

REMINISCENCES AND REFLECTIONS OF A CHIEF JUSTICE  
(1985). By B.P. Sinha. B.R. Publishing Corporation, Delhi. Pp. v  
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WHEN MUST one write an autobiography? What should be its orientation and contents? Can one write a "satisfactory" autobiography? What pitfalls does an autobiography—as an art form—generally suffer from? These and other allied questions are hard to answer.

It may be stated that to write an autobiography the following shall be necessary, *viz.*, (i) maintaining a diary; (ii) keeping a clear record of the events that have transpired in one's life; (iii) maintenance of files of correspondence that has taken place; (iv) a reasonably clear memory of the past events and *above all an objective* evaluation of one's own role in respect of matters which are the focal point in the work of the autobiographer.

An autobiography may tell us about a man and his times, or give us a historical account of the development of man's ideas and his work/s, or may throw light upon particular issues, be they social, economic, political or legal. Of course, it could do a bit of all these. Apart from literary quality, its value lies in the understanding it furnishes about one or more of these aspects. The book<sup>1</sup> under review is a welcome addition to the small but growing category of biographies and autobiographies by Indian law-men. The rich and varied experiences of the author as, (i) a lawyer for over two decades from 1922, (ii) a part-time law teacher for nearly nine years, (iii) a judge of the Patna High Court from 1943, (iv) the Chief Justice of Nagpur High Court from 1951, (v) a judge of the Supreme Court of India from 1954-59, and (vi) the Chief Justice of India from 1959 to 1964, provide him with a valuable insight into the various aspects of and the working of our Constitution, the legal system, and the judicial processes. The period of his judicial career spanning over 21 years is in many respects the formative era of the leading principles of our constitutional and administrative law. It was also a period during which many important socio-economic legislative enactments got transplanted on the judicial anvil for scrutiny.

The author states that his life story is meant for those "who have embarked upon the hazardous career of a lawyer at the bar, full of hopes, but not without trepidation".<sup>2</sup> Nevertheless the book is of great interest to any scholar analysing his opinions in terms of his socio-economic philosophy, as also to a legal historian. His impressions and opinions about other judges and political leaders throw much light upon their personality, character and work.

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1. B.P. Sinha, *Reminiscences and Reflections of a Chief Justice* (1985).

2. *Id.*, preface.

In the first chapter,<sup>3</sup> the author outlines his "family background". He was born in a feudalistic, conservative Rajput family and his ancestors migrated from Rajasthan to Bihar. His grandfather, though honest and religious, was a stern and miserly person incapable of demonstrating any love or affection for anyone in the family. His father, on the other hand, was more interested in a spiritual and humanitarian way of life than in managing the family business of money lending and the avocation of agriculture. He (the father) died a premature death—a victim of plague. Sinha was the eldest of ten children. Despite his marriage at the early age of 17, the family responsibilities, and discouragement notwithstanding, he was able to attain high academic standards and distinguished himself, in various co-curricular and extra-curricular activities like essay writing, debating and athletics. He also served as an office-bearer of various societies and associations in his college. His leadership qualities assured him a place in the forefront of the Bihar Student Conference Movement organised by Rajendra Prasad, the first President of the Indian Republic.

After his B.A., his desire to go to Cambridge on a scholarship had to be abandoned as his orthodox grandfather thought crossing the sea would result in loss of caste and status in society.<sup>4</sup> Consequently, he read for M.A. (History) and also took up the study of law. These academic pursuits undertaken simultaneously, as he candidly admits, resulted in his not being able to bestow adequate attention on the study of law and learning of the skills which would have equipped him better for the legal profession.<sup>5</sup>

He was called to the Bar in 1922 and it was at the Bar that he realised the deficiencies in his training and equipment. By sheer hard work he was able to carve out a position for himself in the legal profession. Early in 1943, he was elevated to the Bench of the Patna High Court. The politics of judicial appointments deprived him of the position of the Chief Justiceship of that High Court and he himself turned down the offer of a similar position at the Assam High Court. It was at this stage that he thought of retiring from judicial office and joining the Supreme Court Bar. But destiny worked in a different way. Sardar Patel prevailed upon him to accept the office of the Chief Justiceship of the Nagpur High Court.<sup>6</sup>

His tenure as Chief Justice of the Nagpur High Court makes very interesting reading.<sup>7</sup> The task was challenging as he had to organise and systematise the working not only of the subordinate judiciary but also of the High Court itself. With the co-operation and support of his colleagues, he was able to put the court on a sound footing and also arrest the growing menace of political innuendos and intimidations. By regular and

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3. *Id.* at 1-8.

4. *Id.*, ch. 8, p. 105.

5. *Id.*, ch. 3, p. 22.

6. *Id.*, ch. 5, p. 42.

7. *Id.*, ch. 6, pp. 45-67

methodical inspection and informal meeting with the judicial officers, district magistrates and superintendents of police he could make the subordinate courts more accountable and function better. The task of improving the subordinate judiciary was facilitated by the acceptance of his proposal to rationalise and revise the salaries and working conditions of the judicial officers.

In November 1954 he was elevated to the Supreme Court.<sup>8</sup> This, undoubtedly, must have been in recognition of his meritorious work as Chief Justice of the Nagpur High Court. Chapter 7 on the "Supreme Court of India" contains some of the most valuable insights and reflections of the author about judges, the attitudes of governments in matters relating to judicial appointments. This may be seen from sketches of the personality of judges of the Supreme Court. For example, he states that Chief Justice Mahajan was a person who had a great retentive memory, was quick in grasping the case, but had the habit of coming to his conclusions brushing aside the arguments and without giving his other colleagues time to consider the *pros and cons*.<sup>9</sup> About Chief Justice Mookerji he has this to say: "He was kind-hearted even to the extent of not observing the strict letter of the law".<sup>10</sup> He narrates how in a criminal appeal despite their agreement that the appeal had no merit, Chief Justice Mookerji asked him to write the judgment and directed him to find reasons, good or bad for reducing the sentence from death penalty to imprisonment for life.<sup>11</sup> He characterises Chief Justice S.R. Das as an ideal judge, taking down the arguments of the counsel *in extenso*; compliments Justice Vivian Bose for his clarity of expression and clear thinking.<sup>12</sup> He sketches Justice Venkatarama Ayyar as a person who had great mastery over law and had the capacity to write "literary judgments without sacrificing a clear and masterly exposition of the law..."<sup>13</sup>

A very significant reflection of the author is the commonsense question: Why should the judgments be lengthy and why should not the court give one judgment? He remarks: "I had always thought that our judgments in the Supreme Court not only suffered from the drawback of being very lengthy but were also full of...unnecessary quotations....The Court instead of giving the considered judgment of the Court in one judgment...very often contained pronouncements from each and every Judge.... Those...were not always consistent with one another, thus leading to a great deal of confusion in the minds of"<sup>14</sup> judges who are required to follow the law laid down by the Supreme Court. The author cites the case

8. *Id.*, ch. 7, p. 68

9. *Id.* at 69.

10. *Id.* at 71

11. *Ibid.*

12. *Id.* at 73.

13. *Id.* at 74.

14. *Id.* at 75

of *In re Delhi Laws Act*.<sup>15</sup> We can also add here the plight (pitiable?) of some of the judges of the Supreme Court who after having subscribed to a judgment complain that they did not have adequate time to go through the opinion written by a brother judge. The question then is, should the Supreme Court speak in one voice? Should there be individual opinions in the teeth of article 141? Cannot the dissenting judge/s write a single dissenting opinion?

Probably our judges have been influenced by the practice of the House of Lords. Anson observed:<sup>16</sup>

A sitting of the House of Lords in its appellate capacity is a sitting of the House. The members of the House who take part in the decision move the House in turn that the appeal be allowed or dismissed, and that it be *ordered and adjudged accordingly*....

Further he remarks that "the question whether or not a court of Final Appeal ought to be unanimous or appear to be so is one of policy rather than of law."<sup>17</sup> The author's plea for a clear, concise judgment and if necessary with one dissenting opinion is worthy of serious consideration.

The lack of continuity of policy on the part of the government in respect of various matters has been highlighted by the author. He does not spare the judiciary either. He points out that he had noticed several High Court judges transgressing well established rules of judicial propriety.<sup>18</sup> Some of these observations have become matters of discussion and even controversy. Included in such matters are, (i) the question about the age of retirement; (ii) the problem of transfer of judges of High Courts; (iii) lack of detachment and free mixing of judicial officers with ministerial officials of the government; and (iv) judges getting involved in public controversies and such other lack of observance of the canons of judicial propriety.

The author also discusses the utility of the conference of Chief Justices, his relation with state governments in the matter of appointments of judges, politics of judicial appointments and transfers.<sup>19</sup>

Chapter 8 deals with his visits to various countries in his capacity as the Chief Justice of India. These visits provided him with an opportunity to renew acquaintances, meet people belonging to the profession, and to observe the working of the judicial process, and to study the system of legal education in those countries.

The story of the founding of the Indian Law Institute, the role played

15. (1951) II S.C.R. 747.

16. *Law and Custom of the Constitution*, vol. II, pt. II, p. 328.

17. *Id.* at 329.

18. *Id.* at 91.

19. *Id.* at 97-99.

by K.M. Munshi, Justice Jagannath Dass, C. Subramaniam and the author, and the high aspiration which they had about the institute as a centre for research are highlighted in chapter 9. The American Law Institute was taken, perhaps, as a model. Due to the initiative taken by B.P. Sinha the institute was able to secure a plot and put up its present building. At the foundation stone laying ceremony President Rajendra Prasad, in the course of his speech referred to various topics as areas for fruitful research.<sup>20</sup> One of the areas suggested by him was the relative constitutional position of the Crown in United Kingdom and that of the President of the Indian Republic. The author narrates how some newspaper reports based on a misunderstanding of the context made it appear that there were differences between the President and the Prime Minister on certain constitutional matters. In a private talk with the author Rajendra Prasad had clarified that he had no such difference with the Prime Minister.<sup>21</sup>

One of the thrust areas identified for research at the institute was of practical and professional significance. Consequent upon *Kameshwar Singh's* case,<sup>22</sup> in which the author wrote the leading judgment, there was an amendment to the Constitution<sup>22a</sup> inserting article 31A. Thereafter there was considerable legislative activity in the field of agrarian law. During the fifties, personal law of the Hindus had also been amended extensively. Such legislative activity had rendered many cases obsolete. Further, many official reports had not reported certain cases which were fit to be reported, thus necessitating a lawyer to have on his shelves various official and non-official reports. It was thought that the institute could take up the revision and reissue, on the model of All E.R. reprints, revised cases so as to provide a compact and relatively cheap working library to the legal profession. After considerable preliminary work the task appears to have been given up.<sup>23</sup> He also narrates other areas in which research activity was initiated by him as executive chairman. He wanted the institute to attain the status of a university. In his own words:

The dreams with which I took over as the Chairman of the Institute ended without fulfilment.... It is now more than 18 years when I walked out of the Institute with a heavy heart and no tangible research has been done so far.<sup>24</sup>

His association with Rajendra Prasad from the days of the Bihar students conference and his continued contact with him in the Patna High Court and later in his judicial capacity, lead him to reminisce about the personality and the noble character of the first President. Chapters 10-13 contain many more reminiscences about great leaders, judges and lawyers

20. *Id.* at 132.

21. *Id.* at 133.

22. *Maharajadhiraj Kameswar Singh v. The State of Bihar*, A.I.R. 1950 Pat. 392

22a. Constitution (First Amendment) Act 1951

23. *Supra* note 1 at 140.

24. *Id.* at 143.

of his time. From their perusal many useful insights into the personality and character of these persons may be gained.

The last three chapters in the book deal with his spiritual life, his attitudes towards life and the world. The guiding principle in his life appears to have been devotion to truth, belief in the unity of God who is above vice and virtue. A deep study of comparative religions must have inevitably lead him to believe that there is fundamental unity about our conception of Divine Force and if only people could realise this, then, they would see the "Fatherhood of God and the Brotherhood of Man."<sup>25</sup>

After reading the book what emerges is the personality of Justice B.P. Sinha as a person who by sheer dint of hard work came up in life; a person highly religious, truthful, selfless and always being considerate to the feelings of others; a person devoted to high ideals and one who has discharged his duties without being influenced by "corrosive influences of life". Such a person truly stands out and is worthy of emulation.

It is unfortunate that the work is not more detailed as to many events mentioned concerning the contemporary political, social and legal events. This is a great loss to posterity. It is hoped that a future biographer may throw greater light on these aspects and also about Justice B.P. Sinha's contribution in the field of law through his judicial pronouncements.

*G.V. Ajjappa\**

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25. *Id.* at 199.

\*Professor and Chairman, Department of Law, Karnatak University, Dharwad.