

CJI has to make judges' assets public, rules HC

Smriti Singh, TNN 3 September 2009, 02:36am IST

NEW DELHI: Ruling in favour of transparency and accountability in higher judiciary, the Delhi high court on Wednesday ruled that the Chief Justice of India (CJI) was a "public authority" under the Right to Information Act and had to make public the information on assets declared to him by judges.

The ruling by Justice Ravindra Bhat, which came on the Supreme Court's appeal against an almost identical order from the Central Information Commissioner (CIC), ran counter to the consistent stand of Chief Justice K G Balakrishnan that the CJI could not be termed as a public authority under RTI Act.

Though the Supreme Court is sure to appeal against the ruling ^ it will decide in the next couple of weeks whether to move a division bench of the high court or the apex court ^ the ruling is being seen as a huge moral victory for all those who want more accountability in the Indian judiciary.

Upholding the CIC's order directing the SC to disclose whether or not judges were declaring their assets to the CJI as per a 1997 in-house SC resolution, Justice S Ravindra Bhatt said the information pertaining to declaration given to the CJI and the contents of such declaration were subject to the provisions of the RTI Act.

"Declaration of assets by SC judges is information under Section 2 (f) of the RTI Act," the HC said. Though the 72-page judgment defined what kind of information was in larger interest and could be made public from the CJI's office, Justice Bhatt was firm in rejecting the SC's stand that the CJI held the asset declarations in a fiduciary (held in trust) capacity and disclosing it would amount to breach of trust.

Stating that the argument was without substance, the HC said the CJI does not hold such declarations in a fiduciary capacity or relationship.

Describing transparency as a "powerful beacon", Justice Bhat favoured evolving some uniform standards and modalities for declaration of assets by judges to bring in clarity.

"The CJI, if he deems it appropriate, may in consultation with Supreme Court judges, evolve uniform standards, devising the nature of information, relevant formats, and if required, the periodicity of the declarations to be made," Justice Bhatt said.

The SC's stand that disclosure of information on assets held by the CJI was "unworkable" did not impress the HC, which said "all powers, and judicial power being no exception, is held accountable in a modern constitution. Holders of power too are expected to live by the standards they set, interpret, or enforce, at least to the extent their office demands."

Highlighting the importance of the RTI Act, the HC said "the parliamentary intention in enacting this law was to arm citizens with the mechanism to scrutinize government and public processes and ensure transparency."

The judge said it would be "highly anomalous" to say that judges have no obligation to disclose their personal assets as standards of disclosure for the legislators, parliamentarians and administrators were set by a Supreme Court order.

"It would be robbing the solemnity of the resolution to say that they were made with the expectation of not being implemented."

It did not agree with the apex court's contention that the 1997 resolution on declaration of assets by judges to the CJI was not binding. It said it was adopted to set the best ethical standards in the higher judiciary.

"The resolution was intended to reflect the best practices to be followed and form of standards of ethical behaviour of judges of higher judiciary... Declaring personal assets is to be seen as an essential ingredient of contemporary acceptable behaviour and establishing a convention," the court said.

The Supreme Court had declined to reveal information on declarations made by judges that was sought by RTI activist Subhash C Aggarwal, on the ground that there was no law making it mandatory for judges to declare their assets.

The HC had on January 19 stayed the CIC order in which the commission had held that the office of Chief Justice of India came within the ambit of the RTI Act and information given to CJI had to be revealed to the