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MY PHASES IN CALCUTTA, NOW KOLKATA

I had three phases in Kolkata the first from 1976-79 when I functioned there as the Appellate Assistant Commissioner, from 1982-86 when I worked as a Senior Authorised Representative before the Calcutta Benches of the Income Tax Appellate Tribunal, and from 1992-96 when I worked on various assignments, viz. the Commissioner of Income Tax, the Director of Investigation, and then, the Secretary in the Settlement Commission, and, on promotion, as the Director General of Income-tax (Exemption) having all India Jurisdiction.

(i) On witnessing the *Barbadhu*

For a month I stayed with Shri Jadunath Prasad at Jodhpur Park in south Calcutta. I heard from him words of high appreciation for the Bengali Theatre. I never thought that the first play which I had seen was so controversial. It was called 'Barbadhu', and was being performed at some theatre in old Calcutta (now Kolkata). The conservative Bengalis considered the play obscene and unworthy for gentlemen to visit that. The boys and girls were prohibited from seeing it. Yet they invented ways and means to see the theatre. The 'Barbadhu' meant a 'whore' that played the role of a wife. I would tell you first its story.

A rich man of Calcutta went for a change to Hazaribagh. Such visitors were known at Hazaribagh, a hill station now in the State of Jharkhand, as the 'changers'. Those days a lot of persons used to spend a month at Hazaribagh enjoying its scenic beauty and its salubrious climate. He engaged a young beautiful woman from Sonagachhi (a red-light area) to play the role of his wife while he stayed at Hazaribagh. The lady, while there, played the role of wife with remarkable perfection. She wore sari with wide red border, and bore at her forehead a deep vermilion mark. The parting of her hair had a prominent deep red vermilion line skilfully engineered to taper off underneath her glossy thick long hair. Her earlobes carried earrings with shining 22 carat gold inverted lotus dangling exquisitely and modestly while she interacted with the wives of the other changers in her impeccably perfect style. Her superb black curls ruffled on her wheatish cheeks, and she wore a bashful modest demeanour. She was moderately built and her whole body was shapely. Nature had made her at its leisure. Her voice was rhythmic and melodious. Through her gestures and sound mutations, she expressed her romantic expressions with the mastery of a superb artist. After sometime, she was getting gnawed realising that the 'contracted

period' was waning with each passing day. The core situation of the play was her inner transformation through her inner crisis. In playing her role as a *Kulabadhu* (housewife), she underwent a change at the deepest level of her personality. In her private moments, she felt deeply anguished apprehending that on the expiry of the period of contract she would have no option but to become again a trading-ware at the mart of flesh at Sonagachhi. The dramatist had portrayed with great aesthetic fidelity how an avalanche of excoriating distress crushed her. Her gradual evolution from the delighting whore to a dedicated housewife had brought her to a precipice: her inner fire had rid her of her dross: she had become one of pure gold! This crisis in her inner self had been well portrayed in the drama.

Barbadhu became in my mind a metaphor. It illustrated how great change is brought about in one's psyche by one's role performance. Once while having a stroll in the park on Ritichie Road, I met a Bengali gentleman, who had been an eminent Chief Justice of the Calcutta High Court. Some context emerged for me to tell him that I had seen *Barbadhu* twice. He cast on me a crooked and inquisitorial glance expressing his obvious displeasure. His subdued displeasure turned into evident wrath when, in my reckless bravado, I told him that I learnt an important principle of jurisprudence from that play. I stressed on how an institution could shape a person, and condition one's sensibility. But I have never forgotten his sneering look. Didn't T.S. Eliot say in Four 'Quartets'?

Human kind

Cannot bear very much reality.

(ii) My assignments at Kolkata

Before I reached Kolkata in 1976, my reputation had already travelled there. I was painted as a creature without "service mentality". Later, I discovered that "service mentality" was a mixture of small competence, little learning, more of sycophancy and a lot of the art of go-getting. They had transferred me thrice before I reported there for the first time. I felt I had become a fragile beach ball being tossed from side to side. While such changes appeared to me routine, there were others who read in them things which reflected unkindly on me. Some were kind enough to advise me to grow more worldly-wise.

I was posted to function as the Assistant Commissioner of Income-tax (Appeals) at the Poddar Court, a kilometre ahead of the Dalhousie Square, just close to the central circular park, in the corner of which stood ignored the marble statue of Maharaja Lakshmeshwar Singh of Darbhanga, which had been superbly sculpted by Edward Onslow Ford. Every day for half a year, I boarded a minibus at Gariahat to get down at the Dalhousie square to walk down to the Poddar Court.

For about two years I functioned as the Assistant Commissioner of Income-tax looking after, on behalf of all the Commissioners of the West Bengal, the litigations going on at the Calcutta High Court and the Supreme Court. It was very strenuous time for me to keep watch over the avalanche of litigations which tended to proliferate in the Income-tax Department with every passing year. Several factors seemed to be responsible for this frustrating situation: (i) the taxpayers develop speculative interests in litigations to win somewhere somehow; (ii) the Income-tax officials have their own good reasons not to take responsibility for decisions as they feared that someone someday might question

the propriety of not litigating further; (iii) the tax-practitioners find it enormously advantageous to drag litigations raising even the same issues in various new garbs to delay, drag or confuse the issues at the anvil; and (iv) most judges find tax cases too taxing to be firmly pursued, the principles of tax jurisprudence too complex to be well understood in order to be well stated in their judgments.

**(iii) As the Department's Senior Representative
before the Income-tax Appellate Tribunal**

My second phase was for about 4 years from 1982 to 86. During the period I functioned as a Senior Authorised Representative before the Calcutta Benches of the Income Tax Tribunal. The office of the Tribunal was located at Acharya J.C. Bose Road, at the distance of about one kilometre from my official residence at 21, Ritchie Road, opposite St. Lawrence High School in South Calcutta.

We had excellent relationship with the members of the Tribunal. No unpleasant situation ever occurred, and the harmony between the Bench and the Bar was never spoilt. I remember an occasion when a Junior Authorised Representative lost his temper because some intemperate comments were made by a counsel on the opposite side. We had an excellent Tea Club which functioned during the lunch-break. Mr. Y. Upadhyaya, Senior Vice-President of the Tribunal dropped in for a cup of tea. But his main purpose was to counsel the Authorised Representatives not to lose mental poise even when provocation was grave. He said: there was no wisdom in doing anything which affected the secretion of certain hormones of the thyroid and adrenal glands. His counselling had a salutary effect. I wholly approved of his ideas. I fortified my point with what Boris Pasternak had said in *Dr. Zivago*:

“Your health is bound to be affected if, day after day, you say the opposite of what you feel, if you grovel before what you dislike and rejoice at what brings you nothing but misfortune. Our nervous system isn't just a fiction; it's a part of our physical body, and our soul exists in space, and is inside us, like the teeth in our mouth. It can't be forever violated with impunity.¹

While functioning as a Senior Authorised Representative I was greatly impressed by Dr. Debiprosad Pal and Shri N.A. Palkhivala. Dr. Pal was frequently appearing before the benches of the Tribunal, but Palkhivala had come only thrice while I was there.

Dr. Pal² is a jurist of high distinction. I had studied his *State Sovereignty at the Cross-Roads*. It had earned him the degree of the Doctor of Literature from the University of Calcutta. The Board of his Examiners consisted of Prof. Quincy Wright of Chicago University, Prof. Hans Kelsen of the University of California and Prof. C.A.W. Manning of London School of Economics. Dr. Pal would have emerged an outstanding academic jurist but he chose the pedestrian legal profession, mainly taxation law, as his province. His forte was exposition of legal principles. Shri N.A. Palkhivala was an outstanding constitutional lawyer and a master of the Laws of Taxation. Anybody who wants to master the fundamentals of the Tax laws must study with care *Kanga and Palkhivala's Income Tax*. I commenced my study of this book at the IRS (Staff) College, Nagpur in 1965. When Palkhivala was India's Ambassador to the United States, it came out in the Press that he helped the old mother of the then U.S President to put on her shoe

which had slipped off while she was climbing steps. Some adverse comments were made on him on the ground that by his conduct he showed a measure of servility unbecoming of this country's Ambassador. I got a new light on that episode on observing what I saw in the Appellate Tribunal whilst the Tribunal was at work. Once Shri Palkhivala was arguing a case before a Bench of the Tribunal. The Department's case was being represented by a Senior Advocate. I was assisting him from the second row of the chairs earmarked for the lawyers and the tax-practitioners. When our Advocate was arguing before the Tribunal, his pen fell down. I didn't mark it but Shri Palkhivala observed it. He picked up the pen, and placed it on the lectern. I noticed from behind what had happened. This revealed Shri Palkhivala: a man of great humility. I could remember my childhood days when we were taught to maintain the attitude of reverence towards books, and writing instruments.

The Income Tax Appellate Tribunal is the most important Tribunal in our country; and it had earned a stable reputation over the decades of its functioning. Both in its role and in its competence, it resembles the institution of the Special Commissioners under the U.K Income Tax Law. In fact, it has an edge over the U.K. institution as it is more tilted towards the court procedure. This Tribunal virtually became the role-model for other Tribunals which came to be set up in our country. As it functions under the Ministry of Law, it is supposed to be free from the policy bias, and also from any pressurizing influence of the Ministry of Finance.

By the Constitution (42nd Amendment) Act 1976, Part XIVA was inserted into the Constitution of India. This Part, entitled "Tribunals", contemplates setting up of Administrative Tribunals (Article 323A) and Tribunals for other matters (Article 323B). I was never impressed by the rationale of that Part XIVA Tribunals. I was unhappy with that as the provisions originated in the desire of the executive to reduce the jurisdiction of the High Court. If all the Tribunals contemplated by Part XIVA are set up, the High Courts would become the courts of residuary matters only. The Shah Commission has referred to the sinister attempts, during the Emergency, to close down the High Courts!

Whilst functioning as the Income-tax Department's Authorised Representative, I felt that our country needed a body to supervise our Tribunals at work. It could be like the United Kingdom's Council on Tribunals. Sir Oliver Franks was appointed by the Lord Chancellor to report on Administrative Tribunals and Inquiries at work in the United Kingdom. The Report was published in 1957. It laid down three extremely salutary principles for the functioning of the tribunals: (1) that statutory tribunals are not mere appendages of the executive, but are independent bodies; (2) that they are, or should be, essentially instruments of adjudication; and (3) that the indispensable characteristics of an adjudicating body are openness, fairness, and impartiality.³ For appropriate functioning of the tribunals, the Franks Committee suggested the setting up of a Council on Tribunals. The Franks Committee made this what Sir Allen considers "the most imaginative recommendation of the Report". The Council described its own functions and limitations in these words:

"It is our task to act as a watchdog for the ordinary citizen and to see that he gets fair play. We have no say in the issues to be decided, nor can we overrule the decisions that are made. Our duty is to supervise

procedure, so as to ensure that tribunals and inquiries fulfil their purpose of always giving a fair hearing and do nothing which can offend the ordinary citizen's sense of justice. We can draw attention to any case where we think that these standards have not been observed, and we can comment on regulations intended to be made by Government Departments. Although our powers are purely advisory, there is thus much that we can do to make sure that mistakes are not repeated, that difficult questions receive study and that regulations conform to the principles of fair procedure laid down by the Franks Committee in 1957.”⁴

The Income Tax Tribunal has functioned well but things can be better if closer supervision of its functioning is institutionalised. At present, there is hardly any supervision of the working of the different benches of the Income Tax Appellate Tribunal. The role that the President or the Vice-President plays is routine and peripheral. Instances have kept on coming in public domain which can shake our confidence in the integrity and efficiency of this great Tribunal. Such things have become grossly manifest in some recent decisions when certain Benches were managed by getting members thereon whose integrity did not inspire confidence. Besides, at times it may turn out that an erroneous decision pleases both the sides: the Department and the taxpayer alike. The Council on Tribunals, if constituted in our country, would provide an effective remedy against these evils.

The Idea of the Tax Court on the US model floated

The idea of setting up the Tax Court on the U.S. model was considered by our Government. I was always critical of this idea because that was shaped by the factors exclusive to the U.S. tradition and the Constitution. I was in favour of a body under Article 247 of the Constitution rather than that under Part XIVA of the Constitution. 'Article 247 body' would be a court in strict sense, whereas the Part XIVA body would just be an administrative tribunal. Under that Article of our Constitution, our Parliament has power to establish certain additional courts for the better administration of laws made by Parliament or of any existing law with respect to a matter enumerated in the Union List of our Constitution. All courts are Tribunals but all Tribunals are not courts. I explained my position to Shri Jaswant Singhji when he was the Finance Minister: to quote from my letter⁵ —

“If the idea is to set up a tribunal under Part XIV-A of the Constitution of India, it is not worth doing. Part XIV-A was inserted in the Constitution by the Constitution (Forty-second Amendment) Act, with effect from 3.1.1977. It was conceived as integral to the strategy evolved during the infamous Emergency to emaciate the High Courts of the various dimensions of its jurisdiction with an obvious design to make the great courts, the successors of the King's Bench, merely the courts of residuary jurisdiction. You may re-read for light paras 5.47 and 5.48 of the Shah Commission Report showing that on July 25, 1975 the locking up of the High Court had been considered. Let us not take a stride on a path advancing towards goals so ignoble.”

A Conspiracy against the High Court fails: the Rule of Law prevails

I had written a comprehensive letter to Jaswant Singhji who had been the Minister of Finance during the NDA regime (1998-2004). But the lobbyists and the pressure groups worked to get the National Tax Tribunal Act, 2005 enacted during the UPA regime. My detailed letter under reference can be perused at http://shivakantjha.org/openfile.php?filename=articles/ntt_nogood.htm. Its constitutional validity was challenged. Journeying through the litigious process, the matter reached our Supreme Court whose Constitution Bench has held, on 25 September 2014, the National Tax Tribunal Act as unconstitutional. All's well that ends well. Main reasons for holding the Act unconstitutional were thus stated in *Madras Bar Association v. Union of India & Another* (Transferred Case No.(C) No. 150 of 2006 : 2014-TIOL-82-SC-MIC-CB)

- “(iii) The “basic structure” of the Constitution will stand violated, if while enacting legislation pertaining to transfer of judicial power, Parliament does not ensure, that the newly created court/tribunal, conforms with the salient characteristics and standards, of the court sought to be substituted.
- (iv) Constitutional conventions, pertaining to constitutions styled on the Westminster model, will also stand breached, if while enacting legislation, pertaining to transfer of judicial power, conventions and salient characteristics of the court sought to be replaced, are not incorporated in the court/tribunal sought to be created.”

(iv) My academic interest & the Calcutta University

(a) As an Examiner for the LL. M. Examination

I developed contacts with the eminent teachers in the faculty of Law of the Calcutta University. Dr. M.L. Upadhyaya, the Dean of the faculty of the Law of the University, associated me with several academic activities. I had studied International Law, specially the Law of Seas. I had written my dissertation on the Maritime Resources. The Patna University appointed me in 1977 an examiner for the revaluation the answer books pertaining to Public International Law. I had deep interest in Mohammedan Law. Mr. Zillani, who was my Commissioner of Income Tax, even called me Maulavi Jha. The Calcutta University appointed me a Member of Board of Examiners to function as paper-setter and examiner for the Mohammedan Law for the LL. M. Examination. I studied with a lot of interest and insight a lot of standard books on the Mohammedan law. I was impressed by the genius of the Mohammedan Law to adjust itself with the changing needs of times. It is unfortunate that the self-perpetuating interests of the fundamentalists obstruct the creativity of the Mohammedan Jurisprudence in our times.

(b) Dr. T.B. Smith

Some brilliant jurists came to Calcutta to deliver the celebrated Tagore Law lectures. I heard Dr. T. B. Smith who had been a member of the Scottish Law Commission and a Professor at the Edinburgh University. His lectures were published under the title *Property Problems in Sale*⁶. I met his wife, Ann, who was extremely amiable and well-informed about our culture and country. She had spent her childhood days in India where her father was in service as a civilian. Dr.

Smith began his first lecture with a personal note of immense joy. He said that precisely at that time of the day Sir Zelman Cowen was taking over as the Governor-General of Australia. Cowen and Smith had studied together, and were great friends.

Dr. Smith examined critically from the viewpoint of comparative lawyer, a wide range of practical problems of great importance. His listeners were advocates, academicians and the judges of various courts including the High Court. His sixth lecture was on the "Protection of good faith purchasers: the ground surveyed". Dr. Smith examined various sophisticated solutions to the problems cropping up in that area. He dwelt on the problems pertaining to the dishonest purchasers, and was in search of some better solutions. I could recall something of relevance to the issues under his consideration, which I had studied years back in our ancient Hindu Jurisprudence. I stood up, and told him what the ancient Indian jurist had thought about such issues. He heard me with interest. When his lecture was over, he came near me and asked me if I could spend some time with him discussing the topic. I was overjoyed at this great honour. I drew up a note on the topic and called on him next day in the VIP guest house of the Ramakrishna Mission Institute of Culture at Golapark in South Calcutta where he was staying. The eminent jurist showed a lot of interest in Hindu Jurisprudence on account of its richness and original thoughts. Two days after, when he had delivered his last lecture in the series, he came near me, and said: "I felt revising some of my ideas expressed in my lectures in the light of the solutions given by the ancient Hindu jurists, but as the manuscript was to be handed over to the publishers, I could only mention the point in the footnote." When the book came out, I found a footnote at page 149 of the book where he had mentioned: "Hindu Jurisprudence has evolved sophisticated solutions regarding the effect of purchase from a person who is not the owner." He referred to P.N. Sen's *Hindu Jurisprudence*, and made a reference to me.

Several evenings I spent with Dr. Smith at the Ramakrishna Mission Institute of Culture. I asked Dr. Smith about the prospect of entrenched Fundamental Rights in the United Kingdom. He told me that a lot of jurists had pleaded for such rights to be spelt out and constitutionally entrenched. After some pause, he put a counter question to me: "What happened to the Fundamental Rights in India during the Emergency?" Again after a longer pause, he said that the existence of sound Democracy could alone be the supreme guarantee for the enjoyment of basic Rights. One evening Dr. Smith asked me questions about our Constitution. He asked me to tell him what I considered the core questions of great practical importance in the Indian Democratic Republic. I replied with utmost brevity, but some of his comments kept me brooding over them for all these years. I would summarise what I had told him in the Chapter on 'Our Constitution at work' in the Book III of this Memoir.

(c) Dr. Bernard Schwartz

In January 1984, Dr. Bernard Schwartz delivered at the Syndicate Room of the Calcutta University a series of seven lectures as a Tagore Law Lecturer on *Some Makers of American Law*⁷. He was the Webb Professor of Law at New York University, and was also made a Tagore Law Professor at the University of Calcutta. The lectures were intended as an American counterpart of the Tagore

Law Lectures delivered by Sir William Holdsworth in 1937-38, under the title, *Some Makers of English Law*. I have closely observed the decisions of our Courts where the American cases are frequently cited. It is dangerous to refer to the American cases without knowing the history of American Law, and their specific contexts. The American judges have shown strong commitments to their philosophical trends, but mostly under the shadow cast by the Big Business. Unless we have good reasons to share their ideas, it is not proper to cite their decisions indiscriminately. But the liberal activist judicial approach of our courts, mainly in human right matters, is surely under debt to Chief Justice Warren. Dr. Schwartz observes:

“The period Warren (1891-1974) sat in the Supreme Court’s central chair turned out to be “the most innovative and explosive era in American constitutional law” since the days of Chief Justice Marshall.”⁸

Dr. Schwartz’s lectures were to help us to develop our insight into the matter of using the American decisions in the Indian context. Amongst the recent American Judges, it was Warren who deservedly had the greatest impact on our Supreme Court. Dr. Schwartz very aptly observes:

“Chief Justice Warren led the movement to remake American law in the image of the evolving society. Of course, Warren’s greatness, like that of Marshall himself, consisted of more than his “being there.” The cases decided by Marshall were great because he made them great. All of them could have been decided in crabbed legalistic ways that would have made them unknown today, except to the curious student of the law’s arcana. The same is true of the great cases decided by the Warren Court”⁹.

Our Supreme Court explored the activists dimensions of the Right to Equality in *Maneka Gandhi v. Union* (AIR 1978 SC 597), *R.D. Shetty v. Airport Authority* (AIR 1979 SC 1628) *Ajay Hasiav. Khalid Mujid* (AIR 1981 SC 487) adopting the approach considered appropriate by Chief Justice Warren who, as Dr. Schwartz puts it, did more than any other judge in American history to ensure that the law, to say in W.H. Auden’s phrase, “found the notion of equality.” Warren’s activist approach had been opposed strongly by Justice Frankfurter.

(d) Dr. Rene David

Dr. Rene David’s Tagore Law Lectures¹⁰, on the comparative and evaluative exposition of English law and French law, provided a rich feast of ideas which in many crucial segments are of greatest importance to the Indian lawyers. He, in his lectures, explained to us the main principles of *droit administratif* operative in France. H.M. Seervai has beautifully summarized some key principles of the French administrative law in his *Constitutional Law of India* at pages. 3057-3060 (4th edition). I would draw on his exposition to highlight some of them in Chapter 17 of this Memoir.

In the Third and *Final Report* of Shah Commission, Justice Shah suggested (*vide* para 24.16) that we should consider the adoption of *droit administratif*. Earlier in *M.P. v. Bharat Singh* (AIR 1967 SC 1170), he had referred to Dicey’s view on *droit administratif vis-a-vis* the rule of law, and he observed: “We adopted under our

Constitution not the continental system but the British system under which the rule of law prevails.”

I considered it my great luck that during my first phase in Calcutta I heard three eminent Tagore Law Professors speaking on topics of greatest importance. They continued the great tradition that the earlier Tagore Law Professors had set up: persons so eminent as Sir Frederick Pollock, Sir William Holdsworth, Dean Roscoe Pound, Justice William O. Douglas, Sir Carlton Allen, Lord McNair, Professor W.W. Willoughby, and Sir Percy Winfield.

(v) Reflections on Calcutta

During the first phase, I lived in the Central Government Officers Quarters at Purnadas Road in South Kolkata close to the Vivekanand Park on the other side of which there is the famous Dhakuria lake. For years I had my morning and evening walk in the inner circle of the lake. The lush green area has a lot of massive trees whose branches, twigs and leaves sprawl expansively. As I was a regular walker there, I made a lot of friends, and had moments of sweet chit-chats for hours. The area presented interesting spectacles. Old men and women sat in small groups sharing their common experiences and lending support to each other in moments of life's sufferings and frustrations. It was a common sight to see someone in the groups reading the *Geeta*, or some passages from the writings of Chaitanya or Ramakrishna. Many young boys and girls were seen busy initiating and maturing their romance under the lush trees many of which provided exclusive bowers. For hours I sat on the concrete benches just gazing at the waters gently tossed by wind, or looking at the various stages in which the lotus buds bloomed into flowers and then, in the evening, they withdrew their petals unto themselves, often imprisoning inside the unwittingly trapped black bees.

Kolkata is a lovely city. Initially one may dislike it but with the passage of time it casts its spell. If one is at a loss to know which way to go, one can safely ask a girl or a lady, without hesitation, for right direction. And she would stop and guide you wearing sweet and amiable expressions. In this matter, Delhi is unlike Calcutta. It is extremely risky to make such a query here. In most cases one may not get a reply. If it comes at all, that would be with cocked eyebrows and noxious frown with an inquisitorial glance. Calcutta has a culture of its own. In Delhi, the pen-pushers, and the waves of humans coming from different parts, have not helped the growth of an organic and integral culture. The people of Kolkata have an excellent aesthetic sense. Even the slogan shouting, and the roadside speeches had exhilarating ideas, well expressed through flourish and rhythm. The city was remarkable for its musical concerts, and many other artistic pursuits. While returning from office in evening, I had opportunities to hear sweet music that came from almost every house. V. G. Jog, the great violinist, resided in the Purnadas Road where we resided from 1976-1979. We were frequently visiting his house to listen to his excellent classical music on violin.

In Chapter 25 of this Memoir I would tell you under the caption of '*Satranj Ke Khiladi*' how Wajid Ali Shah, the fifth King of Oudh (from February 1847 to February 1856), had ruled: he ruled not his land but he swam and sank in the gathering of the dancing girls composing gazals and playing chess displaying his

well-fed and well-embellished aromatic body having no intrinsic worth. The terms of the treaty, that he had made with the East India Company, made him imbecile and servile, and he turned into a creature sans any sense of pride in self. His kingdom was annexed by the British, and he was sent on exile, with humiliation, to Kolkata to die there in September 1887. He was happy to be in exile in Kolkata where he enjoyed the life of luxury in the company of women and wine. The Company granted him pension of Rs. 12 lakhs which was enough those days to live life that way. He was happy in his lascivious murk and filth. You can contrast his ways with those of the Maharani Laxmibai of Jhansi who was fighting for the freedom of her country till she died on 17 June 1858. In short, we have, thus, two models of life. He chose the way which is dear to the pleasure-seeking fools. She chose the way of patriotic dignity and sacrifice which make one great, and the country proud. Our people, while responding to the challenges of the present-day economic globalization promoting consumerist-hedonist culture, have the option to choose between the ways of Wajid Ali and of the Rani of Jhansi (or Gandhi). Who should be our role-model, Wajid Ali or Laxmi Bai?

Kolkata was a city of festivals and festivity whose climax is reached during the Durga Puja (or Pooja), an annual worship of Goddess Durga which spreads over nine or ten days. I had seen how elaborately this Puja was performed in my family. It was done in accordance with the Tantric tradition. Every day at the end of the Puja, my father loudly recited the Durgasaptasati. The Puja commenced on the Mahalaya day. Over all the years I can recall, I got up at 4 a.m. to hear the recitation of the *Mahishasurmardini* by Birendra Krishna Bhadra and Pankaj Kumar Mullick on the All India Radio. The way Bhadra recited made the medium itself a message. His cadence and tone revealed what he felt at heart. I still remember the beautiful songs and *kirtans* which frequently punctuated his recitation. In our village we had a Durga Mandir wherein every year beautiful clay images of Durga, Lakshmi and Saraswati were made following detailed Tantric rituals.

I saw eight such Durga Pujas over the eight years of my stay in Kolkata. For four years I resided at 16 Dover Lane, near Gariahat in the South Kolkata. Just adjacent to our gate, the people of that locality used to organise an impressive Durga Puja. We could participate in most of the rituals every day. I could see the ocean of the visitors to the place, especially in the evenings. The images were in the traditional protocol, and the rituals were performed with meticulous details. Hundreds of Pandals were put up at different places in Kolkata, each bedecked with light, flowers and coloured foliage, mainly of Ashoka, mango and banana. Over the years, I visited most of the Pandals to see the deities, and to see how the pujas were performed. It seemed to me that for the most people the Durga Puja had become more of a carnival, than a mere sacred festival.

Once I went to see the Durga Puja at Shovabazar Rajbari in North Calcutta. I was told that it had the oldest history in Calcutta. Its history went back to the Battle of Plassey (1757)! I was amazed to hear its story. I was told that the Durga Puja was organized in the Rajbari (the royal house) of Nabakrishna Deb to celebrate the occasion of the victory of Lord Clive in the Battle of Plassey which wrecked the power of Nawab Sirajud-Daulah, and ensured the fast expansion of the imperial power of the East India Company in our country.

It is possible to see some distinct phases and forms in the worship of Goddess Durga in the history of the Durga Puja in Calcutta. These can be shortly stated thus:

- (i) The traditional Durga Puja is performed in accordance with the *Durgasaptasati* which is from the *Devimahatmya* of the *Sri Markandeya Purana*. It tells us how the forces represented by gods failed to fare well in the war they waged with mighty demons. On their collective supplications, Devi Durga manifested Herself out of the focused energy of all the great gods. She Herself, and also Her own variants, like Chamunda and Kali, destroyed the demons. Thus, they established the sovereignty of the forces of good in the cosmic creation. This holy text is recited, in most households, everyday during the Durga Puja.
- (ii) The Puja is also done illustrating the *Krittibas Ramayana* which tells us that Rama invoked and worshipped Durga while going to fight Ravana.¹¹ The great Hindi poet, Surya Kant Tripathi 'Nirala', celebrated this in his famous poem, '*Rama ki Shakti Puja*'.
- (iii) The tradition of the Puja, as described in *Anandmath*, is still alive. With our First War of Independence in 1857, a new assertive sensibility grew amongst our people. The sacrifice done by our revolutionaries helped us to evolve a confident worldview which flowered in the form of our Struggle for Independence. It was under this ethos that *Anandmath*, written by Bankim Chandra Chatterji, was published in 1882. It portrays Bharat-Mata with three faces: Jagaddhatri (the upholder of the universe), Kali (the ferocious destroyer of the forces of evil), and Durga (the deity which sustains, destroys and protects without ever ceasing to be kind and merciful): these are three facets of Shakti.
- (iv) But now we see new trends in the Durga Puja. This reflects the culture of commercial advertisement which is being promoted by the vested interests in this phase of Economic Globalization. Under this market-ruled economic globalization, the image of Bharat-Mata, as conceived in *Anandmath*, stands battered and ignored. In this phase of commercial exploitation, even the Durga Puja is being made market-friendly. The so-called 'theme puja' illustrates this approach. We must arrest these noxious trends. We must not allow our religious and cultural images and ideas to be exploited for commercial, or any other extraneous, purposes.

(vi) Hare Krishna: my visit to Krishannagar and Mayapuri

I visited, in 1993, Krishnanagar, Nadia, and Mayapuri. I held the statutory jurisdiction over those areas as the Commissioner of Income-tax-X. This trip was most enjoyable and informative. It gave me a great opportunity to reflect on many things very close to my heart. In this small segment of this Chapter, I would touch only certain points which came to my mind in course of my visit.

At Krishnanagar, I visited a locality, called Ghurni, where beautiful statuettes and figurines of clay were made by the artists carrying on their traditional profession of the clay artists. I found them severely poverty-stricken, yet satisfied and happy. We purchased a number of their creations of clay.

From Krishnanagar we went to Navadwip where the great Chaitanya was born. The Vaishnavas consider him Lord Krishna Himself. We went to Mayapuri

to stay at the headquarters of the International Society for Krishna Consciousness (ISKCON). Once upon a time Navadwip was a well-known centre of learning. Mayapuri, adjacent to Navadwip, is on the bank of the holy Ganges. It is a place of pilgrimage for the followers of Gaudiya Vaishnavism. I visited various beautiful temples, and heard several songs of our great Vidyapati being mellifluously sung to our delight. Some of these songs were deeply amorous and romantic. But after listening to them there, and observing how the listeners responded to such stimuli, I felt that the songs, which I had myself sung several times, acquired new meaning rich with deep spiritual sensations. The time I spent there was greatly enriching. We participated in all the rituals, and heard learned discourses on the *Srimad Bhagavatam*. We stayed at the Guest House of the ISKCON, and observed how the devotees lived there, and what they thought about things in their evolving 'Krishna consciousness'. We got up at 4 a.m. to assemble, for Bhajans and worship in the big hall with an elevated marble platform whereon the beautiful marble images of Radha and Krishna had been placed. They recited the *mahamantra* which could lift them up to the higher levels of spiritual attainments: they called it the 'Krishna consciousness'. The *mahamantra* ran thus:

'Hare Krishna Hare Krishna, Krishna Krishna Hare Hare
Hare Rama Hare Rama, Rama Rama Hare Hare'

Krishna is the richest and most suggestive cultural construct in our nation's cultural oeuvre. It is unique that all that is the best in our traditions and thoughts are at their best only in Krishna Katha (the story of Krishna).

I had the good luck to hear the music which had been played by George Harrison, the English rock guitarist, who had a great access to our Indian cultural and mystical thoughts. I had a good opportunity to reflect on Krishna at Mayapur. I would come back to the ideas of Krishna in the Book III of my Memoir in the Chapter on 'My Reflections on Krishna & the Galaxy of the Great' (Chapter 20).

NOTES AND REFERENCES

- 1 I find that Norman Cousins has quoted this in his *Anatomy of an Illness as Perceived by the Patient* p. 65 (Bantam Books, New York).
- 2 Dr. Debiprosad Pal, M.A, LL.M, D.Litt, LL.D, Senior Advocate.
- 3 Sir C.K.Allen, *Law in the Making* Pg.594, Oxford, London.
- 4 *Law in the Making* p. 598.
- 5 http://shivakantjha.org/openfile.php?filename=articles/ntt_nogood.htm
- 6 *Property Problem in Sale* by T.B. Smith Q.C.,D.C.L.,LL.D., F.B.A, F.R.S.E published by Sweet and Maxwell, London and Eastern Law House, Calcutta. (1978) Dr. Smith was an advocate and a Barrister-at-Law of Gray's Inn. He was the Professor of Civil Law at the University of Edinburgh and was the Commissioner in the Scottish Law Commission.
- 7 *Some Makers of American Law* by Bernard Schwartz Ph.D., LL.D. (Cantab.) Doctorate d'Universite (Paris) Edwin D.Webb Professor of Law, New York University School of Law published by Ajoy Law House, S.C.Sarkar & Sons Private Ltd. Calcutta.
- 8 Bernard Schwartz, *Some Makers of American Law* p.124.
- 9 Bernard Schwartz, *Some Makers of American Law* p.145.
- 10 *English Law and French law* by Rene David, Honorary Professor at the Universities of Paris, Grenoble, and Aix-en Provence; Honorary Master of the Bench, Middle Temple Inn. The book was published by London Stevens & Sons and Eastern Law House Calcutta in 1980.
- 11 See the image at <http://en.wikipedia.org/wiki/File:Akal-Bodhan.JPG>