



Procedure, principle

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No man is permitted to be judge in his own cause,” is one the basic principles of natural justice (Nemo iudex in causa sua). It is a principle that could be put to the test in the world’s most powerful court. For the Supreme Court is challenging the Delhi high court judgment holding that the Right to Information Act applies to the Supreme Court Chief Justice’s office, raising the possibility of the appeal eventually reaching the apex court itself.

The initial reluctance of Supreme Court judges to make their assets public formed the basis for this case. Many judges felt that this would expose them to slander and weaken the impartiality their office must at all times exude. But political and public sentiment, not to mention divergent opinions within the higher judiciary itself, spurred Supreme Court judges to finally agree to post their asset details online. Their contention against the high court verdict, however, is that it seems to make this voluntary declaration compulsory. In its appeal, the apex court also criticises the high court for delving into “irrelevant” issues like “the role of judges in society”. But does not deciding whether the chief justice’s office is exempt from the Right to Information Act hinge on quantifying the privileges their lordships are entitled to? The Supreme Court also wants to know if “all” the information available to the chief justice can be publicly accessed. It would be an important clarification to know, for instance, whether the high court ruling covers more than judicial assets and also collegium notings.

There have been many voices in praise of the Delhi high court judgment, including former Chief Justice J.S. Verma, who presided over the 1997 Supreme Court resolution that judicial assets would be declared to the chief justice. How the case goes from here is likely to have ramifications beyond simple procedural issues of how declarations of judicial assets are filed or made available to the public. The higher judiciary in India has been a key, and importantly credible, participant in bringing about institutional transparency and accountability. It is in this context that issues of transparency with regard to judges will be assessed.