

REFERENCE

**BY – KULDEEP MATHUR, PRESIDENT
RAJASTHAN HIGH COURT LAWYERS ASSOCIATION,
JODHPUR.**

**My Lord Hon'ble Justice Govind Mathur,
Hon'ble Judges of This Hon'ble High Court.**

- Shri Narpat Mal Lodha, Advocate General, Rajasthan & Chairman, Bar Council of Rajasthan,
- Shri Ranjeet Joshi, President, Raj. High Court Advocate Association,
- Learned Senior Advocates and Officers of the Registry,
- Learned Officers of the Subordinate Courts and Learned Members of the Bar.

It is given to very few to be a legend in their lifetime and win universal love and respect. Justice Rajesh Balia is one such person who was 'greater than his deeds and true than his surroundings. Justice Rajesh Balia was a great intellectual, legal luminary and wonderful human being. It is said:

न जन्म कुछ, न मृत्यु कुछ, जरा सी इतनी बात है।

किसी की आंख खुल गई किसी को नींद आ गई।।

Justice Rajesh Balia was born on 3rd March 1946. The family was well known. His father Late Manak Lal Sa Balia was running a family business and was deeply influenced by Gandhian Movement. His family was a prominent business family of Pali. Shri Balia after obtaining degree of bachelors in Commerce took admission in LL.B. and after passing the law examination he joined the Bar on April 9, 1967, in the chambers of his maternal grandfather Shri Sumermal Bhandari who was a leading civil lawyer known for his integrity and ability.

As an advocate Justice Balia argued a number of important cases relating to Taxation and Constitutional Laws, representing Taxation Departments and Government of Rajasthan his performance was complimented by the Judges and praised by the clients. All this brought him great reputation and as also a large clientele. He gathered a large practice and won the confidence and esteem of the clients and the legal fraternity.

Justice Balia crossed over from the Bar to the Bench having been appointed as an Additional Judge of Rajasthan High Court

on October 21, 1991. He was made a permanent Judge of this Court in the year 1992 and remained there till 23.06.1994. Then his lordships was transferred to Gujrat High Court and remained there till December, 1999. His Lordship was again transferred to Rajasthan High Court on 13.12.1999 and remained here till 2009. His Lordships remained Acting Chief Justice of Rajasthan High Court from 12.11.2007 to 04.01.2008. His Lordships then sworn as Chief Justice of Patna High Court on 05.01.2008 and remained as such till he retired on 03.03.2008. His Lordships was also Chairman of Commission for Probing Collapsing of Koshi Dam, Patna. His Lordships was chosen to be appointed as Chairman of State Human Rights Commission, Rajasthan on 31.08.2011. His work as a Judge of Rajasthan High Court is very well known. The clarity of thought and expression is an indispensable requirement of Judicial craftsmanship and **Justice Balia had it aplenty**. His judgments as well as extra judicial utterances are closely reasoned and **tersely** written and have multiple constituencies.

No reference to Justice Balia or an account of his work or influence can be completed without mention of his judgments on the important issues in the case of Bhawani Singh vs. State wherein Justice Balia sitting in Division Bench were deciding the Constitutional validity of the provisions of Rajasthan (Regulation of Appointments to Public Services and Rationalization of Staff) Act, 1999. The Court declared Section 9, 11 and 19 ultra virus being violating of Article 14, 16, 21, 39, 41 and 42 of the Constitution. It was also held that the Industrial Dispute Act being Central enactment has overriding effects over the Act of 1999 which is a State enactment. It was also held that there cannot be a complete Bar on regularization of the services of daily wages employees. And therefore, any such enactment would be contrary to part-III of Constitution which guarantees equality and prohibits and penalize force labour in any form whatever and extends protection against exploitation of labour. In a another landmark Judgment in the case of Asandas Vs. State of Rajasthan while dealing with the

Constitutional validity of Section 21 of Rajasthan Rent Control Act, 2001 and powers to the Appellant Rent Tribunal held that ordinarily, statement of any witness ought not to be accepted unless he being cross examined, if such cross examination is demanded. The case of Dinesh Pouches vs. State of Rajasthan the Division Bench headed by Justice Balia examined the validity of the provisions of the Rajasthan Tax and Entry of Good in the Local Area Act, 1999, the Hon'ble Court held the said act to be ultra virus on the ground that the tax on entry of goods into local area having effect of directly impleading the free movement of trade and commerce within the State is not compensatory in nature and false within the ambit article 301 of the Constitution of India until it is enacted in terms of provisions of article 304 (b), it cannot be said to fall within the legislative domain of State legislature. In an another landmark judgment reported in RLW 2003 (1) page 155 State vs. R.C. Mishra, a full bench headed by Justice Balia dealing with the core issue as to whether the right to file inter Court appeal

stands abrogate with the repealing Act coming into force on 29.08.2001 by laying down the restrictions on jurisdiction of such appeal. It was held that after repeal of High Court ordinance the Special Appeal (Writ) are maintainable. It would not be out place to mention here that Justice Balia used to dictate judgments in open Court, even long once were also dictated in open Court with great vision and erudition.

I had good fortune of getting opportunity to witness his lordships as judge of this Court and appearing before him in a number of cases. Justice Balia always encouraged young lawyers. The young lawyers were also confident while appearing before him as they knew that their lack of knowledge or experience would not affect adjudication of the case adversely. Justice Balia was a deep analyzer of the law.

That the Lawyers of the Rajasthan High Court fondly remember that when the Mobile Phones were introduced, the lawyers often forgot to keep them on silent mode. Resultantly, the Courts decide to impose a fine on lawyers on such incidents.

That during the course of hearing when the mobile phones of Hon'ble Balia rang, he very quietly took it out from his pocket, disconnected it, and gave the cell phone to his Court master along with Rupees 500/- as fine from the dice itself and he continued the hearing without any interruption or disturbance. This shows his magnetite and simplicity.

When the lawyer's community of judicial capital felt the need of changing the dynamics of representatives, it was Justice Balia who blessed the formation of Rajasthan High Court Lawyers' Association by giving it the graceful place in the premises of Rajasthan High Court. Justice Balia allotted the office to the Rajasthan High Court Lawyers Association and inaugurated the same on 02.01.2008 in the roaring presence of members of the Rajasthan High Court Lawyers Association.

Justice Balia had abundant love for reading, he love to read for self and reading over to his grand children so to initiate them into the intriguing world of books. He had immense knowledge and interest in mythology, history, travelling and

movies. My Lords were President of Rotary Club in the year 1990 and was founder member of Swar Sudha, Jodhpur. In his initial days of practice despite busy schedule he use to teach Hindu Law at Jodhpur University, Jodhpur.

His lordships has been survived by wife Smt. Sarla Ji, daughter Smt. Ira Ji, son Shri Vikas Balia cousin Shri Manoj Bhandari and son in law and good friend of mine Shri Manish Sisodia. I am proud to say that Shri Vikas, Manoj and Manish are one of the dynamic, energetic and intelligent lawyers of the Bar and will take his legacy ahead.

Before concluding I would like to read a poem of Justice Gopal Krishan Vyas to pay tribute to Justice Balia Sahab:

न्याय जगत के न्याय पुंज
तुम गर्दिश में क्यों खो गये
हवा के झोके के संग संग
छोड़ हमें तुम कहां गये,

चला सिलसिला मेहनत संग
चोटी पे परचम फँला ही दिया
कलम चलाकर दीन दुखी के
सपनों को तुमने संजो ही दिया

अबके बिछड़े कहां मिलेंगे
ये तो बताकर जाते आप

कैसे जियेंगे आप बिना
ये तो बता के जाते आप

प्रेम खुशी से रहना तु और याद हमें भी कर लेना
मिलने की चाह कभी भी सपनों में आकर मिल लेना।

On behalf of Rajasthan High Court Lawyers' Association I
extend my sincere condolences to the members of the bereaved
family. May his soul rest in peace.

DATE: 04.04.2016

(KULDEEP MATHUR)