

## Vacant Judicial Posts

Due to significant delay in formulating new Recruitment Rules for Judicial Officers following the abrogation of Article 370 and the reorganisation of Jammu and Kashmir into two Union Territories, numerous positions for Civil Judges remain vacant, while the promotion of several Junior Judges has been put on hold. Since the reorganization of Jammu and Kashmir into two Union Territories, neither the Government of Jammu and Kashmir nor the High Court has conducted any new recruitment of Munsiffs (Civil Judges in the Junior Division). Although the cadre of Judicial Officers is common for the common High Court of Jammu and Kashmir and Ladakh, the two Union Territories have different rules regarding the appointment of Gazetted officers, the Jammu Kashmir Public Service Commission (JKPSC) is responsible for UT of J&K, while the Central UPSC is responsible for the UT of Ladakh.

The delay in framing new Recruitment Rules for Judicial Officers in Jammu and Kashmir has had significant repercussions on the judicial services in the region. Many posts for Civil Judges at both the Junior and Senior divisions are currently vacant. This shortage of Judicial Officers directly affects the functioning of the justice system, as these judges are responsible for adjudicating cases and ensuring timely justice delivery. The District Judiciary plays a vital role in the justice system as it is the first point of contact for justice seekers. With numerous vacancies in the Civil Judges' positions, the District Judiciary is unable to function optimally, resulting in delays and backlogs in case hearings. To compensate for the vacancies, courts are forced to operate temporarily, with Magistrates and Civil Judges functioning on a time-gap charge basis. This arrangement is not ideal, as it disrupts the continuity required for effective case handling.

The absence of fresh recruitment for the past five years has affected the overall efficiency of the judicial services in Jammu and Kashmir. The delay in promotions and the resulting stagnation of Junior Judges adversely impact their career progression. The prolonged delay in promotions has led to stagnation in their positions and may cause frustration and demotivation among these officers. When officers are denied their rightful promotions, it somehow affects their dedication, commitment, and overall job satisfaction. This can have a negative impact on their performance and the quality of judicial services. Promotion is not just a matter of financial benefits; but also plays a vital role in the professional and personal growth of judicial officers. It provides them with new challenges, opportunities, and increased responsibilities. By neglecting promotions, the authorities are hindering the career development of deserving officers.

The Supreme Court has emphasized the importance of timely promotions to enhance the calibre and capacity of judges. Ignoring the right to promotion not only goes against these observations but also creates a sense of injustice and inequality among the affected officers, along with monetary loss. Moreover, delayed promotions disrupt succession planning within the judiciary. Senior officers nearing retirement need to be replaced by qualified and experienced individuals.

The continuous denial of opportunities for the youth who have been diligently preparing for civil judge positions is an alarming issue. Despite their years of preparation, these aspiring individuals are consistently denied the chance to appear in examinations and secure a position. Moreover, the delay of five years in conducting any recruitment exacerbates the problem, as many of these candidates are now overage. Such a situation is highly unacceptable, particularly considering the prevailing concerns surrounding unemployment.

The recruitment of junior judicial posts falls within the purview of the state/UT, making it the sole responsibility of the concerned authorities. Neither the Central Government nor the High Court can directly interfere in the recruitment process. Regardless of the reasons causing the delay in establishing the rules, a four-year time-frame is significant enough to rectify the situation. Given the critical nature of the matter, it demands immediate resolution and attention.

## New waste treatment plants

The Jammu and Kashmir administration has taken a significant step towards addressing the waste crisis in the region by initiating the construction of approximately 10 waste treatment plants. These plants are being built as part of the Swachh Bharat Mission, to scientifically dispose of waste and reduce the environmental impact. In recent months, nine solid waste management facilities were inaugurated by the Lieutenant Governor, constructed in various Urban Local Bodies (ULBs) with a daily waste processing capacity of 40 metric tonnes each. When completed, these treatment facilities will be sufficient to dispose of around 450 metric tonnes of waste per day until 2030.

The absence of such facilities has made waste management challenging and has had a negative impact on the environment. These waste treatment plants hold significant importance in light of directives from the National Green Tribunal (NGT). Time and again, the NGT has been inflicting heavy penalties on various local bodies in Jammu and Kashmir for polluting rivers, groundwater, and other environmental hazards. Preserving various lakes and water bodies in Kashmir has been a challenge in recent times due to dumping of solid waste and sewage. The NGT has consistently emphasised the need for proper waste management to prevent pollution, protect public health, and safeguard the environment through the adoption of scientific waste treatment methods, including waste segregation, recycling, and safe disposal. The directives not only focus on waste treatment but also stress the importance of waste reduction, reuse, and recycling. By incorporating Material Recovery Facilities (MRFs) and compost pits in these waste treatment plants, the Government is now promoting sustainable waste management practices in line with the recommendations.

The implementation of door-to-door waste collection systems and segregation at the source demonstrate local authorities' commitment to achieving effective waste segregation and recycling. Overall, the construction of these waste treatment plants represents a significant step towards sustainable waste management in Jammu and Kashmir. It showcases the Government's dedication to environmental protection, fulfilling the requirements set forth for Swachh Jammu and Kashmir.

K D Maini

# Significance of Bhata Durrian

Bhata Durrian and its adjoining village like Sangot, Nar Ferozallan and Kari Gulluta in between the forest, bushy, inaccessible areas and torrential Nallas are strategically very important from security point of view. Firstly, the lifeline of Poonch i.e Jammu-Poonch highway is passing through these villages and forest areas. Thick forest of pine trees and disadvantageous terrain is suitable for enemy to strike and survive. During 1965 Indo Pak war, the Gazanavi force of infiltrators had blocked Jammu Poonch highway on very first day on 9th August 1965. Therefore, the Indian forces were daily chasing the enemy to open the road so that the military convoy and general traffic could pass.

Topi hill is located on top of Bhata Durrian at such a commanding place where from the whole Surankote valley upto Hill kaka, Mendhar Valley upto Darruchhian near the LOC and Manjakote Tehsil of Rajouri upto Pir Bedreshwar top are seen. This hill top was converted into the cantonment of Pakistani forces under the command of LT. Col. Hadayat Ullah when they had occupied Suran and Mendhar valley during the turmoil of 1947-48. From this very top, the foot route from forest areas leading towards Chamera Gali, Dhera Ki Gali, Rattan Pir Pass on the top of Thana Mandi, Kuth Gali on the top of Darhal town and Kesri Hill in Kandi koteranka Tehsil of Budhal. This is where in latest encounter with terrorist on 5th May 2023 started and five Jawans of Para commando forces were martyred near the hideout of terrorist when they triggered a massive blast.

In between Rattan Pir to Kesri Hill and Budhal Pass from the southern side and main Pir Panchal range on the northern side, a vast un-administered and depopulated forestry and snowy area comprises of renowned Girjan Dhoke, Panj Tarni Merg and Valley of Seven Lakes upto Nandan Sar Pass (which opens towards Kashmir Valley) are located. In this big track, during summer season the Pharis and Tribal Families migrate with flock of sheep, herds of Goat, fleet of horses and cattle for few months and live in tented colonies or Dhara (Hut mints). During 1965, this area remained dominated by infiltrators where Pakistan was regularly dropping weapons and eatables to infiltrators. Bhata Durrian is a window opening towards this vast area and has an important significance

from defense point of view. It is interesting to note that in the month of May 1990, the first ever terrorist attack took place in the village Nakka Majhari adjoining to Bhata Durrian where a local shopkeeper Nathu Ram Sharma was brutally killed by terrorist and after that other such incident, had taken place in Poonch Rajouri Districts.

A series of operations by security forces and J and K police was launched in Topi ridge from Bhata Durrian to Dehra Ki Ghali 40kms long track during 2020-21 onwards in which 9 army jawans were martyred. Initially on 11th October 2021 when the Jawans of Rashtriya Rifles were patrolling in Dehra Ki Ghali area, they were ambushed at Chamara Ghali near DKG where 5 jawans lost their lives. Immediately after that incident a massive hunt against terrorist was started by the security forces and JK Police from Dehra Ki Ghali upto Bhata Durrian via forest routes. During this operation again security forces lost four Jawans. After that a major search operation i.e. one of the largest operation in J and K history of terror was launched by the joint team of security forces, RR battalions and JK Police from Rattan Pir pass upto Jaranwali Ghali which lasted for about three weeks without any encounter. However the search operations in Bhata Durrian forest continued.

This year on 20th April 2023, an army vehicle was ambushed by a group of terrorist in Bhata Durrian Village near Tota Ghali at such a mis-advantageous place where the speed of the vehicle reduces to almost zero. Five soldiers were martyred with China made steel coated bullets. Immediately after that IED blast was triggered and the vehicle caught fire while terrorist escaped from the site. After lot of struggle the security forces got specific input about the terrorists in a cave near Kesri Hill in Kandi Kotranka area of Rajouri. After full preparation, the security forces and JK police launched a manhunt on 3rd May 2023 in Pir Panchal forest areas upto Kesri Hill which is about 140 Kms away from Bhata Durrian. Therefore on 5th May morning from 7:30 am to 8 am security forces approached near Kesri hill Cave and when the Para Commando forces started Gun Battle, the terrorist triggered a massive explosion which resulted in Martyrdom of five Jawans and injury to one Major. After that explosion the terrorist escaped from the site. However next day one terrorist was killed by

the security forces in that area.

The above incident and facts reveal that terrorist have a network of their sympathizers who are actively providing logistic support to them, helping them in hiding, providing them shelter, food and carrying their weapons and ammunitions, arranging transport before the incident so that after strike they could be shifted to faraway place. It also appears that they might be getting local support in surveying the area, understanding the terrain where to strike and working out the escaping routes through transport means or bridal paths, otherwise, it was not possible for them to strike at Bhata Durrian in Poonch District and take shelter in a cave in Kesri Hill Budhal which is about 140 Kms away from striking spot. As per the official reports 250 people of Bhata Durrian and adjoining villages were investigated and six persons have been arrested by JK police from Gursai village near the Bhata Durrian area who remained providing food, shelter and transport to terrorists.

Rajouri Poonch District between LOC and Pir Panchal range remained militancy free zone from 26 Nov 2003 till 2019, when on 5th August 2019 article 370 and 35A were abolished. After that Jehadi forces across the LOC again tried to revive militancy in J and K. Since Operation 'ALL OUT' launched by the security forces and JK police in Kashmir have changed the militancy scenario in Kashmir, it has become almost impossible for Jihadis to operate in the valley. Therefore, Pakistan selected Poonch-Rajouri District in south of Pir Panchal to strike. Since Pakistan was badly exposed in the world for Islamic terror therefore from 2021 onward Pakistani agencies adopted a new strategy to strike. As per reliable sources Pakistani Army have got all the banners and posters of JeM and LeT removed from POK area, imposed restrictions on these agencies and asked the terrorist to vacate their camps near the Loc and launching pads so that it could be shown to world that Pakistan Government have stopped Islamic Jihad.

Simultaneously, the ISI and Jehadi elements set up two new organization, under the new name of 'People anti fascist forces' (PAFF) and The Resistance front (TRF). These are the proxy umbrella organizations launched in place of JeM and LeT. Therefore PAFF and TRF are now claiming responsibility of all terror incidents on the plea that they are indigenous forces operating from within J and K to fight against so called Hindutva

movement. These terrorist groups are supposed to get high level Guerilla warfare training of hit and survive. They are equipped with most modern and sophisticated weapons, getting help from drones and helicopters, sympathizers and over ground workers to strike at one place and immediately leave the site and take refuge in faraway forest area.

It is also said that this new terrorist strategy have been started by Pakistan in vast area of Pir Panchal range of mountain to compel India to withdraw some forces from Ladakh to Pir Panchal region so that Indian army pressure on China in Ladakh could be eased.

Bhata Durrian came into limelight firstly in 1814 AD during the first attack of Maharaja Ranjeet Singh who had intended to capture Kashmir. When Maharaja's forces after prevailing Raja Sultan Khan of Bhimber and Raja Agar Khan of Rajouri moved towards Kashmir via Rattan Pir, they however were stopped by Behram Galla Sardar Zabardast Khan a land lord of Bhata Durrian Suran area. He was backed by Azam Khan the Governor of Kashmir. However after minor clash Zabardast Khan surrendered and became ally of Khalsa forces. When the forces of Maharaja Ranjeet Singh moved towards Pir Pass, Sardar Zabardast Khan and Raja Agar Khan of Rajouri deceived Maharaja and revolted against khalsa forces from back side. This act of Zabardast Khan created a lot of problems for Maharaja to fight with the army of Azam Khan the Governor of Kashmir from the front side and rebel Zabardast Khan and Raja Agar Khan from back side. In these circumstances Maharaja Ranjeet Singh called off Operation Kashmir in 1814. However in 1819, the son of Maharaja Ranjeet Singh namely Raja Kharak Singh assaulted Kashmir and defeated Zabbar Khan, the Afghan Governor of Kashmir. At this stage Maharaja Ranjeet Singh directed his Jarnail Ghulab Singh (who later on became the Maharaja of Jammu and Kashmir) to stay in Rattan Pir area for the capture of rebel Raja Agar Khan of Rajour. After a struggle of about 8 months Ghulab Singh succeeded in capturing Raja Aghar Khan from the house of Sardar Zabardast Khan of Bhata Durrian and presented him before Maharaja Ranjeet Singh. Maharaja was so pleased with this success that Ghulab Singh was appointed the Raja of Jammu in 1822 by Maharaja Ranjeet Singh.

Abdul Rashid Khan

Recently, the 'World Environment day' was observed in U.T of J&K with great fervour. Statements of political leaders and members of civil societies were issued in print and electronic media, stressing on meeting human development goals in unification with environmental ethics. They called upon the people to protect the environment, ecology and biodiversity in Jammu and Kashmir. I agree with the statement issued by one of the prominent and vibrant civil societies namely 'Group of Concerned citizens' (GCC) that although Government is taking many steps to usher in socio economic development in the U.T but it is primary the responsibility of the local people to take care of environment, ecology and biodiversity which have already suffered damages over the last many decades and needs to protect it from becoming more fragile and deterioration, if not taken care of it now.

The haphazard and unplanned urbanisation has undoubtedly taken the toll of our environment and ecology both in towns and cities of U.T. As Jahangir the Moghul emperor had rightly said that if there is any paradise on earth, it is Kashmir and the Kashmir only. He was so much influenced by the environment and natural beauty of Kashmir that he would often visit Kashmir and spend summer there. The Moguls have contributed lot in maintaining the environment and biodiversity of the area by building many gardens in the Srinagar city. The great Kashmiri saint Shiekh Noor-ud-Wali who is known as Alamar-i-Kashmir has also said that "ann poshi teliy ellie van poshe" means that food will survive only till the forests survive.

The reckless human activity in the form of deforestation, water and air pollution and over use of our natural resources has endangered the natural balance in the global environment and the union territory of J&K has also not escaped this global effect causing extinction of various species by wanton adulteration of our lakes, rivers, streams and springs with plastic and other waste.

## Paradise Lost

It is not only the air pollution but also the water pollution which have badly effected the health of people in valley particularly in Srinagar city. Last year the NGT (National Green Tribunal) had taken serious view of the present status of Doodh Gangha which provides drinking water to almost ¼ of the population of Srinagar city. They imposed fine on concerned departments for their negligence and asked them to improve the quality of drinking water by keeping Dood Ganga clean from plastic and human and

boundary wall of THE Heritage Shalimar Moghul garden. This has choked the flow of fresh air and presents an ugly view in and around the garden. The garden has almost lost the grandeur and glory of past. The people who have constructed their houses around this garden, have not only blocked the beautiful back ground view of Zabarvan hills but have also damaged the ecology of its surroundings. The authority concerned is also responsible for this as they might have granted permission for the construction of these hous-

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other waste. But it seems that there is hardly any improvement in the quality of drinking water and the maintenance of the river Dood Ganga.

Dal lake, the centre of tourist hub seems to be clean as compared to previous years due to the efforts of the present government.

After a long time I had a chance to visit Shalimar Bagh on 7th of June this year but what I found, on way from Nishat garden to my destination, was really shocking. I saw many high rise concrete buildings raised on the green patches on both sides of road in the form of hotels and commercial buildings. What I observed the worst, was the coming up of a number of residential houses in a haphazard and unplanned way along the

es. In the past, the surroundings of this area was free from any construction which used to add to its beauty and environment. The intervention of the government is warranted to look into the matter and make delinquent officials accountable who are found responsible for this act.

We should thank Dogra rulers who had great concern for maintaining the environment and biodiversity in J&K particularly in the valley of Kashmir during their regime. It is also said that they would allow only few house boats to station in the Dal lake during the day time. And would make them to exit from the Dal in the evening and allow them to park in nearby Tchiount Kul. Even the construction was not allowed in Nishat and

Shalimar areas excepting for those who were the original residents of these areas. It was only after 1947 that the construction of hotels and residential houses started gaining momentum from Dalgate to Nehru park along with Boulevard road.

The filling of a portion of Dal lake for SKICC, construction of road from Khonakhon around Dal lake paved the way for encroachers. Conversion of Nalamar into road, construction of residential houses and commercial units on the wetland of Bemina and Rawalpora have not only destroyed the ecology and biodiversity but turned these places into flood prone areas. The Achar lake, Nala Amir Khan and Tchiount Kull are at the verge of extinction. However the revival of Khushal Sar was made possible only due to the untiring efforts of some dedicated people. The serenity, calmness and flow of streams at the foothill of Zabarvan hill is thing of past and have made us to believe that Kashmir once known as paradise has lost its glory.

The message of Dr. Farooq Abdulla, issued on the 'World Environment Day' is worth reading. I may quote his message that "we as individuals should not wait for the government to take action: good parenting and schooling, edification of community and religious leaders comes into play. People in their individual capacity can contribute in protecting the local fragile and land locked environment by stopping improper waste disposal, abandonment of plastic usage, using water and electricity judiciously. The government on their part have a bigger responsibility to strike between development and protection of ecosystem."

To observe this day in real spirits, we should lay stress on eco-friendly structures while designing and constructing the residential houses and commercial buildings particularly at tourist places so that our environment and biodiversity are not disturbed. Instead going for construction of motor ways in and around the forests, we must develop tracks for tourists which will boost our trekking tourism to maintain our fragile ecosystem. We must observe this day by not only issuing statements through press notes but practically do something tangible so to restore our lost paradise.

# Strict law needed to prevent animal cruelty

Sayed Shadab

Mahatma Gandhi said: The greatness of a nation and its moral progress can be judged by the way its animals are treated. I hold that the more helpless a creature the more entitled it is to protection by man from the cruelty of humankind.

India as a whole is undoubtedly stepping forward in the fields of job growth, economic growth of poor, international relations, climate change etc., but there exists a big loophole in our legislation - Animal Cruelty Prevention law. In 1960, Prevention of Cruelty to Animals Act was legislated but since then it has not even once been amended even after continuous rising in animal cruelty cases, the Act of 1960 has not also been effectively implemented.

**Cruelty to animals in India**

Cruelty to animals means animal abuse that is knowingly inflicted upon animals by human beings for any gain.

Even after the enforcement of PCA 1960, there have been a horrific rise in the cases of animal cruelty. Recent cases of animal cruelty includes killing of a pregnant elephant from Kerala, a pregnant cow from Himachal Pradesh and a jackal from Tamil Nadu. In all these incidents, the animals were fed some explosives with some edibles. Another incident of animal cruelty is the death of Shaktiman the police horse in March 2016.

One of the most renowned case of animal cruelty is Jallikattu event that is being organised in Tamil Nadu. During jallikattu, participants mentally and physically torture bulls and endanger the lives of animals and humans.

There are several laws enforced in India to curb the menace of cruelty against animals for the safety, protection and punishment in cases of animal cruelty such as Article 48A and 51A(g) of the Constitution of India, Section 428 and 429 of Indian

Penal Code but most important laws are Prevention of Cruelty to Animals Act (PCA) 1960 and Wildlife Protection Act 1972.

Under Section 11 of PCA act, different forms of cruelty has been defined which are as follows:

Beating, kicking, over-riding, over-driving, over-loading, torturing, causing unnecessary pain or suffering to any animals;

Employing any animal which, by reason of its age or any disease, unfit to be so employed, and still making it work or labour or for any purpose;

Willfully and unreasonably administering any injurious drug or injurious substance;

Conveying or carrying, either in or upon any vehicle in such a manner as to subject it to unnecessary pain or suffering;

Keeping or confining any animal in any cage or any receptacle, which does not measure sufficiently in height, length and breadth to permit the animal a reasonable opportunity for movement;

Keeping for an unreasonable time any animal chained or tethered upon an unreasonably heavy chain or chord;

Being the owner, without reasonable cause, abandons any animal in circumstances, which render it likely that it will suffer pain by reason of starvation or thirst;

Willfully permits any animal, of which he is the owner to go at large in any street while the animal is affected with a contagious or infectious disease, or without reasonable excuse permits any diseased or disabled animal, of which he is the owner, to die in any street;

Offers for sale or without reasonable cause, has in his possession any animal which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment

Mutilates any animal or kills any animal (including stray dogs) by using the method of strychnine injections in the heart or in any other unnecessarily cruel manner;

Solely with a view to providing entertainment;

Confines or causes to be confined any animals (including tying of an animal as bait in a tiger or other sanctuary) so as to make it an object of prey for any other animal;

Incites any animal to fight or bait any other animal.

Organizes, keeps, uses or acts in the management of any place for animal fighting or for the purpose of baiting any animal or permits or offers any place to be so used or receives money for the admission of any other person to any place kept or used for any such purposes; takes part in any shooting match or competition wherein animals are released from captivity for the purpose of such shooting.

If any person commits any of the acts mentioned from (a) to (o), he shall be punishable in the case of a first offence, with fine which shall not be less than ten rupees but which may extend to fifty rupees, and in the case of a second or subsequent offence committed within three years of the previous offence, with fine which shall not be less than twenty-five rupees but which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both.

The Wildlife Protection Act 1972 is meant for the protection of wild animals and birds, and there are provisions that safeguard the interests of the animals.

It prohibits the sacrifice of animals, by Section 39 of the act there is a strict prohibition on any injury to the animals and the penalty is mentioned in section 51 of the Act.

There is also a ban on keeping any Indian bird under the act. If anybody wishes to keep a permissible bird he has to comply strictly with Section 11 of the Prevention of Cruelty to Animals Act, 1956.

Police powers: Section 50 of the Wildlife Protection Act, 1972 authorizes a police officer to arrest any person without a warrant.

Monkeys cannot be displayed or owned, and are protected under the Wildlife Protection Act as well.

The major loophole which needs an immediate action is that the amount of fine or compensation that is imposed on any offence under PCA Act is very low. The amount of fine that ranges between Rs. 10 and Rs. 50 can not prevent the cruelty towards animals.

Section 11 and 12 of the Act are cognizable but the sentence of imprisonment is very low that is imprisonment of 3 months and punishment under Section 38 of the Act is non-cognizable which means person cannot be arrested without warrant. Also, under the Prevention of Cruelty to Animals Act, 1956, there is a provision for the requirement of setting up of a Society for the Prevention of Cruelty to Animals (SPCA) in every state but leaving a few states there is no such society in the rest of the country.

**Conclusion**

Judiciary can play a very important role in preventing animal cruelty by imposing stricter punishments under the Prevention of Cruelty to Animals Act 1960. Only then the people will take care and will not ruthlessly kill innocent animals. In 2011, the Prevention of Cruelty to Animals was amended and renamed as Indian Animal Welfare Act as a need was felt to change the old law.

We as vigilant citizen should make the children of our society aware about the innocence of animals and should educate them to treat animals with kindness. Food and shelter should be provided to street dogs by Government shelters, and registered firms and NGOs to assure their safety.

Another effort should be to improve the system by establishing and strengthening the Society for Prevention of Cruelty to Animal, an NGO that can work in every state separately with no interference of the state.