

TEHELKA CLARIFIES

The smears. And the facts about the Bhushans

Last week, our cover story got some things wrong. **Rohini Mohan** sets the record straight



LAST WEEK, TEHELKA did a cover story on lawyers Shanti and Prashant Bhushan — *The Legal Samurai* (30 April). Regrettably, while detailing the controversies swirling around them, we got facts wrong on three key counts. This, unfortunately, has added to the cloud of misinformation and prejudice around the Bhushans. This was not our intention. We wish to set the record straight.

Like much of the media, we had misreported that Shanti and his other son, Jayant, had received two plots in Noida at rates far lower than their cost, and that Shanti had not mentioned this land when he declared his assets as a member of the Lokpal Bill drafting committee. To the contrary, Bhushan senior had indeed declared this asset alongwith others.

A lot of the misinformation around this issue had arisen out of the media's interpretation of former additional solicitor general Vikas Singh's statements. Singh was also an applicant for plots under the same scheme. He told the media that there had been no transparency in the allotment procedure and that he had been fighting this issue with a petition in the Allahabad High Court. Given the pace of events and statements and counter-statements on television shows, it is difficult now to trace the genesis of this, but in a short while it became the accepted truth that the Bhushans had got plots worth Rs 15-20 crore for Rs 35 lakh.

What nobody knew or bothered to highlight was that Singh's petition was not in public interest. In his petition, he had complained that his own allotted plot was in a bad location (Sector 162) while some "favoured persons" had received plots in a location much closer to Delhi. Some persons had been allotted plots earlier near Sector 125, a better spot, 10 km away. He prayed for an allotment of his choice. Alternatively, he asked that if he was not given a better plot, all the allotments be cancelled and the plots be auctioned instead. Clearly, Singh was invested in the outcome of the petition and it could not be counted as a PIL, as the media was reporting.

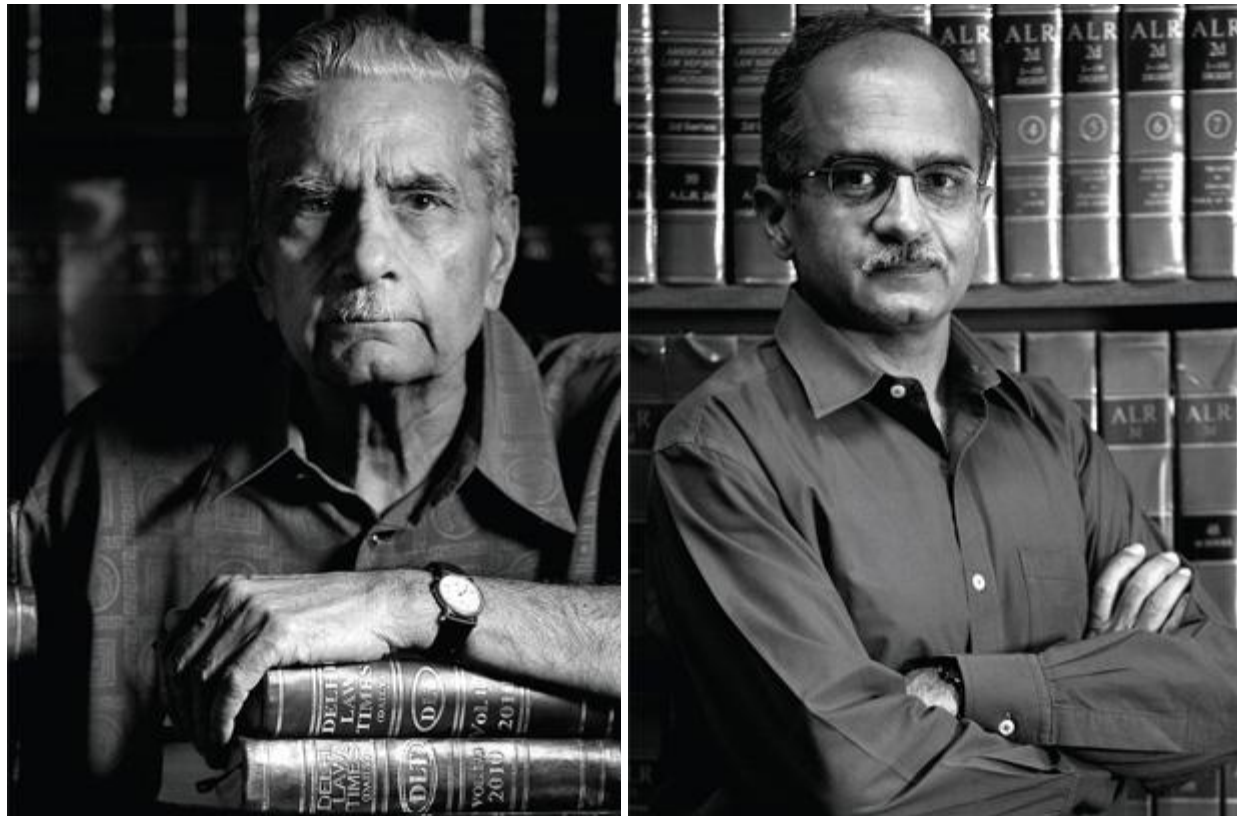
Related

[The House Of Bhushan](#)
['Half Of The Last 16 Chief Justices Were Corrupt'](#)
[Office for Profit: A Stink You Should Smell](#)

Singh had also filed his case on 13 April — *after* the Bhushans had been nominated into the Lokpal Bill drafting committee. Moreover, Singh's petition had been dismissed by the high court on 16 April. When Singh first raised this controversy on 20 April, he did not tell the media that his petition had already been dismissed. Confronted by this omission later, he defended it saying he had not received the order dismissing his petition.

The media had assumed that the "favoured persons" were the Bhushans. However, the Bhushans too had been allotted farm plots within a kilometre of the "poor locality" of Singh's plot. What's more, they had applied for the plots 19 months before Singh but were allotted the plots at the same time and at the same rate of Rs 3,500 per sq metres. Crucially too, the Bhushans had responded to an open advertisement about the plots in a newspaper. Many asked if there could have been a conflict of interest in accepting this land as Jayant Bhushan was the lawyer appearing against the UP government in the Mayawati Statues case and Prashant and Shanti Bhushan were appearing against Mayawati in the Taj corridor case.

However, there was clearly no conflict of interest because Chief Minister Mayawati had no discretionary power over the allotments. Also, the Bhushans ended up with plots, like Singh's, though they had applied much earlier. So, in all the noise that ensued, on hindsight, it is unclear how the Bhushans came to be deemed as "favoured".



Embattled Shanti (left) and Prashant Bhushan are fighting fire

Photos: Rohit Chawla

Given that Singh himself did not value the plot he had been given or believe it was worth much more than what he had paid for it, it's unclear how everyone assumed that the Bhushan's plots, in a similar locality, were worth Rs 20-25 crore. In fact, contrary to the common perception that the Bhushans got property worth Rs 20-25 crore for Rs 35 lakh, the cost of each plot is Rs 3.67 crore plus an annual lease rent of Rs 9.18 lakh for 90 years. In some media reports, Singh had reportedly asserted that the Bhushans paid only Rs 35 lakh. The Bhushans clarify that they have already paid Rs 83 lakh. The rest is payable in 16 instalments with interest.

OUR THIRD error was in the details surrounding the misconception that the Bhushans had evaded stamp duty on their ancestral property in Allahabad. They had asserted that this was a baseless smear campaign, but many in the media (including TEHELKA's essay *Truth in the Din of War*) had reported that the UP government's notice to them about the stamp duty evasion *predated* the Lokpal controversy and, therefore, could not merely be fobbed off as a malicious campaign. However, the truth as usual, is in the details.

In retrospect, the Bhushans were not at fault. They did receive one notice before the Lokpal controversy but this notice on stamp duty received by them, dated 5 February, was not about *evasion* of stamp duty but for *determining* the stamp duty. Moreover, this notice had actually come in response to the Bhushans' own application to the stamp collector in September 2010,

asking him to determine the stamp duty. The notice had set 22 April for a hearing on the issue in Allahabad.

However, on 15 April, Congress leader Digvijaya Singh alleged that the Bhushans had evaded stamp duty worth Rs 1.33 crore. The same day, the Stamp Duty collector issued a reminder notice mentioning the figure of Rs 1.33 crore, which, according to the Bhushans, had not been mentioned in the February notice. The date of the hearing was also changed from 22 to 28 April. The Bhushans say they received the second notice only when their lawyer appeared for the hearing on 22 April. They ask how Digvijaya Singh could have obtained information about the second notice, especially if they themselves had not been served the second notice till then.

The Bhushans paid Rs 83 lakh for the Noida plot. The rest is payable in 16 instalments

The Jan Lokpal Bill has generated heated debate. TEHELKA too has had reservations about the nature of the agitation and the shape of the current draft of the Bill, even as it supports the need for a strong Lokpal Bill and a campaign against corruption. However, over the past two weeks, the debate about the Bill had skidded off into an ugly campaign against the Bhushans themselves. If it had been based on facts, the challenges they faced would have been valid. As it turns out, so far all the allegations have been based on innuendo and half-truths rather than hard facts. TEHELKA regrets that it unwittingly added to the misinformation.

Rohini Mohan is a Special Correspondent with Tehelka.
rohini@tehelka.com

Source: http://www.tehelka.com/story_main49.asp?filename=Ne070511SMEARS.asp