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12/4/07

To,
Shri A.P.J. Abdul Kalam
President of India
President's Estate
New Delhi

Subject: The proposed transfer of Justice Jagdish Bhalla to Chhattisgarh High Court and his proposed appointment as acting Chief Justice there

Dear Rashtrapatiji,

I have been writing to you regarding the serious charges against Justice Jagdish Bhalla of the Lucknow bench of the Allahabad High Court and the inappropriateness of his proposed elevation as Chief Justice of Kerala. I now understand that because of your forthright stand on this issue, the proposal to elevate him as Chief Justice of Kerala has been dropped and instead the collegium has now recommended his transfer as a judge of Chhattisgarh High Court with a further proposal to appoint him as the acting Chief Justice there.

It seems obvious that a person who has been found unfit to be appointed Chief Justice of a High Court cannot and should not be appointed acting Chief Justice of another High Court where he will be enjoying the powers and discharging the functions of the Chief Justice. There is nothing in the Constitution which makes it obligatory to appoint the seniormost judge as the Chief Justice. Article 223 dealing with this says, "When the office of the Chief Justice of a High Court is vacant or when any such Chief Justice is by reason of absence or otherwise, unable to perform the duties of his office, the duties of the office shall be performed by such one or the other judges of the court as the President may appoint for the purposes".

It may be noted that Art. 223 neither requires the seniormost judge to be appointed as Chief Justice, nor does it require the President to consult the Chief Justice of India for the appointment of the acting Chief Justice. The Charges against Justice Bhalla are so serious that they need to be properly investigated and action taken against him under the prevention of Corruption Act. Meanwhile, he should not be assigned judicial work. In any case he must not be appointed Chief Justice or be allowed to act as one.

In these circumstances I request you to use your good offices to prevail upon the government to at least ensure that Justice Bhalla is not allowed to act as Chief Justice of any High Court.

With warm regards,

SD/-
(SHANTI BHUSHAN)

Copy to:
The Prime Minister of India
7 Race Course Road
New Delhi