



CJI: Disclosing assets fine if judges are not harassed

Maneesh Chhibber Posted online: Sunday, Jul 05, 2009 at 03:21 hrs

Chief Justice of India **K G BALAKRISHNAN** on Saturday said the judiciary has no objection if the government brings a law making it mandatory for members of the higher judiciary to declare their assets but only if there are adequate safeguards to ensure that it didn't lead to harassment of judges. He also said it was for the Vice President, who is also the Chairperson of the Rajya Sabha, to decide if he wanted jurist Fali Nariman to continue in the three-member panel to probe charges against Calcutta HC Judge Soumitra Sen. In an interview to **MANEESH CHHIBBER**, the CJI spoke his mind on major issues confronting the Indian judiciary.

Law Minister M Veerappa Moily has said that the government will bring a law to make it mandatory for judges to declare their assets? Has he discussed it with you?

The Law Minister has discussed the issue with me. But he has not spoken on the nature of the legislation. But I have told him that we (judiciary) have no objection in disclosing our assets provided the judges are not unnecessarily harassed by disgruntled litigants. Most of the litigants who lose their case in court say so many things. It is not as if judges are not providing details of their properties or filing Income Tax returns. But people will start asking questions about value of properties.

Maybe, most don't understand that many judges are successful lawyers before elevation, charging five-figure fee per case. Is it your concern that their pre-elevation assets could come under scrutiny?

Not only that. When you are from the Bar and highly successful they may not like to come to our side (become judges) if questions are raised. In some places like Mumbai, Ahmedabad, the top lawyers have very lucrative practice. We have to persuade them to give it all up and become judges. They take it as harassment when such issues are raised. They ask why should we go for the judge's post. We don't want any harassment of the judges or the potential candidates.

Justice Soumitra Sen, who is facing impeachment motion, has demanded that senior lawyer Fali S Nariman be removed from the panel probing the charges. Will it be done?

What has happened that after MPs moved the motion (of impeachment), the Rajya Sabha Chairman had to appoint a committee comprising one Supreme Court judge, one High Court Chief Justice and one constitutional expert. He consulted me for the judges and I suggested two names, Justice D K Jain and Punjab and Haryana HC Chief Justice Tirath Singh Thakur. Due to personal reasons, Justice Jain could not continue and now Justice B Sudershan Reddy has been included. As for the third member, he (RS Chairman Hamid Ansari) didn't have to consult me. It was done by him. Now, it appears, he (Sen) has sent some representation. The Vice President may take a decision whether he would like Nariman to be part of the committee or not.

The Punjab and Haryana HC remains in news, mostly for wrong reasons. Do you think a complete

overhaul is required, something like mass transfer of judges?

I don't think there is such a serious problem. Most of the judges are doing a good job. As it (HC) caters to two states, it is sometimes difficult to maintain the proportion. Then state politics of Punjab and Haryana also plays a part. They (judges) hear so many cases with political overtones. But the Chief Justice (Tirath Singh Thakur) is doing a very good job.

What went wrong in the case of Justice Nirmal Yadav of the same HC? We have been told that the CBI, which is investigating the cash-at-judge's doorstep case, went overboard, exceeded its brief?

The CBI was not asked to inquire into a particular issue. The police had registered the case but it was handed over to the CBI as HC Chief Justice wanted it. Since the case pertained to judges, he was concerned about the prestige of the judiciary. He asked me and I said alright. The CBI did its investigation. But Attorney General gave an adverse opinion when they (CBI) wanted to prosecute.

There were differences within the CBI too — the CBI Director wanted prosecution while the agency's Director of Prosecution opposed?

Yes, I saw the opinion of the Director. But when the AG gave the opinion, the matter ended. Had the AG's opinion been positive, they would have sought my opinion. But that stage didn't come. The CBI has to give a final report.

There have been reports about the Punjab Vigilance Bureau tapping phones, saying cases and appointments in lower judiciary were being fixed, with the connivance of sitting judges. What is your view?

Earlier, Vijender Jain (previous Chief Justice) wrote me a letter. But he was about to retire, had less than two weeks, I think. The committee decided that since he was retiring, we should wait for the new Chief Justice. There was no allegation against any judge; it was brother-in-law of somebody, or something like that. We don't know who was calling whom and the judge (Mehtab Singh Gill) had no role, he was not in the interview board (to select judicial officers). Then the present Chief Justice sent a report that these allegations are not correct. There is lot of politics in Punjab; this (tapping) could be its fall-out. If there is anything, we can always transfer a judge.

On the issue of selection of HC judges, there have been demands that politicians should have role, or a reversion to the pre-1993 system or, at least, making the system more transparent. Sometime back, the House panel headed by EMS Natchiappan said everything while making appointments should be made public, put on the internet, including the Intelligence Bureau report. Your views?

While finalising appointments to the Supreme Court, we mainly consider sitting Chief Justices. We know which CJ is doing what. As for appointment of HC judges and the collegium system, I don't say that everything is alright. Nobody is perfect. We (judges) are also human beings. But when we are selecting the candidate, we try to get the best candidate. Of course, a committee consisting of persons conversant with the system and who are aware of the candidate can also be there. As for including Parliamentarians, while naming an office will not be right, suppose some person who is very busy in the government is in the committee, will he have the time? We meet frequently, sometimes there is a retirement within two weeks and we have to make the recommendation. Can we wait? But ultimately, it is for the Parliament to decide.

But are you averse to any role for the Parliamentarians in the selection?

The question is which Parliamentarian to include? Suppose one party has a member, it will be questioned by others. Also, it will leave judges selected by them open to questions. Suppose a judge selected

by a political party is sitting in court, other party
may object.

Do you favour reservations in higher judiciary?

I don't want to make any comment as we hear so many matters on reservations.