

FORUM FOR JUDICIAL ACCOUNTABILITY

Room No.2, I Floor, 45 Armenian Street, Chennai-600 001.

Ph : 044-25224597, Email – forjudact@gmail.com

17th September 2009

Hon'ble Mr.Justice K.G. Balakrishnan
The Chief Justice of India

Hon'ble Mr.Justice B.N. Agarwal

Hon'ble Mr.Justice S.H. Kapadia

Hon'ble Mr.Justice Tarun Chatterjee

Hon'ble Mr. Justice Altamas Kabir

Supreme Court of India,
New Delhi.

Sir,

Sub: Further particulars with supporting materials
Regarding Mr. Justice P.D.Dinakaran, Chief
Justice of Karnataka.

Ref: Our earlier representation dated 9.9.2009.

We are forwarding further materials that we have received regarding Mr.Justice P.D.Dinakaran's assets and his rather unusual judicial orders.

I. ASSETS & LAND GRABBING

A. Lands at Kaverirajapuram village.

More than 300 acres of land owned by the Judge and his family; partly held in his individual name and that of his wife and two daughters and by the following private companies. Enclosed within these fenced properties are nearly 150 acres of Government and village common land meant for community use.

1. All the Companies were incorporated on 23.08.2001, after Mr. P.D.Dinakaran was appointed as judge of the Madras High Court.

Convenor: R. Vaigai, Advocate

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1. Annual Returns of all 4 companies state that all shareholdings are held by the Directors and their relatives.

Company

Some Directors:

Dear Lands Pvt. Ltd.,
Kaverirajapuram village,
Tiruttani Taluk, Thiruvallur
Dist.

1. Dr. K.M. Vinodhini, wife of Mr. Justice P.D.Dinakaran
2. Mr. J. Williams
(reported to be Mr. Justice P.D.Dinakaran's sister's husband)

Amudham Gardens (P) Ltd.
Kaverirajapuram village,
Tiruttani Taluk,
Thiruvallur Dist.

2. Mr. J. Williams (mentioned as above)
3. Ms. Amudha Dinakaran,
Daughter of Mr. Justice P.D.Dinakaran

Amirtham Gardens (P) Ltd.
Kaverirajapuram village,
Tiruttani Taluk, Thiruvallur
Dist.

1. Dr. K.M. Vinodhini, wife of Mr. Justice P.D.Dinakaran
2. Mr. J. Williams (mentioned as above)
3. Dr. Kingsley Alfred Chandrasekaran
(Brother of Mr. Justice P.D.Dinakaran)
4. Mrs. D.A.P. Kamalakumari Kingsley
(Sister -in-law of Mr. Justice P.D.Dinakaran)

Canaan Gardens Pvt. Ltd.
Kaverirajapuram village,
Tiruttani Taluk, Thiruvallur
Dist.

1. Ms. Amudha Dinakaran,
Daughter of Mr. Justice P.D.Dinakaran
2. Mr.J.Williams (as mentioned above)

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B. Urban Properties:

1. Another property at **Shenoy Nagar, Chennai** was owned by Justice P.D.Dinakaran. He settled the same in his wife Dr.Vinodhini's name in 2001-2002. It is learnt that a loan of Rs.7 lakhs was taken by Dr.Vinodhini in 2002 from Corporation Bank, Anna Nagar, Chennai but was closed in 2004. In the last two years, a huge commercial complex has been built (**photo enclosed – Annexure 6**). Mr. Justice P.D.Dinakaran was seen frequently supervising the construction.

Recent estimates indicate that the cost of construction would be not less **Rs.2.5 crores**.

2. Justice P.D.Dinakaran acquired a residential plot of 4800 sq. ft. at **J-81, Anna Nagar East, Chennai** during 2005-2006 for a total cost of **Rs.90,50,040 lakhs**. The property stands in the joint names of the Judge and his wife Dr.K.M.Vinodini, as per the Certificate of Encumbrance on Property (**Annexure 7**).

Construction of a building with two floors and above is on. By any modest estimate, the cost of construction so far would have been **more than Rs.25 lakhs**.

C. Other Properties:

There are strong reports of possession of extensive lands in other districts of Tamilnadu including the Nilgiris hills. This may be enquired into.

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II. Inappropriate Judicial Orders Pointing to Bias & Corruption

A. In Madras High Court:

The unusual order passed by Mr. Justice P.D.Dinakaran **in (279 ITR page 61)** has already been referred to by us. Mr. Justice P.D.Dinakaran had allowed the Writ Petition, challenging the notice to reopen assessment falsely stating that a concession was made by the Counsel for Income Tax Department. His judgment has now been reversed by an Order dated 22.7.2009 in W.A.No. 766 and 771 of 2005 by the Division Bench presided by Mr. Justice Ibrahim Kalifullah. Relevant facts:

- a). The I.T. Department issued notice to reopen assessment made on the basis of a complaint given by SEBI, regarding ‘insider trading’, alleging that the assesseees had actually sold the shares to benamis at Rs.800/- per share and within one month thereafter, they sold the shares for Rs.5000 per share, who thereafter remitted the entire proceeds to the assesseees. It was thus clear that it was not a simple case of long term capital gain and that income escaped assessment to be taxed as short-term capital gain. The price of the shares sold was to the tune of Rs. 22,53,17,050/- resulting in huge escapement of income chargeable to tax.
- b). Writ Petition Nos. 10607, 10608 and 10628 to 10631 of 2005 were listed for admission on 31.3.2005 before Mr. Justice P.D. Dinakaran.
- c). No prior notice was issued to the Income Tax Department, since in Madras High Court, Writ Petitions are listed for admission exparte.

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- d). The Madras High Court cause list of that date is enclosed, wherein only the name of Counsel for the Petitioner is printed (Items 45- 47).
- e). Yet Mr. Justice P.D.Dinakaran strangely recorded that Counsel for the Income Tax Department '**conceded**' that the impugned orders had been wrongly passed, even as the said counsel who happened to be present in the Court took notice.
- f) At the admission stage itself, the Writ Petitions were allowed and Writ of Certiorari issued.
- g) Judgment dated 31.3.2005 of Mr. Justice P.D.Dinakaran does not disclose the facts of the case, viz., the order of the Income Tax Department was based on the complaint by SEBI, instead merely sets out legal provisions and suddenly says:

“18. Mrs. Pushya Seetharaman, Learned Counsel taking notice on behalf of the respondent, fairly concedes that the objections of the Petitioners were not considered

19. Learned Counsel for the respondent also concedes that the respondent committed an error apparent on the face of the record.”

- h) Writ Appeal Nos. 766 to 771 of 2005 were filed by the Income Tax Department with an affidavit of the Deputy Commissioner of Tax stating “the Writ Petition was allowed at the stage of admission itself without giving the Department an opportunity to file counter or present its argument in detail. We have verified this with our Standing Counsel and she says that she did not concede the matter.”

The Writ Appeals stand allowed now by order dt. 22.07.2009.

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Extracts from the Madras High Court causelist dt.31.03.2005, the judgment reported in 279 ITR 61, the Grounds of Appeal and the Affidavit filed by the Deputy Commissioner of Income Tax are filed as **Annexures 8 – 11.**

B. In Karnataka High Court

i) Cases relating to Vinod Goel

- **W.P. 8094 of 2009** Vinod Goel representing Jantakal Enterprises filed a Writ petition to lift and transport 1,17,800 (one lakh seventeen thousand and eight hundred) metric tonnes of iron ore which according to him was mined in the year 1985.
- 1985** Vinod Goel's mining lease expired. According to him he obtained extension of lease.
- 1993** the mining area was declared a 'reserved forest area' and hence clearance under the Forest Conservation Act was mandatory.
- 1996** Accordingly he applied for clearance.
- 2008** Correspondence for clearance still continued.
- 2009** Vinod Goel asserted that minerals mined by him during 1965-85 were not cleared because there was no market for iron ore of grades less than 62% and 63%. The said mined mineral to the extent of 1,25,000 metric tones was lying in the dump for 24 years. He wanted permission to lift the material in 2009 as there was now a market for it. Since the ore was mined prior to 1985, the Forest Department could have no objection for the same.

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02.03.2009 Chief Justice P.D.Dinakaran allowed the Writ Petition by order dated 02.03.2009 permitting the said Vinod Goel to lift and transport 1,17,800 metric tones of iron ore from forest land.

ii) Order contrary to earlier order

In W.P. No. 12028 of 2008, the Petitioner M/s Jothi Brothers was granted mining lease in Forest Land mistakenly treating it as Revenue land. The Division Bench comprising of Chief Justice P.D.Dinakaran and Justice V.G.Sabahit held that such mining lease was invalid and that there was collusion between the mining lessee and government officials to treat forest land as revenue land and obtain mining lease. The court not only directed an enquiry but also directed that damages have to be collected from the mining lessee.

However, in W.P.No.12028 of 2008, in an identical fact situation Vinod Goel obtained a very curious order.

A PIL was filed for cancellation of mining lease in S.NO.97 of Rajathadipura Forest Area in Tunkur District originally granted to one B.D. Hanuman Singh and subsequently transferred to Vinod Goel. The mining site was declared as a Forest in the year 1939 itself. As per Sec.2 of the Forest Conservation Act, 1980 no forest land can be diverted for non-forest use without the prior approval of the Ministry of Environment and Forest, Government of India. However the State Government granted mining lease treating it as revenue land and not forest land.

But in this case the very same Division Bench headed by Chief Justice P.D. Dinakaran directed Vinod Goel to give a representation to the State Government for grant of alternate land to an extent of 71.20 acres and directed the government to consider the representation and accord preference to the said Vinod Goel over other mining lease applications.

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iii) Constituting a Full Bench to overrule a Div. Bench order when Supreme Court was considering validity of Div. Bench's order

- 1992** Several persons filed application for grant of mining lease from the State of Karnataka.
- 17.02.2003** Even as these applications were pending, the State of Karnataka issued a notification dated 17.02.2003 de-reserving all lands earlier reserved by it in the year 1958 under the Mines & Minerals (Development & Regulation) Act, 1957.
- 15.03.2003** Notification calling for application from the general public.
- Writ petition Nos.18445 of 2003 & batch were filed challenging the notification dated 15.03.2003 on the ground that the application for mining leases were not considered by the Government on the wrong presumption that they were reserved, though the Act has no provision for reservation. They objected to the fact that applications of persons who applied pursuant to the notification dated 15.03.2009 were being processed and given precedence over their applications which were pending since 1992.
- 27.11.2006** Single Judge allowed Writ Petitions directing that applications should be considered as per the date of application and applications given pursuant to notification dated 15.03.2003 will be considered thereafter.
- 12.03.2009** Division Bench confirmed the order of Single Judge and the Writ Appeal Nos.850 and 1353 of 2007 were dismissed.
- In Supreme Court SLP Nos. 12100-12101 of 2009 were filed against the Division Bench order. Notice was issued but stay of operation of the order dated 12.03.2009 refused. SLP is still pending.
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-- Other writ appeals which were filed against Single Judge's Order were posted for admission. When these Writ Appeals came up for admission before a Division Bench consisting Chief Justice P.D.Dinakaran and Justice V.G.Sabahit, the Court was informed that the Writ Appeals were covered by the order dated 12.03.09 in W.A. No.850 of 2007 and Batch. The Court was also informed that the State Government did not file SLPs against the order and the SLPs filed by private parties were pending.

-- Chief Justice P.D. Dinakaran, however, referred the writ appeals to a Full Bench. He thereafter constituted a Full Bench headed by himself.

28.08.2009 The Full Bench overruled the order dated 12.03.2009 of the Division Bench in W.A.No.850 and 1353 of 2007 and held the applicants who filed applications prior to 15.03.2003 will be treated as having filed the applications on 15.03.2003 and could claim no priority.

-- The merits of the individual writ petitions were to be decided by the Division Bench.

28.08.2009 Same day, after the Full Bench order was pronounced, Chief Justice P.D. Dinakaran listed the entire batch before a Division Bench presided over by him and dismissed the entire batch.

It is learnt that the copy of the Full Bench Order and the Division Bench Order are yet to be received.

By this unusual procedure, Chief Justice P.D.Dinakaran through the Full Bench overruled the Division Bench's decision, even as the latter's correctness was being considered by the Supreme Court.

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There are strong rumours that by this unusual process, a few business groups have been hugely benefitted.

Some of the judgments of the Karnataka High Court referred above are enclosed as Annexures – 12 to 14.

There is a spate of information that is pouring into our Forum alleging corrupt practices both moral and economic by Chief Justice P.D.Dinakaran. However, we have desisted from listing all of them without verifying their credibility. But we do feel that the reputation of Chief Justice P.D.Dinakaran definitely does not make him worthy of consideration for appointment to the Supreme Court and his addition will only diminish the image of the great institution.

The Supreme Court enjoys its powers because of the immense faith reposed by our people. Their confidence will be rudely shaken if a judge who has grabbed public property and has compromised public interest will be appointed to the Supreme Court.

We therefore request you not to appoint Mr.Justice P.D.Dinakaran to the Supreme Court of India and to initiate an enquiry into his conduct.

Yours faithfully,

sd/-
R. Vaigai

sd/-
Anna Mathew

sd/-
Sudha Ramalingam

sd/-
Geeta Ramaseshan

sd/-
D. Nagasaila

sd/-
S. Devika

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