

# Irony — SC was one that forced MPs to come clean

**Seema Chishti** Posted: Aug 04, 2009 at 1303 hrs

**New Delhi** Behind the angry chorus of the political establishment today —against judges' assets not being made public — and the judiciary's apparent reluctance is a telling reversal of roles.

For, six years ago, the government and the legislature were trying to restrict information about their assets and it was the Supreme Court that pushed for transparency and struck down that bid.

It was the legislature and the government's view that it was necessary for people's representatives, not before getting elected, but only after their election, to disclose information regarding assets, liabilities and criminal charges. The Court struck this restricting amendment as "illegal and null and void" and made a strong case for "public scrutiny" as the best means of getting the "cleanest" people elected.

That landmark judgment on March 13, 2003, laid the ground for the Election Commission to mandate that all those aspiring to be in public life — contesting elections — declare their assets and liabilities (apart from furnishing other information) in the public domain.

While now it's the view of the Supreme Court that assets and liabilities of judges should be made available but to only the Chief Justice, then a three-judge bench of the Supreme Court stretched the fundamental right to freedom and expression (Article 19) to include the right of the common public to know more about those in public life.

All three judges — Justice M B Shah, Justice P V Reddi and Justice D M Dharmadhikari — wrote separate judgments in PUCL and another vs the Union of India but concurred that "the attempt of the Court should be to expand the reach and ambit of the fundamental rights by process of judicial interpretation and it has been done by this Court consistently."

Said Justice Shah: "From this information, it would be to some extent, easy to verify whether unaccounted money is utilized for contesting election and whether a candidate is contesting election and whether unaccounted money is utilized for contesting election for getting rich or after getting elected, to what extent he became richer. Exposure to public scrutiny is one of the best known means for getting clean and less polluted men to govern the country..."

Justice Shah also invoked earlier judgements of the Supreme Court, citing how in a ruling (in a matter between the State of UP and Raj Narain and others) in 1975 the court had observed: "The people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries..."

Said Justice P Venkatarami Reddi, taking an even broader view: "It must be remembered that the concept of freedom of speech and expression does not remain static. The felt necessities of the times coupled with experiences drawn from the past may give rise to the need to insist on additional information on the aspects not provided for by law...The right to information should be allowed to grow rather than be frozen in time."

"The Election Commission could ask politicians to make this information public only after the Supreme Court interpreted fundamental rights in such an enlightened way," said Chief Information Commissioner Wajahat Habibullah. "The courts must decide how this right to know has to apply to them."

For Justice J S Verma, the matter isn't so complicated. A former Chief Justice of India, he submitted his assets to the Registrar General a few days after being sworn in in March 1997. "I would be happy if my assets and liabilities are made public..that is the right way," he told The Indian Express today.

Verma, within days of assuming office as Chief Justice and after having declared his assets, succeeded in getting all judges of the Supreme Court and High Courts to pass a unanimous resolution to make their assets and liabilities public. He even wrote to three Prime Ministers, Inder Kumar Gujral, A B Vajpayee and Manmohan Singh (2005), urging lawmakers to "formalize the in-house procedure to a suitable procedure with legal sanction...which is necessary for independence of the judiciary in all the facets."

[http://www.expressindia.com/story\\_print.php?storyId=497769](http://www.expressindia.com/story_print.php?storyId=497769)