

Quiet burial for judge scam

Ramesh Vinayak and Pawan Sharma Chandigarh, January 18, 2010

It was no coincidence that three independent inquiries conducted by the police, the CBI and an in-house judges' panel into the cash-at-judge's doorstep case had a common conclusion: Justice Nirmal Yadav of the Punjab and Haryana High Court had received an unaccounted cash packet of Rs 15 lakh in mid-August of 2008.

Yet, it took only a four-line opinion from then Attorney General of India for the Union Law Ministry and Chief Justice of India KG Balakrishnan to overrule inquiry reports of the CBI and the judges' panel and give a clean chit to Justice Yadav and subsequently reject the CBI's request for sanction to prosecute her.

In a communication (D.O. NO 2286/LS Office/09 dated 07/12/2009) to the CBI director — accessed by the HT — the union ministry of law and justice quoted the A-G's short but stark opinion that “there is not a shred of evidence with the said alleged offences were committed by Sanjiv Bansal, Ravinder Singh and Nirmal Singh in conspiracy with Justice Yadav”.

It added: “The matter has been discussed by the Hon'ble minister for law and justice with the CJI, who had observed that no action was required for the present.”

Result: the high-voltage scandal is poised for a quiet burial 16 months after it broke, with the CBI tamely filing a case closure report at the Chandigarh court on December 21, 2009.

The sequence of events pieced together with the help of the official documents accessed by HT reveals a carefully choreographed cover-up at the highest levels of the government and judiciary to let the judge off the hook.

The secretive manner in which the CBI and in-house judges' panel were over-ruled calls into question the professional competence of the country's premier investigating agency and also the credibility of the only in-house mechanism available with the judiciary to address issues of judicial corruption.

The judicial panel consisted of two chief justices of high courts and one judge of high court. Justice H.L. Gokhale, then chief justice of Allahabad High Court, headed it.

Also, there is a wider and intriguing question: what inputs formed the basis for A-G's 'no-shred-of-evidence' opinion considering the wealth of evidence that the CBI and the Gokhale committee had relied upon to nail Justice Yadav.

Justice Yadav has consistently denied all allegations and said on November 8, 2009 that a Supreme Court panel of five senior-most judges (collegium) had given her a clean chit.

“Both the CBI and the CJI have cleared my name. I am innocent. Please let me be at peace,” Justice Nirmal Yadav told HT Sunday night.

Asked about the status of her transfer to the Uttarakhand High Court, she said: “The file is with the Rashtrapati Bhawan.” She has been without judicial work since September 2008.

After the scandal hit the headlines on August 13, 2008, the Chandigarh Police and subsequently the CBI and the Gokhale Committee worked for four months to get to the bottom of the case that had shaken the country's judiciary.

The CBI made out a case for prosecuting Justice Yadav under the Prevention of Corruption Act.

The Gokhale Committee, in its 92-page report, said: "There is substance in the allegations and the misconducts disclosed are serious enough for initiation of proceedings for removal of Mrs. Justice Nirmal Yadav, Judge, Punjab and Haryana High Court."

Moving with lightning speed, the Chandigarh Police unraveled the case in barely nine days. It arrested the key accused — Sanjiv Bansal, Parkash Ram, Nirmal Singh and Rajiv Gupta — and got all mobile call records.

It is equally intriguing how the CJI went by the A-G's opinion over his in-house panel's findings, which were the basis of his letter seeking Justice Yadav's explanation.

In fact, Justice Balakrishnan had, on December 25, 2008, shot off a two-page confidential letter to Justice Yadav, quoting seven-point indictment in the Gokhle report. Even the grounds on which the apex court collegium overruled the Gokhale panel remain unknown and are not part of the CBI report.

In an interview to HT on Sunday, Balakrishnan said, "The matter is between the CBI and the government. Please ask them. I cannot share the confidential information which I have in the matter related to judges committee and collegium etc."

In her four-page hard-hitting response to the CJI on January 7, 2009, Justice Yadav not only disputed the Gokhale panel findings, she added a new dimension to the controversy by alleging that the Rs 15 lakh was meant for her fellow high court judge Justice Nirmaljit Kaur at whose residence the said packet was delivered on August 13.

She even alleged that a Supreme Court judge and another high court judge were present at Kaur's residence when the money was delivered. Justice Yadav's startling allegations had the potential of leading to opening a can of worms.

It's this fear that apparently forced the top government and judicial authorities to prepare the ground for giving the case a quiet burial.

Even though the CBI has acquiesced to the denial of prosecution by the union law ministry and filed a case closure report, the last word on the case has not been heard yet.

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