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A former Chief Justice of India defends his honour

The man who delivered one high-profile judgment after another now finds his integrity being questioned. Since his retirement, Justice Y K Sabharwal has been dogged by rumours and insinuations, with motives being imputed to major rulings by him — including the ones on the sealing drive in Delhi. Now, in an exclusive article for Sunday Times of India, the anguished former CJI finally breaks his silence

A judge is trained to speak only through his judgments. He does not have to justify his judgments. I retired on January 14 this year as Chief Justice of India. A large number of cases were decided by me. A judge cannot decide cases guided by the number of people who may be pleased or displeased by the judgment.

My judgments on various unauthorised constructions and misuse of residential premises have come in for both praise and criticism. They have been commented upon by those who were adversely affected and also by politicians, RWAs, media and even Parliament. It's not a judge's function to respond to such criticism. Judges decide on law and not on populism. An afternoon publication imputed a motive to these judgments and carried a malicious campaign for nearly three months.

FALSE ALLEGATION: Two members of the Bar addressed a press conference and claimed that I had delivered some judicial orders to benefit my two sons in their business. The story appeared only in a weekly newspaper which also carried an interview of a senior advocate. The interview suggested as if the entire media had been managed or was scared and that may be the reason for it to block the story.

My initial instinct was to maintain silence and follow the discipline of a judge even though I have retired. However, I was told that a distinguished predecessor of mine suggested on TV that silence on such allegations was not the option. I decided to break my silence lest people believe that I have no answers to give.

The attack against me is that my two sons — Chetan and Nitin — are small-time exporters and they acquired wealth as a result of my judicial decisions. It is utterly false. My sons made a modest beginning in garment export business more than a decade ago. After struggling initially, their business expanded in the past few years and their turnover to 10 countries and

40 foreign buyers has reached a couple of hundred crores. Their manufacturing units are in Noida. For their consistent growth, they have been recognised as a star export house by the ministry of commerce and industry. Their income and profits are disclosed in their tax returns. They have a large number of employees. They require neither parental support nor government patronage to expand what is a pure private sector business activity in a competitive overseas market.

CONSPIRACY THEORY: It has been alleged that my sons have taken discretionary allotment of certain plots from Noida Authority. The imputation is that one of my judicial orders in a case, which is still pending, favoured an important member of a political party and the allotment of industrial plots was made because of that. I have now asked my sons and have checked the allotment record of the plots. They also have some factories on rent and some purchased from the market.

Four industrial plots were allotted to my sons at different points of time by Noida Authority. These allotments were made in 1999, 2000 and 2006. All allotments were under schemes of Noida Authority where entrepreneurs making investments and generating employment there were allotted plots. These were not stray, solitary or discretionary allotments. Under these schemes, thousands of allotments were made at pre-determined prices.

Let me satisfy those who are bending backward to discover conspiracy theories by saying that when the allotment of three plots — one in 1999 and two in 2000 — were made, the government in power was not the same as in 2004 or 2006. There were two different chief ministers — one in 1999 and another in 2000. The two allotments in 2000 were made at about Rs 2,100 per sqm, which was the pre-determined rate at which allotment was made to every entrepreneur. In 2003, my sons purchased another plot in the same sector from the market and even at that time, the rate was Rs 2,550 per sqm.

RECKLESS INSINUATION: The allotments made in 1999 and 2000 are being used at this stage after my retirement to impute motives for judgments and orders of sealing passed in 2006. The plot allotted in 2006 is not a commercial plot as insinuated. It is an industrial plot allotted in view of their growth in export business as per the scheme. The allotment has no link, direct or indirect, with orders regarding sealing of properties in Delhi. The reckless insinuation is that the prevailing market price of the said plot was 10 times the price of allotment. Are insinulators willing to buy even today at 1/3rd the price being quoted by them?

In addition to their growing export business, my sons have also diversified to development of IT parks. They have, however, no interest, whatsoever, in non-IT buildings. They do not own even one inch of area in any mall or shopping complex. IT plots in Noida are given under institutional category which cover plots for schools, colleges, religious and cultural activities and for IT use. They are not commercial plots. The allotment of IT plots in 2004 in a sector which was almost a jungle was made at the prevailing market price. It is for use of IT only. They have a partner in this project, Kabul Chawla, a childhood friend of Chetan from Punjabi Bagh where my sons grew up. He joined them in 2004. It is preposterous to think that in 2004, I planned that in 2006 I would deliver a judgment as a result of which Chawla would become a beneficiary in some project which has nothing to do with my sons. The inferences drawn are malicious and are based on total distortion of facts.

There is a reference to a company called Harpawan Constructions Ltd which was incorporated with my son's old friend, P Bhageria. This company has not undertaken any business activities, whatsoever, and does not have even an inch of area. My sons have no

interest in any project of Bhagerias or in any of their companies.

What pains me is when sinister motives are attached to even innocuous events. In 2006, Noida Authority advertised allotment of residential plots. Thousands of people applied, including seven members of my family. Six lost out in the draw of lots and one was successful. However, the scheme was challenged and the allotment process cancelled. My daughter-in-law did not get any plot. A conspiracy is being smelt even in that.

WHERE 'S THE ACCOUNTABILITY? My sons purchased a house in Maharani Bagh. Ninety per cent of the sale consideration came from loans from public sector banks. On some occasions, they were extra cautious not to mention my full name in their business activities lest they be accused of misuse of my name. Even that is being considered scandalous.

My sons continue to live with me after my wife's death. Much is being made of the fact that my official residence was temporarily shown by them as their registered office. They did this in 2004 for the convenience of receiving mail. This was without my knowledge. As soon as I came to know of this, I got it corrected in 2004 itself. No commercial activity whatsoever was ever carried on from the Punjabi Bagh house. In various categories, my sons, on credit worthiness of their business, have a combined banking facility of about Rs 75 crore. Should they be denied or deprived of this facility because they are my sons? None of my orders have benefited them in any manner, whatsoever. To the best of my understanding, they have not committed any wrong, but if they have, law has to be applied to them like to any other citizen.

Is it fair to call the proceedings, still pending before Court, motivated? Any price is not heavy for a bold and fearless judge and my worry is also not as much about my individual pain and agony, but about the adverse impact such unwarranted public verdicts can have on the independence of the judiciary. Have not these insinulators any responsibility to the public to give correct information and not falsehoods or half-baked truths? Are they not subject to any accountability? Perhaps, they feel, they are not.

I have used this column to put the record straight. I had desisted from doing so all this time because of the pending proceedings in Supreme Court and High Court, in some of which, the campaigners are appearing as advocates. I have spoken now because silence is not an option any more.



