

**THE TIMES OF INDIA**

## **A few just men who raised the bar**

Manoj Mitta, TNN, May 16, 2010, 03.56am IST

K G Balakrishnan, whose tenure as Chief Justice of India ended last week, was the first Dalit to hold the post. But his time in office was marked by a near-Brahminical resistance to the transparency triggered by the Right to Information Act. High court judges across the country, however, displayed great spunk in standing up to Balakrishnan in a break from the judiciary's notoriously servile culture.

The unintended consequence of Balakrishnan's style of leadership was that HC judges had an impact at the national level like never before. This was not just on issues of accountability but also in the way they upheld the letter and spirit of the law in the course of their work.

Remember the challenge thrown to Balakrishnan by Justice Shylendra Kumar of the Karnataka HC and Justice K Kannan of the Punjab and Haryana high court when they publicly dissented with his line that disclosure of assets belonging to judges would compromise the independence of the judiciary? The novelty value was enhanced by the medium of their revolt: blogs!

The lead taken by Kannan and Kumar, along with Justice K Chandru of the Madras HC, had a salutary effect. It put pressure on their seniors in the Supreme Court to disclose their assets. Even as Balakrishnan accused him of being "publicity-crazy" allegedly for speaking out of turn, Kumar hit back by calling him "a serpent without fangs". This was in the context of the bungled move to elevate P D Dinakaran, chief justice of the Karnataka high court, to the Supreme Court. Kumar evidently felt justified in such irreverence as the stalemate over Dinakaran had paralyzed his high court.

Balakrishnan's reluctance to drop Dinakaran's candidature despite serious charges of corruption and the Supreme Court collegium's decision to deny promotion to A P Shah, the Delhi HC chief justice who had made history by decriminalizing homosexuality, exposed the rot in the system of appointments.

As if that were not bad enough for Balakrishnan, Justice Ravindra Bhat of the Delhi HC, and then a division bench, comprising Justice Shah and Justice S Muralidhar, dismissed the Supreme Court's appeals against the RTI order passed in the assets case by the Central Information Commission.

Another conscience keeper who ended up damaging Balakrishnan's reputation, however inadvertently, was Justice R Reghupati of the Madras HC as he complained in writing about an attempt made by a Union minister to interfere in a case pending before him. Rather than ordering an inquiry, Balakrishnan hushed up the affair on the technicality that Reghupati had not actually spoken to the minister during the mobile call made from his chamber by a lawyer trying to fix the case.

Balakrishnan was equally evasive when it came to following up on the categorical recommendation made by an in-house committee of three senior HC judges that Justice Nirmal Yadav of the Punjab and Haryana HC was unfit to remain in office for her alleged complicity in the cash-for-judge scam. This time he took refuge in the technicality that the then attorney general had opined that no corruption case had been made out by CBI against Yadav. Balakrishnan however remained tightlipped on what had stopped him from taking any administrative action against Yadav, including the kind of recommendation for impeachment proceedings he had made to the government against Justice Sowmitra Sen of the Calcutta high court.

In another mystifying rollback of accountability, Balakrishnan recommended to the President to bring back the Allahabad HC judges who had been transferred out in the wake of the Ghaziabad provident fund scam. All that is known to have changed though since their transfer is that the main accused in the case, a court employee, died mysteriously in judicial custody.

Balakrishnan's tenure was redeemed to an extent by a slew of path-breaking verdicts, not just by Supreme Court judges but also by their HC counterparts. Just before his retirement, he struck a blow for human rights by outlawing the practice of forcing out the "truth" from suspects through narco analysis. Such progressive decisions were a silver lining to the dark cloud of falling standards in judicial probity.



NOW TELL THE WORLD Register for The Bestest Mom contest [Click here](#)