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CJI under RTI: SC ready with appeal to itself

Maneesh Chhibber Posted online: Sunday , Mar 07, 2010 at 0334 hrs

New Delhi : The Supreme Court is set to file an appeal to itself against the January 12 judgment of the Delhi High Court, which said that the office of Chief Justice of India (CJI) falls within the ambit of the Right to Information (RTI) Act.

Officials in the apex court Registry declined to confirm or deny the development, but sources within the judiciary told The Sunday Express that the decision to appeal was taken by the CJI just before the Holi break. The appeal is likely to be filed early next week. The window to appeal closes March 12.

Sources said the appeal, drafted by Supreme Court lawyer Devdutt Kamat, has already been cleared by the CJI and the Supreme Court Registry. It is learnt that the CJI discussed the issue with some senior judges. Attorney General Goolam E Vahanvati will be asked to argue the SC case.

Sources said that among other things, the appeal seeks an immediate stay on the judgment of the Delhi HC, and asks the apex court to set it aside on the ground that the HC erred in holding that correspondence between the CJI and other members of the higher judiciary could be sought under the RTI Act.

The appeal also says that the information held by the CJI pertaining to the details of assets of judges and their kin was under a fiduciary relationship and hence exempt from being made public under the RTI Act.

In its judgment, a three-member HC Bench comprising the then Chief Justice A P Shah and Justices Vikramjeet Sen and S Muralidhar, while dismissing the contention of the SC Registry that bringing the office of the CJI under the purview of the RTI Act would hamper judicial independence, had said, "Judicial independence is not a privilege to a judge but a responsibility."

In doing so, the Bench upheld the September 2 verdict of a single judge of the HC.

However, the CJI has been repeatedly asserting that judges can't be put under too much public scrutiny as it would hamper their functioning and independence.

Incidentally, on March 8, the SC is also scheduled to resume hearing of another appeal filed by the SC Registry against a decision of the Central Information Commission (CIC), through which the CIC had directed the SC to provide to the

applicant, RTI activist Subhash C Agarwal, details of appointment of three judges to the Supreme Court.

On November 3 last year, SC judges voluntarily listed details of their assets along with those of their kin on the SC website.

The proposed Judges Standards and Accountability Bill, 2010, which is likely to be introduced in Parliament during the ongoing session, says that declaration of assets made by judges would be treated as a legal document.