

**FAREWELL SPEECH ON THE RETIREMENT OF HON'BLE  
MR. JUSTICE JAYANT NATH, THE JUDGE OF DELHI HIGH  
COURT ON 09.11.2021 AT 3:00 P.M.**

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**HON'BLE MR. JUSTICE D. N. PATEL**

**CHIEF JUSTICE**

Justice Jayant Nath,

My esteemed brother and sister Judges,

Shri Chetan Sharma, Additional Solicitor General of India,

Shri Rakesh Shehrawat, Chairman, Bar Council of Delhi,

Shri Mohit Mathur, President, Delhi High Court Bar Association,

Shri Jatan Singh, Vice-President, Delhi High Court Bar  
Association,

Shri Abhijat, Secretary, Delhi High Court Bar Association,

Shri Santosh Tripathi, Standing Counsel (Civil), Govt. of NCT of  
Delhi,

Standing Counsels of the Central and State Government,

Executive Members of the Delhi High Court Bar Association,

Office Bearers of Bar Council of Delhi and other District Bar  
Associations,

Senior Advocates,

Members of the Bar,

Family members of Justice Jayant Nath,

Members of Print and Electronic Media,

Ladies and Gentlemen,

We have assembled here today to bid farewell to our esteemed colleague Justice Jayant Nath, who demits office on superannuation after a distinguished and fulfilling career.

Justice Jayant Nath was born on 10<sup>th</sup> November, 1959 in Delhi. He completed his schooling from Delhi Public school, Mathura Road and did his graduation from St. Stephen's College, Delhi University in B.A. (Hons.) History. Thereafter he completed his Law Degree from Campus Law Centre, Faculty of Law, University of Delhi in 1982.

Justice Nath enrolled as an Advocate with the Bar Council of Delhi and thereafter started his legal practice.

He practiced at Supreme Court of India, Delhi High Court, other High Courts and various Tribunals including Central Administrative Tribunal(Principal Bench) New Delhi, National Consumer Disputes Redressed Commission (NCDRC) etc.

His practice included a diverse range of litigation in field of Constitutional Law, Civil Law, Administrative Law, Labour Law, and Service Law.

Justice Nath served as a *standing counsel for DESU/Delhi Vidhut Board(DVB) from 1995 to 2002. He represented various Public Sector Undertakings, Banks etc. before this Court and other judicial fora.*

He was designated as a Senior Advocate by this Court in 2006.

Justice Nath elevated as an Additional Judge of this Court on 17<sup>th</sup> April, 2013 and became permanent Judge on 18<sup>th</sup> March, 2015.

On the administrative side, Justice Nath served in different capacities with various committees. He served as Vice-Chairman of Arbitration Committee of the Delhi International Arbitration Centre, as a member of Mediation and Conciliation Committee to oversee the functioning of Delhi High Court Mediation and Conciliation Centre. Justice Nath also served as a member of Committee for Appointments of Special MMs, Oath Commissioners, Law Researchers, Law Interns etc., Member of PIL Committee plus letter petitions and habeas corpus matters and Committee for Appointment of Officials of this Court.

Throughout his distinguished career as a Judge, Justice Nath has delivered numerous judgments on various jurisdictions which have immensely contributed towards the growth of procedural and substantive law.

In ***BENNETT COLEMAN & CO. V. ARG OUTLIER MEDIA PVT. LTD.***, the Court was posed with the question of whether the Plaintiff was entitled to the use of two catchphrases. Firstly, the Bench noted that the undisputed facts show that the mark "NEWS HOUR" is a registered trademark prima facie used by the plaintiff since 2006. Furthermore, the Court observed that merely adding some prefixes or suffixes to the trade mark "NEWS HOUR" does not

help the defendants to claim that the mark which is being used by the defendants is not deceptively similar to that of the plaintiff and thus the Plaintiff is entitled to relief on this account. However, on the second issue, i.e., whether the Respondent is entitled to the use of the phrase 'The Nation Wants to Know' the Court enunciated that an interim order can be passed only after evidence has been led to ascertain as to whether the plaintiff was using the aforesaid mark as a trademark or it was merely being used as a form of speech in the course of conducting the news channel or in the course of carrying on interviews/presentations.

In **DAIICHI SANKYO COMPANY LTD. V. MALVINDER MOHAN SINGH & ORS.**, the arbitration arose out of an agreement to sell the award debtors' (Mr Singh and others') shares in Ranbaxy Laboratories Limited to the award creditor (Daiichi Sankyo). Daiichi Sankyo argued that it was induced to purchase the shares by a fraudulent misrepresentation, and the tribunal awarded damages to the creditor. Mr. Singh however challenged the enforcement of the said award on the ground that the awards were contrary to the public policy of India. In particular, the Respondent challenged: (i) the quantum of damages awarded; (ii) the tribunal's decision to award consequential damages under the contract; (iii) the tribunal's decision on limitation; (iv) the tribunal's award of interest; and (v) the award of damages against respondents who were minors. The Court dismissed all objections barring the last one, i.e., the award of damages against respondents who were

minors. The Bench reasoned that the tribunal's decision was contrary to Indian law, that a minor could not be held to have committed fraud through an agent. It further elucidated that protection of minors was part of the fundamental policy of Indian law and therefore the award was not enforceable against the award debtors who were minors.

*In a case of **ACTION COMMITTEE UNAIDED RECOGNIZED PRIVATE SCHOOLS V. DIRECTORATE OF EDUCATION***, the Directorate of Education (DoE) issued circulars/orders dated 18.04.2020 and 28.08.2020 directing institutions and schools across the state to postpone collection of Annual Charges and Development Fee from students on account of novel coronavirus until normal functioning of schools were resumed. Being aggrieved, the Petitioner, i.e., Action Committee Unaided Recognized Private Schools, which consisted of 450 private unaided schools in NCT Delhi, filed a writ for quashing of the aforementioned orders. The Petitioners argued that the tuition fee and annual charges charged from the students cover expenditure to be incurred on salary, establishment and curricular and co-curricular activities hosted by the schools. The Bench to this effect opined that The DSE Act and Rules vested the Directorate with supervisory power to make sure that the private unaided schools in NCT Delhi did not indulge in commercialization and profiteering. However, it did not provide authorization to pass directions that it perceived, would be in the public interest. The orders passed by the Appellant restraining the Respondent from collection of

Annual Charges and Development Fee till resumption of physical functioning of schools was not only contrary to the contractual terms of the agreement between the schools and students' parents but was also beyond the scope and ambit of the Appellant's powers under the scheme of the DSE Act and Rules.

*In **SPENTEX INDUSTRIES LTD VS. QUINN EMANUEL URQUHART & SULLIVAN LLP**, Justice Jayant Nath held that the relationship between a client and the foreign law firm engaged by it was commercial in nature in terms of Sections 45 and 46 of the Arbitration and Conciliation Act, 1996. With respect to the issue as to whether the relationship between the Defendant and Plaintiff was 'commercial' in nature, the Court placed reliance on the definition of the word 'commerce' in Collins Concise Dictionary (3rd edition) as well as the decisions in R.M. Investment and Trading Co Pvt Ltd v Boeing Co & Anr (1994) 4 SCC 541 and New Delhi Municipal Council v Sohan Lal Sachdev (2000) 2 SCC 494, to hold that transactions relating to services for valuable consideration would be a commercial legal relationship and would be covered by Section 44 of the Arbitration Act. The agreement between the Plaintiff and Defendant had elements of commerce and since the claim of the Defendant pertained to recovery of money, the same would tantamount to a commercial relationship as per Section 45 of the Arbitration Act.*

*In **AMIT KUMAR SHRIVASTAVA VS CENTRAL INFORMATION COMMISSION, NEW DELHI**, Justice Nath*

observed that information under Right to Information Act, 2005 can only be denied if it is established that disclosure would impede the process of investigation. The Court held that a plain reading of the provisions indicates that in order to deny information under Clause (h) of Section 8(1) of the RTI Act, it must be established that the information sought, is one, which would impede the process of investigation or apprehension or prosecution of the offenders. The burden is on the public authority to show, how a piece of information, could impede the investigation when it takes recourse to section 8(1)(h) of the Right to Information Act, 2005 to withhold information. The word 'impede' means anything that has the capability of hampering or interfering with the investigation or prosecution of the offender.

Justice Nath has been often invited to contribute to National and International events and conferences. In March 2014, He participated as an Executive Committee member in the First Asia Pacific Round Table on Insolvency by INSOL in Hong Kong. Justice Nath also Participated as an executive committee member in the 11<sup>th</sup> Multinational Judicial Colloquium on Insolvency held by INSOL in San Francisco, United State of America in March, 2015. Justice Nath participated in the 12<sup>th</sup> Multinational Judicial Colloquium on Insolvency organized by INSOL International UNCITRAL and the World Bank at Sydney, Australia in March 2017, and he also participated in the 10<sup>th</sup> Quadrennial congress of INSOL at Sydney, Australia. In April, 2019, Justice Nath nominated to represent Government of

India and headed a sub-committee for discussion in the 13<sup>th</sup> Multinational Judicial Colloquium on Cross Border Co-operation & Co-ordination in Insolvency Proceedings held in Singapore.

Justice Nath will forever be remembered for his eminence and excellence as a Judge of this Court. He shall be in our hearts as a member of our family. I am sure that even after retirement, he would always be eager to lend his helping hand, whenever this institution requires his services.

He is a very good badminton player also.

I extend my best wishes and congratulate his beloved family members, Mother, Mrs. Usha Sood, wife: Mrs. Rohina Nath, Sister: Ms. Deepali Nath, Son: Mr. Siddhant Nath, who is also a practising advocate of this Court and Daughter: Ms. Nitya Nath, who is a law student.

I, on my behalf and on behalf of all brother and sister judges wish him good luck in all his future pursuits.

Thank You!!