

## In Suspension

An impeachment suggestion is unheeded

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### Judging By This...

*Some of the recent controversies involving senior judges*

- Former CJI Y.K. Sabharwal's '06 verdict on the sealing of illegal buildings in Delhi allegedly favoured his family
- A packet containing a bribe of Rs 15 lakh in cash meant for Justice Nirmal Yadav of the Punjab and Haryana High Court was wrongly delivered at Justice Nirmaljit Kaur's residence on Aug 13, '08.
- Allegations of corruption surfaced against Justice Jagdish Bhalla in the '06 Noida land scam case
- A scam involving illegal withdrawal of pension funds of Ghaziabad court employees unearthed last year. Among the alleged beneficiaries were a Supreme Court judge, 32 high court judges and several judicial officers. The case is with CBI.

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**R**emember Justice Soumitra Sen of the Calcutta High Court? The one who, as a receiver in 1993, was to collect Rs 50 lakh in a dispute between two parties but deposited it in his own account? Well, it was in August last year that the Chief Justice of India, K.G. Balakrishnan, recommended to the Union government that Justice Sen be impeached on charges of misappropriation of public funds. The judge was even found guilty by a committee of judges appointed by the CJI. But it has been five months since and nothing seems to be moving on the matter and now it has been left to the next government to decide whether it should move against the judge.

Parliamentary affairs minister Vayalar Ravi admitted as much to *Outlook*. "We can only act on something which is presented before us," he said. "The (impeachment) procedure requires that a hundred Members of Parliament sign the notice and submit it to the Speaker, and we should also get an intimation. We have not received anything in this regard so far." Adds Lok Sabha Speaker Somnath Chatterjee: "We can only proceed if we receive a notice from the MPs demanding the impeachment of Justice Soumitra Sen or any other judge. Unless we receive it, any initiation on the impeachment issue would not be possible."

The UPA government has clearly not done anything to mobilise the 100 MPs or the two-thirds majority required in the House to impeach a judge. According to sources, the government had more pressing issues like the Indo-US nuclear deal in hand and the judge's case was never on its priority list. Supreme Court lawyer Prashant Bhushan says, "Political parties have nothing to gain out of it, therefore they do not bother to pursue it. The impeachment process can only be conducted if political parties come forward and take it to a logical conclusion. There seems to be a lack of political will to proceed against the judge."

Justice Hosbet Suresh, former judge of the Bombay High Court, agrees. "A proper law is required to remove a judge," he says. "There is no political will otherwise to proceed against a judge, for reasons better known to political parties. As of now, it can only be done through Parliament. And if there is no initiation at that level, then there is nothing much that the Chief Justice can do about it. He can only recommend impeachment."

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**Political parties have nothing to gain out of it, so why pursue the Sen impeachment?**

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Strangely, no political party has reacted so far on the Justice Soumitra Sen issue since it became public

last year. A lawyer then, Sen was appointed as a court receiver in 1993 in a dispute between SAIL and the Shipping Corporation of India. He was found guilty of siphoning off the Rs 50 lakh involved in the dispute.

The Opposition parties say it is up to the government of the day to initiate proceedings. Says BJP spokesperson Ravi Shankar Prasad: "Let's not politicise the judiciary. It was recommended by the Chief Justice of India that an impeachment process should be initiated, I believe that the Union law minister should have acted upon it and taken it up further as the procedure requires. "

It will now be left to the next government to decide on Justice Sen's fate. So far, no judge has been impeached. Attempts to vote out Justice V. Ramaswami by a motion in Parliament failed in 1993 with the Congress, which appointed him, voting against it.

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