

# Ex-CJI can still be probed: Jurists

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A day after the Supreme Court refused to order a judicial inquiry into the allegations of misconduct against former Chief Justice of India YK Sabharwal, top jurists said on Tuesday, that many legal options were available to initiate a probe into the matter.

Former CJIs PN Bhagwati, JS Verma and GB Pattnaik and retired Supreme Court judges VR Krishna Iyer and PB Sawant told the Hindustan Times that any attempt to brush the issue under the carpet “could seriously tarnish the judiciary’s image”.

Justice Sabharwal, who has denied allegations that some of his legal orders have resulted in financial benefits for his sons, was not available for comment on Tuesday.

The jurists were responding to the Supreme Court’s refusal on Monday to order a judicial probe against Justice Sabharwal, saying “It would prejudice the case of the accused persons”, referring to the contempt case against Mid Day journalists.

Expressing surprise at the Supreme Court’s refusal for a probe, Justice VR Krishna Iyer, a former Supreme Court said, “The Supreme Court is final not because it is infallible. It is infallible, because it is final.”

The veteran jurist said the President of India was competent to order an inquiry into the allegations to clear the doubts on higher judiciary.

“An inquiry could be conducted under the Public Inquiries Commission Act. In my view, the President should proceed in the matter in consultation with the CJI and also with Justice Sabharwal himself, who would have to come clean. It has to be a high-level inquiry, as this is a serious matter involving the entire higher judiciary along with Mr Sabharwal,” Justice Iyer told HT from Kochi.

Former CJI Bhagwati said it was time for the judiciary to uphold its integrity and protect its independence by not allowing any issue to be swept under the carpet.

“It would be desirable for the judiciary itself to look into the allegations against a former CJI, rather than allow the government to step in. I favour an independent judicial probe by a committee comprising former and present Supreme Court judges. It is a matter of the image of the entire judiciary,” Justice Bhagwati said from Geneva.

Former CJI Verma, the first jurist to demand a probe into the allegations against Justice Sabharwal, said, “I stand by my views that if doubts were raised on the conduct of Mr

Sabharwal, then all cases in question which include the Delhi sealings case should be reopened and heard again.”

“Since contempt proceedings against the journalists are a matter of a pending appeal before the court, where the journalists have cited truth as their defence, it therefore becomes imperative to probe the allegations levelled by them to clear the name of the concerned judge”, Justice Verma said.

Justice Sawant, a former Supreme Court judge, said, it was for the people of the country to decide what they wanted to do in this serious matter.

“The Supreme Court has no jurisdiction on matters concerning ex-judges. The citizens of the country would have to come forward and form a People’s Tribunal for conducting an inquiry on allegations of impropriety...it is an alleged act of corruption,” Justice Sawant said.

Another former CJI Pattnaik, said, the complainants against Justice Sabharwal had the option of lodging their complaint before the relevant authorities,