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No, your Honour

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On September 2, when a single judge of the Delhi High Court directed a beam of moral searchlight at the Supreme Court, the world saw a group of embarrassed brethren trying to ward off the harsh glare.

All that justice S Ravindra Bhat said was that the chief justice of India (CJI) was a "public authority" as defined in the Right to Information Act (RTI) and was thus liable to disclose the assets of his fellow judges if he had the information with him.

Justice Bhat rejected the Supreme Court's contention that the CJI held information about judges' assets in a fiduciary capacity and that disclosing this would be a breach of trust. Thus, the "declaration of assets by SC judges is information under Section 2(f) of the RTI Act." A stirring passage in the judgment — which is what lifts it out of the ordinary — says: "All power conferred on the judiciary, judicial power being no exception, is held accountable in a modern constitution.

Holders of power, too, are expected to live by the standards they set, interpret, or enforce, at least to the extent that the public demands." In short, when politicians have to disclose their assets, why not judges?

After a month of static, the Supreme Court's chief public information officer (CPIO) has now betrayed the court's neutrality by taking two contradictory stands. On the one hand, the court has disclosed to the RTI activist, Subhash C Aggarwal, that the Supreme Court judges had indeed declared their assets to the CJI as per a full court resolution of 1997.

On the other, it has decided to challenge the high court verdict by claiming that the resolution of 1997 "was an in-house procedure developed within the judiciary on the basis of only moral authority, which places it at a lower footing" than the RTI Act, presumably, a full-fledged law on the disclosure of assets.

The petition differs from justice Bhat on the issue of ethics. It alleges that justice Bhat "completely skirted this crucial matter (the technicalities of the law) and has, in fact, delved into realms of abstract principles of essential ethical behaviour of judges and norms of judicial behaviour which were completely irrelevant to decide the basic issue".

The larger bench of the high court may now consider if ethical principles are irrelevant to judicial decisions. If that is the case, one might argue, the Supreme Court should stop listening to the voices of the poor and disadvantaged, since their cases relate to these same principles.

The Supreme Court petition contests the high court verdict on as many as 58 counts. It repeatedly claims that justice Bhat "failed to appreciate" several points of law, that he "travelled far beyond the issues" and was "essentially wrong" in not appreciating the facts.

One might ask: why does it think so when at least three former Supreme Court chief justices, VN Khare, JS Verma and B. P. Jeejeebhoy Bhagwati, have commended justice Bhat's judgment? Ex-CJI Verma, who had moved the 1997 resolution on judges' assets, told a newspaper that Bhat's judgment "made him feel proud." Ex-CJI Bhagwati called the judgment "exemplary and commendable." Neither felt it should have been challenged.

The Supreme Court is also missing a larger point: as the final arbiter of the judicial system, it stands in the position of a justice seeker and judge. The high court bench it is appealing to is subordinate to it; if the verdict goes against the high court, the Supreme Court once more, it will be in the unenviable position of appealing against it to itself. Is this the kind of piquant situation the highest court wants to put itself in?

If Caesar's wife must be above suspicion, the Supreme Court should be seen to be setting an example. On the contrary, it has so far been dragging its feet on the issue of disclosure of judges' assets. The issue is now in the public domain, especially since some bold judges have broken ranks and voluntarily decided to disclose their assets (on the website or in their own

This event has been followed by serious allegations of violations of the Land Ceiling Act by justice PD Dinakaran, chief justice of the Karnataka High Court, and a potential judge of the Supreme Court.

Against this backdrop of growing public suspicions about the higher judiciary's probity, the CJI should, in fact, have addressed the issue by declaring that all judges will declare their assets to the public.

It is, of course, possible to argue that disclosure may lead to harassment of judges. But it is not clear that private disclosures made to the CJI will be investigated for veracity either.

Whichever way one looks at it, the Supreme Court and the CJI would do well to consider all aspects of the issue before making their next move in this regard.