

## **All judges have filed assets declaration, RTI applicant told**

J. Venkatesan 6/10/09

All sitting judges of the Supreme Court have filed declarations of assets in accordance with the May 7, 1997 resolution, the court Registry informed RTI applicant Subash Chandra Agrawal on Monday.

In a brief communication sent to him, Additional Registrar Raj Pal Arora said an appeal was filed before a Division Bench of the Delhi High Court against a single judge's verdict dated September 2. The letter said the information was being provided in compliance with the order without prejudice to the rights and contentions raised in the appeal. All rights in relation to appropriate interim relief would be applied "as and when the occasion or circumstances require."

Mr. Agrawal said the information was provided five days after the September 30 deadline. He said law should be equal for all.

In its appeal, the Registry said: "The single judge failed to appreciate that for anything to be constituted as 'information' it must be in the 'public domain' and should be held by a 'public authority' under the mandate of law; the law should prescribe that something must be done or not be done and must be accompanied by sanction for its non performance. The May 1997 resolution contains no such sanction.

"The single judge failed to appreciate that the enquiry embarked upon by the single judge on the position of judges under the Constitution was neither necessary nor relevant in determining whether the respondent had a right to information; the single judge failed to appreciate that the lack of clarity of what constitutes assets and investments renders the entire system unworkable till such time that there is a legislative mechanism dealing with the declaration of assets of judges. All that the single judge states is that this argument 'does raise some concern' but does not go any further.

"The single judge failed to appreciate that the declarations which are made by judges cannot be said to be 'public acts' in the discharge of their duties and as such the act is not applicable to private and personal actions of public functionaries which are done without any sanction of law. It is submitted that the resolution dated May 7, 1997 is a voluntary in-house procedure which entails no penal consequences or sanction and therefore cannot be the basis for any right under the Right to Information Act."

Further, the single judge failed to appreciate that the information sought for "is exempt under Section 8(1) (e). The declarations made to the Chief Justice of India are in his fiduciary capacity as paterfamilias of the judiciary. The Chief Justice of India is the head of the judiciary and the declarations if any are made voluntarily to the Chief Justice of India in his fiduciary capacity. In such circumstances, the information sought for is not 'information' under the purview of the Act."