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## Calcutta High Court judge challenges impeachment move

PTI

Justice Soumitra Sen of the Calcutta High Court, whose removal has been sought by chief justice of India (CJI) KG Balakrishnan for alleged financial misconduct, has challenged the move to initiate impeachment proceedings against him in the Rajya Sabha.

In a nine-page letter to Rajya Sabha chairperson Hamid Ansari through his lawyer Subhas Bhattacharyya, justice Sen said the constitution of a committee of three jurists by Ansari was "unconstitutional".

The letter said the committee did not have jurisdiction because it could only look into a complaint against a judge pertaining to the discharge of his judicial functions or with regard to his conduct and behaviour outside the court.

"Admittedly there were or are no complaints whatsoever against justice Sen, i.e., my client, by anyone on the above two issues," Sen's lawyer said in the letter.

In an internal inquiry held by chief justice Balakrishnan, Sen was allegedly found to have indulged in financial misconduct as a lawyer when he was appointed receiver in a case, prior to his elevation as a justice of the high court in December 2003.

Sen, who received Rs32 lakh as court-appointed receiver in a lawsuit between the Steel Authority of India and the Shipping Corporation of India, was said to have deposited the amount in his personal account.

"It is not understood how an advocate or receiver can be held guilty of judicial misconduct or a judge can be held guilty of judicial misconduct for an alleged action prior to his elevation," the letter said.

"...this appears to be a unique case ... where in the absence of any allegation by anyone, proceedings for impeachment have been initiated at the instance of the CJI.

"The name of the complainant is still not known, although my client has already been described as an accused person and till date there is no complaint on record."

Bhattacharyya said his client had learnt from media reports that the CJI had referred the matter to the prime minister for Sen's impeachment and that 58 Rajya Sabha members had requested Ansari to initiate impeachment proceedings against the judge. Following this, the three-member committee was set up under the Judges (Inquiry) Act, 1968.

The letter said the CJI should not have any role in the formation of the committee since he had already expressed his opinion in newspapers.

It questioned Ansari's decision to admit the motion for impeachment without checking whether all documents were complete and said the mandatory requirements of the statute had not been adhered to and hence the formation of the inquiry committee was "unconstitutional and should be withdrawn".

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