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“Confidentiality clause must be removed”

Special Correspondent

NEW DELHI: There was just a hint from the Congress here on Monday that it would be willing to try and evolve a political consensus on the deferred Judges (Declaration of Assets and Liabilities) Bill before it was introduced, after the Bharatiya Janata Party and the Left insisted that the Bill would be meaningless unless the controversial confidentiality clause was removed.

The political ruckus was all about a Bill that would, when passed, make it mandatory for judges of High Courts and the Supreme Court to declare their movable and immovable assets. On that there seemed to be a political consensus. What was controversial was that the Left and the Right did not see the need for a confidentiality clause that would keep the declaration of assets away from public gaze and defeat the very purpose of accountability and transparency.

Right to information

Leader of the Opposition Arun Jaitley, who led the charge in the Rajya Sabha, leading to the Bill being deferred, later told journalists that the Supreme Court had itself cited Article 19 (1) (a) of the Constitution dealing with the right to information to uphold declaration of assets by all candidates contesting the Assembly and Parliamentary polls. “Since the Supreme Court based its decision on the right to information, why should this not apply to other public functionaries and to the judiciary? Clause 6 of the Bill that seeks to keep the information on assets declared by judges confidential, offends the Supreme Court’s own interpretation of Article 19 (1) (a),” Mr. Jaitley said. “We will support the Bill minus Clause 6,” he added.

The BJP leader also found fault with the government for not consulting political parties across the spectrum on such a sensitive subject dealing with the judiciary. What was applicable to representatives of the people must surely be made applicable to the judiciary, he said.

With several Congress members of the Rajya Sabha, including Jayanti Natarajan and Rajiv Shukla, inclined to agree with the Left and Right opposition, Congress spokesman Abhishek Singhvi said: “The government does not have a closed mind ... Some issues were raised and an attempt will be made to arrive at a consensus before the Bill is re-introduced. There are legitimate concerns — fairness of disclosures and proper safeguards for judges so that trigger happy [litigants] do not subvert the judiciary.”

“Special case”

The Congress also suggested that judiciary was a “special case” that deserved “special handling” and care needed to be taken to ensure that “independence of the judiciary is not eroded, diluted or compromised.”

The BJP, of course, debunked that argument, pointing out that public disclosure of assets or bringing the disclosures under the Right to Information Act could in no way “dilute” the independence of the judiciary. If disclosures of assets by Ministers and MPs had not led to frivolous litigation, why should this happen on disclosure of assets by the judiciary? Finally, it pointed out that any disclosure that was kept confidential would be meaningless. In fact, public disclosure of assets could only strengthen the credibility of the judiciary.

<http://www.hindu.com/2009/08/04/stories/2009080455441000.htm>