



Hindustan Times Exclusive

After secret video and audio surveillance, state investigators find leads that could incriminate top high court judges. The report is now with Chief Justice of India and the Prime Minister

Punjab phone taps: A story of tapes, touts and judges

KEY FINDINGS OF THE PUNJAB GOVERNMENT'S SECRET VIGILANCE REPORT

- 1** Fixing of cases in Punjab and Haryana High Court for a consideration
- 2** Touts talk about swinging appointments in the lower courts
- 3** Manipulating distribution of cases to judges for a price
- 4** One high court judge is on tape with one of the two men under watch
- 5** Investigators wait for okay from govt, judiciary to investigate

Pawan Sharma and Ramesh Vinayak
Chandigarh, June 3

IN AN unusual report by a state government on its judiciary, the Punjab Vigilance Bureau says it has found leads to a slew of malpractices in the Punjab and Haryana High Court that could, if investigated, incriminate two of its senior judges.

March 2008

Punjab Vigilance Bureau tipped off about meeting of militants of Sikh extremist group Babbar Khalsa with real-estate agents in Mohali in February, to buy 'safe houses' around Chandigarh.

April 2008

Punjab home secretary allows electronic

Vigilance Bureau sends its first top-secret report to the Advocate General on April 29, followed by five more such reports.

May-June-July 2008

Punjab Advocate General H.S. Mattewal hands over all reports to then Chief Justice Vijender Jain of Punjab and Haryana High Court in person. Justice Jain forwards these

finds the vigilance reports missing in the high court records. On September 29, Punjab chief secretary Ramesh Inder Singh hands over the original reports in a sealed cover to Justice Thakur who submits his comments to the CJI.

October 2008

A three-member Supreme Court collegium headed by the CJI decides in principle to



My action (on the report) conformed with what was the best for upholding the dignity of the judiciary. I will not touch upon specifics.

-VIJENDER K. JAIN
Former chief justice, Punjab and Haryana High Court

"I have a clean record. I am not feeling well. I have never indulged in any such

6/5/2009

The claims, made in the 60-page report, a copy of which is in possession of the *Hindustan Times*, have far-reaching consequences not just for Punjab but also for India's judiciary.

The report, based on three months of surveillance of mobile phone conversations of two men last year and videotapes, has since been sent to Chief Justice of India (CJI) K.G. Balakrishnan and Prime Minister Manmohan Singh.

The two men — their identities have not been revealed — tracked by Punjab's Vigilance Bureau talked about appointments of judges, fixing specific cases at the high court by touts, manipulating the reg-

surveillance of two mobile phones. The phone tapping broadly confirms militant plans — and also reveals a thriving system of touts and malpractices at Punjab and Haryana High Court and the lower judiciary in Punjab. The names of certain high court judges and a district judge repeatedly figure in the taped conversations. The

to the Chief Justice of India (CJI) and recommends the transfer of Justice Mehtab Singh Gill. Justice Jain retires in July.

September 2008

CJI seeks comments on certain excerpts of the Vigilance Bureau reports from the new Chief Justice, Tirath Singh Thakur. Justice Thakur

transfer Justice Mehtab Singh Gill. The transfer file is still with the Law Ministry.

March 2009

The Punjab Governor, Gen S.F. Rodrigues, gets a copy of the report and forwards it to the Prime Minister's Office in New Delhi.

Since offences under various sections of law were revealed, request(s) for appropriate directions on how to proceed further had been made in the reports. As of date, no directions or advice has been received. As such, no further action has been taken...

—**Sumedh Singh Saini**, Director, Vigilance Bureau, in a letter to Punjab chief secretary **Ramesh Inder Singh**, on September 29, 2008

istry of the high court that lists cases for judges, and similar malpractices in lower courts, the report said.

"Payment of money for such malpractices is frequently referred to in the recorded talks," it said, but gave no sig-

nificant details. "The recorded talks are only an insight into the machinations of these persons. Their proper examination would throw more light on the matter," said the last update on the report dated July 25, 2008.

The talks referred to two

judges at the Punjab and Haryana High Court — Justice Mehtab Singh Gill and Justice H.S. Bhalla — and the additional district judge of Ferozepur, J.S. Bhinder, the report said. There was no elaboration on the context in which their

names were used.

Justice Gill and Justice Bhalla could not be reached for comments, despite several attempts. Messages were also left at their respective residences.

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activities...I can swear by God and in the name of my two children that I have not done anything wrong ... I am a victim of circumstances... I will come to meet you...Please don't publish till then...

—**J.S. BHINDER**
Additional district judge

No comment.
—**TIRATH SINGH THAKUR**,
Chief justice, Punjab and Haryana High Court

No comment, please.
—**SUMEDH SINGH SAINI**
Chief director, Vigilance Bureau

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Punjab phone taps

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Justice Bhinder said he was "not involved" in any kind of wrong activity. "I have a clean record ...I have never indulged in any such activities," he said. "I am a victim of circumstances."

The Vigilance Bureau's investigation doesn't establish the judges' connection with the dealings of the two private persons under surveillance. The report also said that, "no telephone of any Hon'ble judge, learned judicial officer or their relatives has been placed under electronic surveillance".

The fact that High Court judges repeatedly figure in the tapped conversations was serious enough for the Vigilance Bureau to forward its reports to Advocate General H.S. Mattewal.

Mattewal passed them to then Chief Justice of the High Court Vijender Kumar Jain for "appropriate directions on how to proceed further in the matter".

The reports, with six updates, sealed and marked top secret, were handed over to Justice Jain between April 29 and July 25 last year. He forwarded them to Justice Balakrishnan.

The Vigilance Bureau did not register cases under the Prevention of Corruption Act against the private persons operating as touts-cum-fixers and arrest the bribe takers red-handed as is normally done in such "trap cases".

That's because, the report said, the investigations concerned the High Court, and the Vigilance Bureau considered it difficult to segregate the private individuals from the judges, referred to in the tapped conversations, in event of any punitive action and further investigations.

The Bureau found itself constrained by a Supreme Court ruling that forbids police investigation against judges without sanction from the Chief Justice of India.

So, in each report, it pleaded with the High Court for "giving appropriate directions in the matter". There's been no reply yet.

"As of date, no directions or advice has been received (from the High Court), and, as such no further action has been taken," said a September 29 Vigilance Bureau communication with the Chief Secretary of

Punjab.

Chief Justice Jain recommended transferring Justice Mehtab Singh Gill, who had already been indicted in another report for his role in the Punjab Public Service Commission scandal, in 2002. That, Jain said, was "the best course to uphold the prestige of the institution".

In September 2008, the CJI forwarded the excerpts of the Vigilance reports to the new Chief Justice of Punjab and Haryana High Court, Tirath Singh Thakur, seeking his comments.

Thakur couldn't find the reports in the High Court records, although they had been submitted when Jain was in office, and had to fall back on Chief Secretary Ramesh Inder Singh, who personally delivered a set of original reports in a sealed cover (D.O. No.S/CS-08).

Based on comments made by Thakur and his predecessor, a Supreme Court collegium headed by the CJI recommended the transfer of Justice Gill, in October last year.

There has been no word from the Union Law Ministry.

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Time for those reforms

BACK IN 1993, a public-spirited advocate, Anupam Gupta, hit the headlines for raising the issue of nepotism and corruption in the judiciary. He did so before a high-profile assembly of the country's top judiciary, led by then Chief Justice of India M.N. Venkatachiah and then Law Minister

H.R. Bhardwaj, at a reception hosted by the Bar of the Punjab and Haryana High Court, in Chandigarh.

Not amused at such blunt talk in public, the guests walked out.

Since then, the high court has courted many a controversy. And such episodes have been keeping a date with the exalted institution at alarmingly short intervals in recent years.

From the Punjab Public Service Commission scandal in 2002 to the cash-at-judge's-door scam last year, the high court has been mired in a series of unsavoury rows. These have not only brought certain members on the Bench under cloud, but each of them has steadily chipped away public confidence in the judicial system.

The latest expose, highlighted by *HT*, stands out from previous



scandals because this was investigated without a formal complaint by a state investigating agency no less than the Vigilance Bureau. Also, its director Sumedh Singh Saini, an IPS officer, had earlier probed two major scandals involving high court judges.

Also, the Vigilance probe was spurred by a tip-off on a militant group in the first place, but it stumbled upon startling leads on a thriving and well-entrenched tout system with dark hints about links in the judicial echelons.

And then, the state government quietly and officially dropped the damning dossiers on the top judiciary.

Though a plethora of evidence painstakingly collected and collated by investigators doesn't in any way connect the high court judges with the wheeling-dealings of touts, the fact that the names of a few members of the Bench and subordinate judiciary figure in officially-sanctioned phone tapping of two private persons raises questions. The Vigilance reports graphically encapsulate all that is wrong with the judiciary and

judicial system — and sadly bring out how deep the rot is.

More significantly, it reveals how the top judiciary dilly-dallied on the explosive contents of the report, kept it under wraps and didn't carry through an internal recommendation on the transfer of one of two HC judges named in the reports, even after it was ratified in principle by a Supreme Court collegium.

All this only suggests the in-house mechanism for judging judges has proved unequal to the moral bar of judicial accountability — a demand that's grown louder in the wake of mounting allegations of corruption against judges across the country.

"It's high time to constitute a National Judicial Commission and to allow the executive a say in the appointment of judges," says Punjab Advocate General H.S. Mattewal.

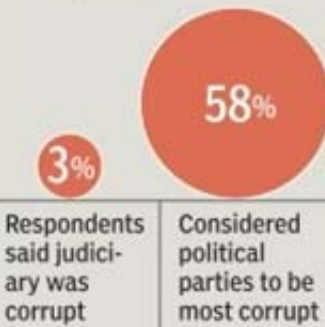
Gupta, now a senior lawyer at the high court, adds: "There is dire need for taking immediate, publicly visible action in respect of judges against whom there are cogent and credible complaints rather than stonewalling of inquiries and sweeping the issue under the carpet".

Whatever the fallout, the expose has lent urgency to long-overdue judicial reforms.

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Who's the most corrupt?

According to a survey by Transparency International:



“ In my view, perhaps 20 per cent of judges in India are corrupt, not more than that. It is worrying, but not all judges are corrupt. The public must know the truth.

—S.P. BHARUCHA,
Former Chief Justice of India,
when he retired in 2002

It is my ... duty to bring any piece of information prejudicial to the image of exalted institution of judiciary to the notice of Chief Justice.

—H.S. MATTEWAL
Advocate General, Punjab

HT EXCLUSIVE: Corruption in judiciary High court's low deeds exposed

TELL-TALE TAPES: EXCERPTS FROM THE DAMNING DOSSIER

B. MANIPULATION IN THE REGISTRY

There are a large number of talks between P-1/P-2 and various private persons. In such talks private person(s) request for the manipulation of the registry of the Hon'ble High Court, to place a particular case before a particular bench to which P-1/P-2 reply that the needful would be done. The consideration for this manipulation is also mentioned. Rs.25,000 is mentioned as the "market rate" whereas P-1/P-2 offer their services for amounts in the range of Rs.15,000. One example is being given in this preliminary report:-

In one call a private person asks P-2 that a matter

Note:- (i) From the collation of talks done todate (10.5.2008) it has come out that P-1 and P-2 are manipulators of ill repute. P-2's associate in such activities is A-1. They are indulging in activities which directly affect the judiciary and their machinations are continuing on a daily basis. P-2 has links through various channels, with Hon'ble Justice S.H.S. Jindal whereas A-1 is "close" to Hon'ble Justice Sh.M.S. Gill. In the talks it has come out that A-1 gets prior information on decisions which are to

saying that he (Ram Lal) was "God" for them.

(ii) Talk dated 3.6.2008 between Sh.J.S.Bhinder (J.O) (P-1):- In this talk (apart from various other things) : requested Ram Lal to watch his interest in the interviews ADJ, scheduled for "the 2nd", as it would require a lot Ram Lal told Sh.J.S.Bhinder not to worry. Sh.J.S.Bhinder Ram Lal that his Roll No. was 1553.

In this talk Sh.Bhinder and Ram Lal disc

1 "There are a large number of talks between P-1 (accused in controversial rape case of Chandigarh) and P-2 (unidentified person) and various private persons contacting the duo. In the talks, private person(s) request manipulation in HC Registry to place a particular case before a particular bench... Rs 25,000 is mentioned as "market rate" whereas P-1/P-2 offer their services for Rs 15,000."

"They (P-1 and his accomplice) made efforts through Swarn and Pahari Babu to manipulate the case at the high court... A sum of Rs 15 lakh was to be spent in this exercise."

—Report No. 79 PA/DVB/April 29, 2008

2 "... It has come out that P-1 (rape case accused) and P-2 are manipulators of ill repute. P-2's associate in such activities is A-1 (advocate). They indulge in activities that directly affect the judiciary... P-2 has links with Justice H.S. Bhalla whereas A-1 is 'close' to Justice M.S. Gill. In the talks, it has come out that A-1 gets prior information on decisions to be taken in the high court from Justice Gill. Both A-1 and P-2 work as a team... Financial considerations are primary concern of their activities."

"There is sensitive talk being collated with caution and secrecy. These include those between a high court judge and P-2 (private person whose phone was under surveillance and whose name report does not mention)."

—Report No. 90 PA/DVB/May 10, 2008

3 "Talk dated 3.6.2008 between J.S. Bhinder (judicial officer) and Ram Lal (P-1): (Apart from various other things), J.S. Bhinder requested Ram Lal to watch his interest in the interviews for the post of ADJ (additional district judge), scheduled for the '2nd', as it would require a lot of pressure. Ram Lal told Bhinder not to worry. Bhinder reminded Ram Lal his role number was 1553."

"... In their talks, it has come out that they (touts) mostly discuss such matters in personal meetings. The recorded talk is only an insight (in)to the machinations of these persons. Their proper examination would throw more light on the matter."

—Report No. 140/PA/DVB/July 25, 2008

THE BIG CASES

GHAZIABAD PF SCAM

■ District judge Rama Jain in February 2008 ordered registration of FIR against 82 people after noticing illegal withdrawals totalling Rs 7 cr from Ghaziabad treasury in 2001-07. Later, accused and chief administrative officer of district court, Ashutosh Asthana, confessed that 36 judges — one from SC, 11 from Allahabad and Uttarakhand HCs and 24 district-level judges in UP — benefited from the money withdrawn by him. The CJI, for the first time, allowed CBI to question the judges named. Probe on.



CASH-AT-JUDGE'S-DOOR SCAM

■ Justice Nirmaljit Kaur of Punjab & Haryana HC called police in August 2008 after a clerk of a Haryana law office left Rs 15 lakh at her door. Probe revealed the money, sent by Haryana additional advocate general Sanjeev Bansal, was meant for Justice Nirmal Yadav. Five persons, including Bansal, were held; case handed over to CBI. In-house committee of judges found Yadav's conduct "not in keeping with that of a judge". Yadav proceeded on leave. Probe is on.



ALLEGATIONS AGAINST EX-CJI Y.K. SABHARWAL

■ Delhi HC hauled up *Mid Day*, jailed three of its journalists for contempt after it published corruption charges against Sabharwal in September 2007. When media community protested, SC stayed verdict. Sabharwal was accused of furthering his sons' interests while passing orders on the sealing of commercial establishments in residential areas in Delhi. Evidence was provided. A complaint filed by lawyers was forwarded to Law Ministry, which decided not to proceed against the retired CJI.



Illustration: DURGA

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