the same has been placed before this Hon"ble Court which may be called for and verified.

Before we proceed to consider the issues involved in this proceeding and the submissions made from time to time we consider imperative on our part to say firstly word about the Independence of Judiciary of the State and the position of the Judges vis-a-vis the Cabinet Ministers of the State:

Article 50 of the Constitution of India reads thus:

The State shall take steps to separate the judiciary from the Executive in the Public services of the State.

In Union of India (UOI) Vs. Sankalchand Himatlal Sheth and Another, , the Apex Court held that this Article constitutes the conscience of the Constitution." In Supreme Court Advocates-on-Record Association and another Vs. Union of India, ,it was held that the expression "the State" has to be construed in the sense as including the Government and Parliament and the Government and the Legislature of each State and all local or other authorities under the control of the Government of India.

This article in its draft form was as follows, which came up for discussion before the Constituent Assembly on November 24 & 25, 1948:

That State shall take steps to secure that within a period of three years from the commencement of the Constitution there is separation of the Judiciary from the

executive in the public services of the State." On the very next day the aforesaid draft was amended and took form of the present Article 50. On the said occasion Dr. B. R. Ambedkar spoke thus:

It has been the desire of this country from long past that there should be separation of the judiciary from the executive and the demand has been continued right from the time when the Congress was found "...". We think that the time has come when this reform should be carried out. It is of course, realised that there may be certain difficulties in the carrying out of this reform; consequently this amendment has taken into consideration two particular matters which may be found to be matters of difficulty. One is thus : that we deliberately did not make it a matter of fundamental principle; because if we had made it a matter of fundamental principle it would have become absolutely obligatory instantaneously on the passing of the Constitution to bring about the separation of the judiciary and the executive. He have therefore deliberately put this matter in the chapter dealing with directive principles....

Sri. T. T. Krishnamachari spoke thus. -- "I see no objection actually to this ..." coming in cause this dust-bin seems to be sufficiently resilient as to permit any individual of this House to ride his hobby-horse into it. But. I cannot understand Dr. Ambedkar's explanation when he said that he did not want to put this in the Fundamental Rights. He only wanted to make it permissive; but then he insists on a three-year limit within which this has to be carried out. As a matter of fact, when he himself realises it is not mandatory, what is the object of putting limit?" The mere expression of the wishes of the framers of this Constitution that there should be separation of the judiciary from the executive is quite enough."..." The learned Doctor said that this has been practically one of the basic demands of the Congress ever since it was founded. I believe it is so; I do not want to deny it."

Sri. R. K. Sidhwa spoke thus : "...". The arguments advanced yesterday were that in Free India the conditions have changed and that therefore it is desirable that these two functions should be separated. The real secret, so far as I know, of these who advocate retaining the same position is that they want to retain their power. "...". The High Court Benches even in the British regime, have stated times without number that if you really want impartial Justice done, these two departments must be separated."..." The Ministries in the provinces will realize their duty and see that these two functions are separated in the interests of right and impartial Justice.

Pandit Hirday Nath Kunzru spoke thus : "...". Everyone knows the importance of this subject. The demand for the separation of the judicial from the executive functions so that the executive may have nothing to do with the administration of Justice, is about fifty years old.

Pandit Jawahar Lal Nehru (Prime Minister of Government of India) spoke thus : "...". Pandit Kunzru. who has just spoken and opposed the amendment of Dr.

Ambedkar seems to me; if I may say so with all respect to him to have gone off the track completely and to suspect a sinister motive on the part of Government about this business."..." I may say straight off that so far as the Government is concerned, it is entirely in favour of the separation of Judicial and executive functions (Cheers). I may further say that the sooner it is brought about the better (Hear, hear) and I am told that some of our Provincial Governments are actually taking steps to that end now. If anyone asked me, if anyone suggested the period of three years or some other period, my first reaction would have been that this period is too long."..." It is a directive of what the State wants, and your putting in any kind of time-limit therefore rather lowers it from that high status of a State policy and brings it down to the level of a legislative measure, which it is not in that sense."..." And I do not see myself how any Provincial or other Government can forget this Directive or delay it much."..." But so far as this Constitution is concerned, it gives a strong opinion in favour of this change and it gives it in a way so as to make it possible to bring it about in areas where it can be brought about-the provinces, etc."

Dr. Bakshi Tek Chand spoke thus : "..." The question of the separation of executive and judicial functions is not only as old as the Congress itself, but indeed it is much older. It was in the year 1852 when public opinion in Bengal began to express itself in an organised form that the matter was first mooted."..." When the Congress first met in the session in Bombay in 1885, this reform in the administration was put in the forefront of its programme. "..." Therefore, Sir the matter has been before the Country for nearly a century and it is time that it is given effect to immediately."..." with the advent of democracy and freedom, the necessity of this reform has become all the greater. Formerly it was only the District Magistrate and a few members of the bureaucratic Government from whom interference with the Judiciary was apprehended, but now I am very sorry to say that even the Ministers in some provinces and members of political parties have begun to interfere with the free administration of Justice. "..." I submit that with the change of circumstances and with the advent of freedom and the introduction of democracy, it has become all the more necessary to bring about the separation of the Judiciary from the executive at the earliest possible opportunity."

Sri Lokanath Misra spoke thus : "...It is said here that there must be separation of the judiciary from the executive. Perhaps we do not thereby mean that the judiciary should not be executive and the executive should not be judicious. I should rather say and it is my experience that when the executive works, it becomes injudicious and when the Judiciary works it becomes too dilatory." Therefore, while separation of the judiciary from the executive there must be we must at the same time make people know that when an executive officer executes, he must do it Judiciously and when a judicial officer or a Judge executes, he must do it in time."..." If we are whole-heartedly for the administration of better justice, mere separation of the Judiciary from the executive would not do. Sir, I, therefore, beg to submit that if we are sincere in

our desire for better administration of Justice, not only should the Judiciary be separated from the executive but the State should also see that law becomes so simple and so few and at the same time so intelligible to the masses that law is nothing far away and frightful and better administration of justice becomes a reality and does not remain free."

Sardar Hukarn Singh spoke thus : "...If we look at the different stages through which our Draft has been developing, I am constrained to conclude that we have been receding from democratic principles and centralising all powers in the executive of the Legislature; rather I might say that we are proceeding towards the evolution of a police State..." The judiciary is the only safeguard against any infringement of public liberties and any encroachment however small on its independence, so far as I can make out, should be carefully watched and jealously guarded against. The judiciary itself, it is admitted, is too feeble to defend itself against the encroachment by the executive and the Legislature and any dependence of it or inter-linking it with the Legislature or the executive would jeopardise its independence..." No doubt the Governor is the keeper of the purse, but at the same time the Judiciary is the guardian of the civil liberties and nothing should be done to jeopardise the independence of the latter."

Sri. H.V. Kamath spoke thus : "...So long as the Constitution does not ensure the separation of the Judiciary from the executive, nor its Independence if the President is inclined to meddle in the Judiciary, or is inclined to see that the Judiciary kowtows to his will, or is subservient to his will, or is the handmaid of the executive, then the President will on certain issues dictate to the Chief Justice. But it is also quite likely that in effect the President will tell the Chief Justice to do such and such...."

Prof. Shibban Lal Saksena spoke thus : "...A High Court Judge may not have much money but his dignity is far greater than that of anyone else"...

Mr. Naziruddin Ahmad spoke thus : "...I submit that there should not only be no interference with the independence of the Judiciary, but there should be no appearance of it even.

33. Having remembered the utmost importance given to the independence of judiciary now we proceed to refer the ratio laid down by Courts from time to time.

In *Union of India and others Vs. Pratibha Bonnerjea and another*, (vide paragraphs 4 and 5) the two Judges Division Bench of the Supreme Court, speaking through the Hon'ble Chief Justice of India, has held as follows:

Articles 50, 214, 217, 219 and 221 of the Constitution show that a Judge of a High Court belongs to the third organ of the State which is independent of the other two organs, the Executive and the Legislature. Therefore, a person belonging to the judicial wing of the State can never be subordinate to the other two wings of the State. A Judge of the High Court, therefore, occupies a unique position under the Constitution. He would not be able to discharge his duty

without fear or favour, affection or ill will, unless he is totally independent of the Executive, which he would not be if he is regarded as a Government servant. He is clearly a holder of a constitutional office and is able to function independently and impartially because he is not a Government servant and does not take orders from anyone.

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"From the scheme of the Constitution it is obvious that the Constitution makers were evidently keen to ensure that the Judiciary was independent of the Executive. The Constitution has tried to insulate the Judiciary from outside influence both from the Executive and the Legislature. Articles 233 and 237 in Chapter VI in Part VI of the Constitution dealing with the courts below the State High Court also show that the Constitution makers were equally keen to insulate even the subordinate judiciary.

(Emphasis supplied)

In *All India Judges' Association Vs. Union of India and others*, , the Supreme Court further observed in regard to the status of members of the State Judiciary service in following words:

The judicial service is not service in the sense of employment. The Judges are not employees. As members of the Judiciary, they exercise the sovereign Judicial power of the State. They are holders of public office in the same way as the members of the council of Ministers and the members of the Legislature. "When it is said that in a democracy such as ours, the executive, the Legislature and, the Judiciary constitute the three pillars of the State, what is intended to be conveyed is that the three organs of the State and each one of them in turn represents the authority of the State. However, those who exercise the State power are the Ministers, the legislators and the Judges...

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...distinction between the Judges and the members of the other services has to be constantly kept in mind for yet another important reason. Judicial independence cannot be secured by making mere solemn proclamations about it. It has to be secured both in substance and in practice. It is trite to say that those who are in want cannot be free. Self reliance is the foundation of independence. The society has a stake in ensuring the Independence of the Judiciary, and no price is too heavy to secure it. To keep the Judges in want of the essential account amounts and thus to impede them in the proper discharge of their duties is to Impair and whittle away justice itself.

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...With the inauguration of the Constitution and separation of the State power distributed among the three branches, the continuance of the linkage has become encephalistic and is inconsistent with the Constitutional provisions. As

pointed out earlier the parity in status is no longer between the judiciary and the administrative executive but between the judiciary and political executive.

(Emphasis Supplied)

In Supreme Court Advocates-on-Record Assn. v. UOI JT 1993 (5) SC 483 : AIR 1993 SCW 4101, the independence of judiciary as an essential attribute of the rule of law has been emphasised once again by pointing out as follows (at page 4203 of AIR SC):

Independence of Judiciary is the sine qua non of democracy. So long as the Judiciary remains truly distinct from both the Legislature and the Executive, the general power of the people can never be endangered from any quarters. Montesquieu in his book "Spirit of Laws" observed "there is no liberty if the power of judging be not separated from the legislative and the executive powers. "The framers of the Constitution made it known in an emphatic voice that separation of judiciary from Executive, which is the lifeline of "Independent Judiciary" is a basic feature of the Constitution. Dr. B. R. Ambedkar in his speech in the Constituent Assembly of June 7, 1949 observed as under: (sic).

I do not think there is any dispute that there should be separation between the executive and the judiciary and in fact all the article relating to the High Court as well as the Supreme Court have prominently kept that object in mind.

In Justice S.T. Ram Lingam v. State of Tamil Nadu AIR 1994 Mad 252 (at page 267) a Division Bench of the Madras High Court held as follows:

The observations of the Supreme Court in the All India Judges' Association and Others Vs. Union of India and Others, , that judicial independence cannot be secured by making mere solemn proclamation about it, it has to be secured both in substance and in practice, it is trite to say that those who are in power cannot be free, self-reliance is the foundation of independence-give the support base to the view which we propose to take.

Any attempt thus even by remote devices to make the Judges of the Court uncomfortable : to make them plead with the executive Government for something which naturally and obviously should come to them, is/will be an act of interference in the independency of judiciary, an act almost touching the core, the power of the Court under Article 215 of the Constitution of India."..."The High Court Judges are high dignitaries who by virtue of their office and the nature of work that is to say dispensation of justice, exercise a regal or sovereign function; their work forms part of constitutional duty of the State and they discharge inalienable functions of the Constitutional Government, which no one else is entitled to perform. They are to be faithful and true to the duties of their office and to function without fear or favour, affection or ill will and act only to uphold the Constitution the laws framed thereunder. They have to be also of to some extent from others. These and other acts which Judges perform make them the object of regard and respect of others. Their functions as demanded by their

office made them important for the society. No one in the Government's bureaucratic set up can ignore their position as such.

In re: Vinay Chandra Mishra (the alleged contemner), , the Apex Court held to this effect: "The rule of law is the foundation of a democratic society. The judiciary is the guardian of the rule of law. Hence judiciary is not only the third pillar, (sic) the control pillar of the democratic State. In a democracy like ours, where there is a written Constitution which is above all individuals and institutions and where the power of judicial review is vested in the superior Courts, the judiciary has a special and additional duty to perform, viz. to oversee that all individuals and institutions including the executive and the Legislature act within the framework of not only the law but also the fundamental law of the land. This duty is apart from the function of adjudicating the disputes between the parties which is essential to peaceful and orderly development of the society.

If the Judiciary is to perform its duties and functions effective and remain true to the spirit with which they are sacredly entrusted to it, the dignity and authority of (he Courts have to be respected and protected at all costs.

Otherwise, the very corner stone of our constitutional Scheme will give way and with it will disappear the rule of law and the civilized life in the society.

(Emphasis supplied)