

Allegations against Justice A.S.Anand

Serious allegations of corruption and favouritism were raised against Justice A.S.Anand former Chief Justice of India pertaining to the period when he was the Judge and the Chief Justice of the Jammu and Kashmir High Court. These unrebutted allegations were supported by valid authentic documents and were severely raised at the time when Justice Anand was the Chief Justice of India but nothing was ever done in this regard.

The following four major allegations were raised against Justice Anand:-

1. Relations with Shri Tirath Ram Amla, a prominent businessman and Politician of J&K:

As a Judge of the High Court of J & K, on 07.02.1983 Justice Anand passed an interim order staying the disconnection of all the Telephone lines of Broadway Hotel Srinagar owned by Shri Amla.

On 18.05.85 when Justice Anand was the Chief Justice of J & K High Court, a sale deed was executed by the son of Shri Amla in favour of Ms. Shabnam Anand the then unmarried daughter of Justice Anand in respect of 2 kanal plot of land (1,200 Square Yards) just outside the Municipality of Srinagar for a stated consideration of Rs. 30,000/-. It was alleged that the market value of the land at the said area in 1985 was several times the consideration for which the land was sold to Shabnam Anand.

Soon after the said transfer of the land to Shabnam Anand, her marriage was solemnized. It was alleged that the wedding reception was held at the Broadway Hotel in Srinagar owned by Amlas. The Barat party hosted by the CJI was also put up at that Hotel.

Stay was granted by Justice Anand in a writ petition filed by Amlas on 25.10.1985, challenging the order of the Cantonment Board, Srinagar vide

which demolition of a building owned by Amlas were ordered as the said building was constructed on an army land encroached upon by Shri Amla. Later on when there was an agitation against Justice Anand in the Bar of the J & K High Court due to the his relationship with Amlas, when the matter again came before him, he excused himself from the hearing of the case and ordered the matter to be listed before another bench. The case was decided after 11 years during which stay granted by Justice Anand was operating and thereafter the Writ filed by Amlas was allowed by another Judge.

On the basis of the aforesaid facts following important issues were raised;

- a) Whether the Amla family knew or were friendly with Justice Anand or his family when their cases were heard by Justice Anand in the High Court?
- b) Whether a judge having dealt with a case of a litigant in his judicial capacity ought to have entered into a transaction to purchase a plot from the litigant's son in favour of his unmarried daughter?

2. A Judge in his own cause;

The J & K Agrarian Reforms Act 1976 came into force in 1978. Section 4 of the Act provided that all rights, titles and interest in lands which were not cultivated personally in Kharif 1971, shall be deemed to have been extinguished and shall vest in the State, free from all encumbrances with effect from May 1, 1973. Section 9 provided for payment of rent by the tillers of the soil to the State for lands which had been vested in the State. The Act further provided for the tillers to become owners of the land so vested in the State by paying some nominal amount to the State.

The Constitutional validity of the Act was challenges in the Supreme Court by Writ Petitions filed in 1978 and thereafter. The Supreme Court admitted these petitions and by an interim order directed that during the pendency of the petitions no mutations in favour of the tenants shall be affected by the

State. Justice Anand and his brothers also owned 182 Kanals of Agricultural land in Village Khor, Tehsil R.S.Pora in Jammu which was with tenants. They did not file any case before the Supreme Court where other writs had been filed challenging the Act, but filed a writ petition in 1983 (CWP 58/83) in J&K High Court where Justice Anand was a senior judge of the High Court. All these writ Petitions were admitted by another Judge of the High Court on 03.02.1983 with a direction that no mutation shall be affected by the authorities under the J&K Agrarian Reforms Act expropriating the petitioner from the land in question.

On 04/08/1983, the Supreme Court dismissed all the writs filed there and upheld the validity of the Agrarian Reforms Act. Pursuant to this order normally all the writ petitions filed in the High Court on the basis of the Supreme Court petitions like that of Justice Anand should have been taken up by the High Court and dismissed. This however did not happen and for many years Justice Anand and his family continued to enjoy the fruits of the Stay order of the High Court and continued to act as the landlords and collect rent from the tenants. In 1984, Justice Anand became the Acting Chief Justice of the J & K High Court , and in 1985 became the regular Chief Justice of the J&K High Court. On 03.05.86 a local advocate A.K.Sawhney filed an intervention application (CMP 801/86) in Justice Anand's Writ Petition and pointed out that the Agrarian Reforms Act had already been upheld by the Supreme Court. He prayed that the stay be vacated and the land be resumed by the State authorities. On 13.8.87 after a year the Writ Petition was disposed of in view of the Supreme Courts order.

After the disposal of the petition, the stay order of 1983 should have been automatically vacated and the land should have stood automatically vested with the State according to Section 4 of the Act, and rent would have immediately become payable by the tenants to the State till such time as the tenants paid some nominal levy to the State to have the land mutated in their favour. It was alleged that even after the disposal of their petition in 1987,

Justice Anand and his brothers continued to receive rent from some of their tenants and are continuing to do so till date.

On the basis of the above facts following issues were raised.

- a) Whether a sitting judge instead of filing a petition in the Supreme Court where similar petitions were pending should have filed it in a court of which he was a member?
- b) Whether the stay order granted by the High Court was in wider terms than the order of the Supreme Court, to the benefit of Justice Anand. Whether the High Court even stayed the vesting of the land in the State, thus enabling the landlords to collect the rents, while the Supreme Court had merely stayed the mutation in favour of the tenants?
- c) Whether and why the Stay order of the High Court continued for 4 years after the dismissal of the petitions by the Supreme Court?

3. The third set of allegations, involving a suit filed by Mrs. Anand and her mother, Smt. Sushila Devi, in Madhya Pradesh have been written about in the magazine Frontline as well;

Proceedings for the resumption of more than 100 acres of land given to Mrs Anand's father and grandfather took place before the Revenue Court from 1965 to 1973. The order sheet of the Revenue Court shows that Mrs. Anand's cousin, who according to her had been looking after the land on her behalf, had been appearing in the proceedings since the beginning. The order sheet also shows that in 1972 notice was sent to Smt. Sushila Devi and her reply had also been received. Her handwritten reply was also available. It was thereafter that the revenue authorities resumed the land in 1973. Mrs. Anand and her mother filed a suit in the Civil proceedings. Could Justice Anand have been unaware of the suit and its contents when

his wife and mother in law were residing with him and the first notice in case was sent on behalf of his mother in law from his official "Chief Justices residence" in Madras. The notice contained a totally unnecessary averment, "That Smt. Mala Anand is married to Dr. A.S.Anand, Chief Justice of Madras High Court (formerly Chief justice of J&K High Court).

The record of Revenue Court was never produced before the trial Court, and a Tehsildar made a statement that no such record is available at the Tehsil Office. The fact that photocopies of the order sheet and reply of Smt. Sushila Devi are available suggests that these were deliberately suppressed from the Trial Court. The High Court thereafter recorded a finding that because there is no record of the revenue court proceedings, therefore they were illegal and of no effect. No attempt was made by the courts to find out what happened to the record of the Revenue Court.

The Special Leave Petition filed by the State Government in the Supreme Court was withdrawn on the direct orders of the Chief Minister. This appears to be the only case where the Chief Minister has himself ordered the withdrawal of the SLP filed by the State. This was done with great urgency and almost overnight after the first listing of the SLP in the Supreme Court when the matter was referred to a different bench. Suspicions were raised as whether the CM could have done this without the interested party approaching him, as normally the CM is not aware of the fact whether such an SLP had been filed.

4. Allotment of land;

The fourth against Justice Anand was that on 15.05.1985, soon after becoming Chief Justice of J & K, Justice Anand wrote to the then Minister for housing and Urban Development of J & K that he owned no house in Jammu and wanted to construct one and therefore the government should allot him a suitable plot of land at a concessional rate as was done for his

predecessor. In response to this request, the government asked him to swear an affidavit to the effect that he owned no land or house in Jammu. Though in fact Justice Anand owned a substantial share in a large joint family house property in Jammu, he did swear an affidavit dated 05.03.1986 which had the effect of concealing his ownership of a substantial share in his joint property. Subsequently, the State Government on his request allotted him a 2 kanal plot of land at Gandhinagar in Jammu for a nominal amount of Rs. 1,500 (which was supposed to be the circle rate for that land in 1959, almost 30years earlier).

The furnishing of an affidavit in this regard, which conceals Justice Anand's ownership of and interest in his joint family property only compounds the impropriety.

The High Court is supposed to act as a check on the exercise of powers by the State and the Chief Justice heads the High Court. The issue which rises from the abovesaid facts is that with what confidence will any prospective Public Interest litigant approach the Court to challenge such distribution of the largesse, if they know that the Chief Justice have himself sought and become a beneficiary.

The aforesaid serious allegations were raised when Justice Anand was the Chief Justice of India instead of taking any concrete action in respect of the aforesaid allegations the Government appointed him the Chairman of the National Human Rights Commission from where he retired recently.