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Judicial power accountable to Constitution: High Court

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The Delhi High Court on Wednesday held that all power — judicial power exercised by Supreme Court judges being no exception — is accountable to the Constitution.

Rejecting the contention that the declaration of assets by Supreme Court judges as per the 1997 resolutions was based only on convention and that such information was kept confidential, Justice S. Ravindra Bhat said, "Holders of power are expected to live by the standards they set, interpret, or enforce, at least to the extent their office demands."

The judge was disposing of a writ petition filed by the Supreme Court Information Officer against an order of the Central Information Commission asking him to furnish to applicant Subash Chandra Agarwal information in the possession of the Chief Justice of India on the assets of the judges.

The judge said the 1997 resolutions formed the standards of ethical behaviour of judges of the higher judiciary. "Independence and impartiality of judges are core judicial values. That these canons are an inalienable part of what a judge is and how he or she is expected to behave is not doubted."

The court noted that the declaration of assets by the judges was part of the codification process, "yet such ethical forms are neither static nor are [these] in a vacuum."

The judge said, "The introduction of the stipulation of declaring personal assets is to be seen as an essential ingredient of contemporary acceptable behaviour and establishing a convention."

On the subsequent developments, viz. the decision of the Full Court to place the information on declaration of assets by the judges on the Supreme Court website, after modalities were duly worked out, Justice Bhat said: "This judgment does not wish to comment on those developments; the findings in this case, should place everything in their legal and contextual perspective."

The court said the 1997 resolutions and the subsequent decision taken in 1999 were aimed at arriving at common solutions to grapple with problems that beset legal system of the country as a whole. "The resolutions and the decision are taken seriously, and with the intention of implementation. In these circumstances, it would be robbing the solemnity of the resolutions adopted in 1997 to say that they were made with the expectation of not being implemented."

On the contention that the office of Chief Justice of India and the Supreme Court Registry were independent entities and that the CJI's office was exempt from the RTI Act, Justice Bhat said: "What this court cannot ignore, regardless of the varied roles of the CJI, is that they are directly relatable to his holding the office of CJI and heading the Supreme Court. There is no clue in the provisions of the RTI Act that the office of CJI is exempt; on the contrary, internal indications in the enactment point to even the President of India being covered by the provisions."

The court said: "To conclude that the CJI does not hold asset declaration information in his capacity as CJI would also be incongruous since the 1997 resolutions explicitly state that the information would be given to him."

Rejecting the argument that the CJI was holding such information in a 'fiduciary capacity', Justice Bhat said: "Judges of the Supreme Court hold independent office, and there is no hierarchy in their judicial functions, which places them on a different plane than the CJI. If viewed from this perspective, it is immediately apparent that the CJI cannot be a fiduciary vis-A-vis judges of the Supreme Court; he cannot be said to have superior knowledge, or be better trained, to aid or control their affairs or conduct."

On the question "whether the lack of clarity about the details of asset declaration and about their details, as well as lack of security renders asset declarations and their disclosure unworkable," the court said: "These are not insurmountable obstacles; the CJI, if he deems it appropriate, may in consultation with the Supreme Court judges, evolve uniform standards, devising the nature of information, relevant formats, and if required, the periodicity of the declarations to be made."

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