

JUDICIAL CORRUPTION

MY LORDS, THERE'S A CASE AGAINST YOU

Former Union law ministers are spearheading a campaign against sitting judges they accuse of being corrupt. What is the higher judiciary doing to clear itself of these grave charges?

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The campaign by some senior lawyers and former law ministers who have questioned the integrity of sitting high court judges is set to ratchet up the growing confrontation between the legislative and the judicial arms of the government. Former Union law ministers Shanti Bhushan and Ram Jethmalani are leading the battle against what they claim are corrupt practices in the highest echelons of the judiciary.

Bhushan has categorically condemned the rot he feels has set in the judicial system. "The judiciary of this country is not merely unaccountable, but corrupt and brazenly so," he wrote in a letter to President APJ Abdul Kalam on December 17. Bhushan has demanded that the President initiate impeachment proceedings against Justice Jagdish Bhalla of the Lucknow Bench of the Allahbad High Court. On December 14, a Supreme Court (SC) collegium recommended that Justice Bhalla be appointed the Chief Justice of the Kerala HC.

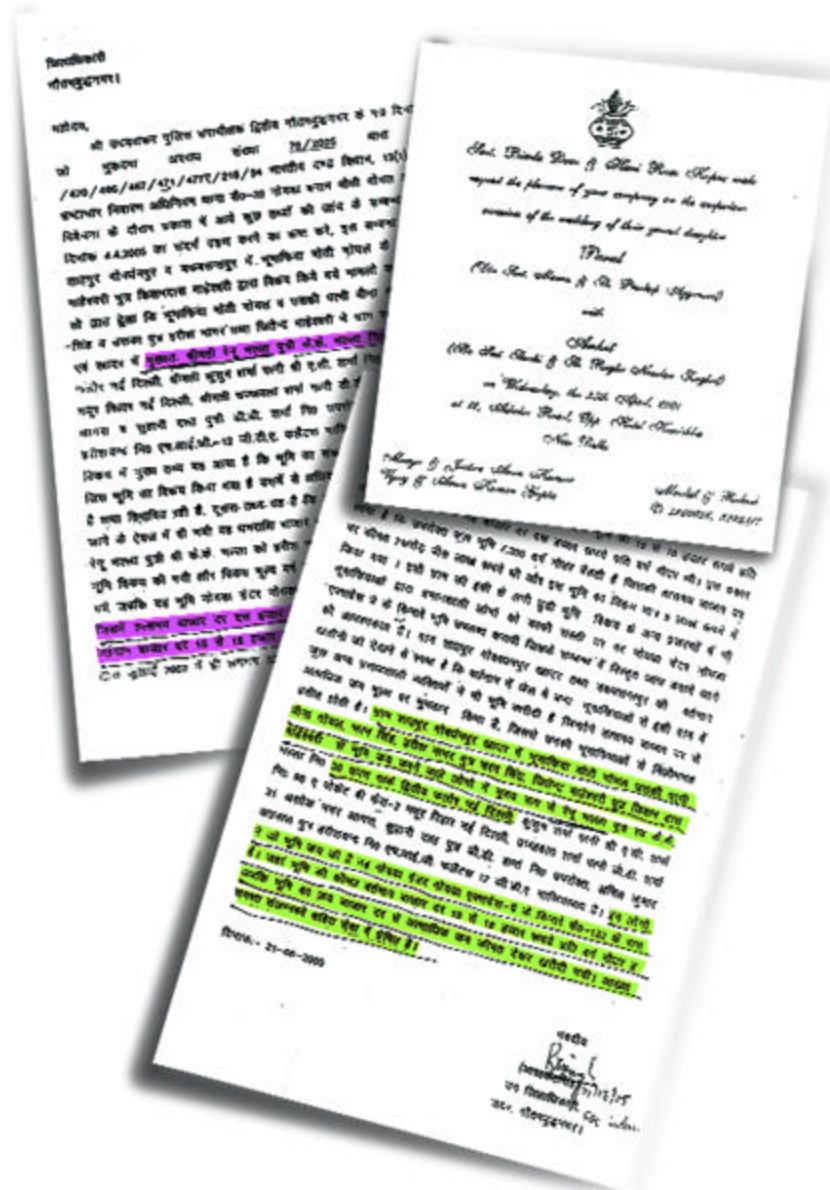
Bhushan and Jethmalani, along with noted lawyers and former justices, including Rajendra Sachar, Indira Jaisingh and Hardev Singh, have formed the Committee on Judicial Accountability (COJA) and presented documents to the Chief Justice of India (CJI), YK Sabharwal, to support their complaint against the sitting judges. COJA complained to the CJI on July 11 that Justice Jagdish Bhalla had amassed several illegal properties in the name of his wife and other close relatives. Justice Vijender Jain, the former senior Judge in the Delhi High Court, who was recently appointed the CJ of Punjab and Haryana HC, is also in COJA's line of fire.

By questioning the integrity of Justices Bhalla and Jain, Bhushan has thrown open the much larger question of judicial accountability. (See interview) "Leave aside taking any action against corrupt judges like Justice Jagdish Bhalla and Justice Vijender Jain, the CJI has been actually avoiding even properly investigating charges against them," says Bhushan. According to documents produced by COJA on 21 July 2003, Renu Bhalla bought a 7,200 sq. metre plot near the Noida-Greater Noida expressway. On 28 March 2005, Uday Shankar, dsp, Gautam Buddha Nagar (Noida's official name) submitted a report to the area dm in which he states that the sellers of the plot belong to the "land mafia". In an enquiry submitted to the dm on 26 June 2005, RK Singh, the area sdm, also described the sellers as belonging to the "land mafia". According to the two reports, the plots constituted a portion of the gram samaj (joint village property) land, illegally grabbed by the "land mafia". (All the documents relating to the transaction are in possession of Tehelka)

The SDM's report says that at the time of the transaction, the plot was worth Rs 7.20 crore in the open market, whereas Renu Bhalla paid Rs 5 lakh for it. The two reports also state that the sellers of the plot have been charged in several criminal cases, and had sold plots to several influential people to curry favour with them. Renu Bhalla is the wife of Justice Jagdish Bhalla.

Bhushan has also drawn attention to the July 2005 draw of lots for allotment of plots in Sector 44 in Greater Noida. When the computerised draw threw up several influential names, a few people approached the Allahabad HC alleging foulplay. In October 2005, the HC decided that the case

warranted a fresh draw of lots and ordered a cbi inquiry into the scam. Among those who had been allotted plots in the scrapped list were Aarohi Bhalla and Sheeba Sabharwal. Aarohi Bhalla, who is the son of Justice Bhalla, was allotted plot number f-52, while Sheeba Sabharwal, daughter-in-law of the CJI YK Sabharwal was allotted plot number f78. In November 2005, the Supreme Court stayed the Allahabad HC judgement, putting the cbi enquiry and the HC's order to hold a fresh draw of lots on hold.



Admissible in court? Documents furnished by COJA against the justices

Members of COJA have offered to discuss the matter in person with the CJI but they say that they are still waiting to hear from him. Five months after their initial request, they sent another application to the CJI in November. This time they sought his permission to register an FIR against Justice Bhalla, claiming that their initial evidence was enough to register an offence against him under the Prevention of Corruption Act.

"The CJI did not even call us to hear our point," says Bhushan. "I don't know why Justice Sabharwal is shielding Justice Bhalla!" Bhushan is equally critical of Justice Vijender Jain.

Justice Jain, who took oath as the new CJ of Punjab and Haryana HC in November, had to endure many delays before he could be appointed to the post. The CJI had to make three efforts to promote Justice Jain. A collegium headed by the Chief Justice of India first recommended Justice Jain's name for the post in July. However, President APJ Abdul Kalam returned the file, causing a minor embarrassment to the CJI and the Union government. When the collegium reiterated its recommendation through the government in November, the President had to sign the file.

Earlier in May, a proposal by the CJI to make Justice Jain CJ of the Maharashtra HC was stonewalled by a judge in the three-member collegium who questioned Justice Jain's integrity. The member on the panel cited a complaint made to former CJI RC Lahoti against Justice Jain in January 2005. The CJI revived the proposal a month later, but again a judge on the collegium opposed his appointment. Finally, a fortnight later, in July 2006, the CJI made his third attempt to promote Jain, this time to the Punjab and Haryana HC.

This time around, to address dissenting voices, the CJI also consulted other SC judges who happened to be former chief justices of the Delhi High Court. According to reliable sources, Justice Jain's former seniors also questioned his integrity. However, on the basis of a majority, the proposal to promote him was forwarded to the Union government for the President's assent.

A major hurdle in promoting Justice Jain continued on page 8 continued from page 6 was a complaint by one Subhash Agrawal who approached then CJI RC Lahoti in January 2005 with the complaint that Justice Jain had violated the code of conduct for judges. Agrawal claimed that Justice Jain gave a judgement in favour of someone with whom he had "family relations". He produced a copy of the invitation card of the litigant's granddaughter's wedding, held in April 2001. According to the card, the venue of the wedding was the official residence of Justice Jain. (Tehelka has obtained a copy of the wedding card from the Central Information Commission). In November 2004, Justice Jain, hearing an appeal, decided a civil suit in favour of the person who had held his granddaughter's wedding at his official residence.

When there was no response to his complaint in October 2005, Agrawal approached the SC to find out the status of his complaint under the RTI Act. He was told that his complaint was in the relevant HC file. Not satisfied, Agrawal approached the Central Information Commission. On the commission's insistence, the SC finally told Agrawal that his complaint had not actually been forwarded to the HC, as the SC has "no administrative jurisdiction" over high court judges. Therefore, the complaint was pending before the CJI, YK Sabharwal. The commission asked the CJI to act on the application. The CJI finally settled the complaint, saying he found no merit in it. When Agrawal asked for reasons behind the decision, he drew a blank.

It's not just Bhushan who feels the need to bring about accountability and transparency in the judiciary. Janata Dal (U) president Sharad Yadav says the issue will be discussed when the Judicial Accountability Bill is tabled in Parliament. "When the government tables the bill, all its aspects will be discussed," Yadav told Tehelka.

CJI YK Sabharwal could not be reached for his comments. Despite conciliatory notes from him there are all indications that the clamour surrounding judicial misdemeanour and the demand for greater accountability will only increase in the days to come.

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