

CAMPAIGN FOR JUDICIAL ACCOUNTABILITY AND REFORMS

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To,

04.04.2011

Smt. Pratibha Devisingh Patil,
President of India,
Rashtrapati Bhawan,
New Delhi-110004

Subject: Request to make a reference to the Supreme Court for inquiry into the misbehaviour of Justice K. G. Balakrishnan, Chairman, National Human Rights Commission and ex-Chief Justice of India under Sec 5(1) of Protection of Human Rights Act, 1993.

Dear Rashtrapati ji,

The Campaign for Judicial Accountability and Reforms is a campaign committed towards bringing about an accountable and transparent judicial system which is accessible to every citizen of this country. The Campaign has, since its inception, highlighted several serious problems with the Indian Judicial System including its lack of affordability, its inaccessibility to the poor and marginalised, the appointment of its judges, its elitist and anti-poor bias, the lack of proper redressal mechanisms to address grievances against judges, inordinate delays in deciding matters and several instances of corruption in the higher judiciary.

In the past few months the news of close relatives and former-aide of Justice K.G. Balakrishnan possessing assets disproportionate to their known sources of income has been covered widely by the national media. The Campaign has also come across other instances of grave misbehaviour by Justice Balakrishnan during his tenure as the Chief Justice of India.

After retiring as Chief Justice of India Justice Balakrishnan was appointed as the Chairman of National Human Rights Commission. The process of removal of a member of NHRC has been given in Sec 5 of Protection of Human Rights Act, 1993. According to Sec 5 (1), *subject to the provisions of sub-section (2), the Chairperson or any other Member of the Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such other Member, as the case may be, ought on any such ground to be removed.* According to Sec 5(2), *Notwithstanding anything in sub-section (1), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be (a) is adjudged an insolvent; or (b) engages during his term of office in any paid employment outside the duties of his office: or (c) is unfit to continue in office by reason of infirmity of mind or body; or (d) is of unsound mind and stands so declared by a competent court; or (e) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.*

The following are some of the known instances of misbehaviour on part of Justice Balakrishnan which make him unfit to continue as the Chairman of National Human Rights Commission:

I. Benami properties in the names of his daughters, sons-in law and brother.

P.V. Sreenijan, married to Soni, the elder daughter of Justice Balakrishnan comes from a humble background. He is a practicing advocate in the Kerala High

Court. When Justice Balakrishnan started his three-year tenure as Chief Justice, Sreenijan started making huge investments in real estate and tourism. According to Form No. 26 filed by Sreenijan on his assets and liabilities to Election Commission in April 3, 2006, when he contested as a Indian National Congress candidate in Njrackkal (reserved) constituency in Eranakulam District, Kerala, he and his wife KB Soni had no agricultural land. Sreenijan had no non-agricultural land. His wife had 29.32 cent, currently valued at Rs.30, 000 at Thiruvankulam Village in Eranakulam District in Kerala in the survey no. 392/7. Both had no commercial properties and apartments. Sreenijan had cash in hand Rs.5000 and his wife had nothing. Sreenijan had savings bank account with a deposit of Rs.20,000 at Bank of Baroda, Kalamassery Branch in Eranakulam district and his wife had nothing. Both had no debentures or shares of any companies, savings certificates vehicles. Sreenijan had 3 sovereign (24 gram) gold valued at Rs.18,000 and wife had 20 sovereign (160 gram) valued at Rs.1,20,000. Both declared no heritable rights acquired by them. A copy of the said assets declaration form is annexed herewith as **Annexure-1**.

Recently, Asianet, Tehelka and others in the media have uncovered various properties acquired by Sreenijan and Soni after Justice Balakrishnan became Chief Justice of India.

- Sreenijan along with his wife purchased lands along with an old building on April 8, 2008 - 9.241 cent, 14.455 cent, 9.904 cent, 2.5 cent in Varappuzha Village of survey numbers 265/1 and 265/3. Value shown Rs.7, 22, 000. The current Market value is around Rs.60 lakh. This deed agreement also shows that Soni lives in a posh flat (that address is shown in the deed) F4-Travacore Residency, Managd Road, Mamangalam, Eranakulam. A copy of the said sale deed is annexed herewith as **Annexure-2**.
- Sreenijan purchased 20 cent of land on March 3, 2007 in Alangad village survey number 176/15. Value show is Rs.80, 000. Market value is more than Rs.7.5 lakh. A copy of the said sale deed is annexed herewith as **Annexure-3**.

- Sreenijan purchased 3.750 cent of land having survey number 177/5 and 90 cent of land having survey number 176/17 on March 3, 2007, Value shown is Rs.2, 3000. Market value is more than Rs.20 lakh. A copy of the said sale deed is annexed herewith as **Annxure-4.**
- Sreenijan along with wife Soni on June 5, 2009 purchased 20.8 cents of land and 9.3 cent of land of old survey nos 176/6A and 176/6A1 in Edapally South Village. Value shown is Rs.30 lakh. Market value is expected to be more than Rs.3 crore. A copy of the said sale deed is annexed herewith as **Annxure-5.**
- PV Sreenijan's mother Smt.Vasu purchased One Acre 64 Square feet of land in survey number 176/6A in Edapally South Village on October 6, 2010. Value shown is 15 lakh. This is a Commercial property and market value expected is above Rs.One crore. A copy of the said sale deed is annexed herewith as **Annxure-6.**
- KB Soni(eldest daughter of KGB and PV Sreenijan's wife) purchased flat at F4 of Travancore Residency in Mangattu Rd, Edapally (heart of the Eranakulam City) Feb 12, 2007. Value show is Rs.Six lakhs. Market value at the time of purchase was Rs.50 lakh. A copy of the said sale deed is annexed herewith as **Annxure-7**
- Sreenijan purchased 58.86 cent, 35.25 cent, 52.89 cent, 73.14 cent and 59.38 cent of land [Total 2.77 acres. A big resort is under construction at this place. This is river side property] of survey numbers 2076, 2077/1, 2385, 2076/1 and 2075 in Kallur Village (Kadukutty Panchayat) on November 13, 2008. There are old buildings in this property also. Value shown is Rs.14, 00, 00. The market value of the property was above Rs. 2 crore. A copy of the said sale deed is annexed herewith as **Annxure-8.**
- The sale deed of KB Soni along with others (non-family) for purchasing legal office in Survey No. 1986/1 of Eranakulam village in heart of the Eranakulam town, opposite to Railway Station. (On March 19, 2007) Value shown is Rs.1.47 lakhs. But the Market value is around Rs.50 lakh

excluding furnishing cost etc. A copy of the said sale deed is annexed herewith as **Annxure-9.**

(All documents accessed through Asianet and Tehelka)

Justice Balakrishnan's second son-in-law, advocate MJ Benny also became considerably wealthier after his marriage to Rani, Justice Balakrishnan's younger daughter particularly during Justice Balakrishnan's tenure as CJI. Between 19 March 2008 and 26 March 2010, he purchased 98.5 cents of land through five title deeds for Rs.81.5 lakh. This is prime land along the National Highway in Marad, Ernakulam district. A cursory comparison of land rates during this period shows that the property was undervalued. When Benny purchased the property it was around Rs. 4 lakh per cent and at current rates it would be Rs. 10 lakh per cent thus making the total value as Rs. 9 crores, 85 lakhs. Yet Benny showed his yearly income as Rs. 5 lakh and Rs. 5.5 lakh during the assessment years 2008-09 and 2009-10. Just five land deals made Benny a millionaire in two years. (*The father, the sons-in-law and the unholy properties, Tehelka 26 April 2011.*). Besides these properties, Benny has also made other lucrative investments.

- MJ Benny purchased a posh commercial Shop/Office in Swapnil Enclave (Room No. 12) in Marine Drive, Kochi (heart of the city) on Dec 15, 2007. Value shown is Rs.35 lakh. Market Value was around Rs.Three crores. A copy of the said sale deed is annexed herewith as **Annxure-10.**
- Rani KB along with others purchased 10.5 acre rubber estate and farm properties, near Athirambuzha Market on May 28, 2005. Value shown is Rs.10 lakhs. Market Value is expected above Rs. Three crores. A copy of the said sale deed is annexed herewith as **Annxure-11.**
- Benny purchased 31 cent in Marad Village on April 26, 2009. Value shown is Rs.39, 56,250. The Market value of this property near the National Highway is Rs.Five crores. A copy of the said sale deed is annexed herewith as **Annxure-12.**

- Benny purchased 6.5 cent in Marad Village on April 23, 2009. Value shown is Rs.Two lakhs. The Market value of this property near the National Highway is Rs. 30 lakh. A copy of the said sale deed is annexed herewith as **Annxure-13.**
- Benny purchased 6.5 cent in Marad Village April 23, 2009. Value shown is Rs.1.90 lakh. The Market value of this property near the National Highway is Rs.30 lakh. A copy of the said sale deed is annexed herewith as **Annxure-14.**
- Benny purchased 7.928 cent in Marad Village April 23, 2009. Value shown is Rs. Eight lakh. The Market value of this property near the National Highway is Rs.One crore. A copy of the said sale deed is annexed herewith as **Annxure-15.**

(All documents accessed through Asianet and Tehelka)

Justice Balakrishnan's brother KG Bhaskaran who was a senior Government Pleader at Kerala High Court also possesses property beyond his known sources of income. Mr. Bhaskaran resigned after these facts came to light.

- KG Bhaskaran , along with his wife MV Ratnamma (Advocate. Retired and suspended Munisf) purchased 30 cent and 12.14 cent including an old building old Survey nos 338/3,339/1 and 397/7 in Thiruvaniyoor panchayat. Date of purchase June 24, 2009. Value show is Rs.21,75,000. Market value is more than Rs.2 crore. A copy of the said sale deed is annexed herewith as **Annxure-16.**
- KG Bhaskaran purchased a Farm House and 53 acre land in Bodikamanvadi Village in Dingugal in Tamil Nadu. Value shown is Rs.19,27,285. Market Value is above Rs. 10 crore. The deal was on November 28, 2006. It is pertinent to mention that Justice Balakrishnan was Tamil Nadu's Chief Justice for a year from 1999 to 2000. A copy of the said sale deed is annexed herewith as **Annxure-17.**
- KG Bhaskaran along with wife and children purchased 40 acres of Farm House on Feb 23, 2005. Value shown is around Rs.six lakhs. But

the Market value is above Rs.3 crore. A copy of the said sale deed is annexed herewith as **Annxure-18.**

- KG Bhaskaran along with wife and children purchased on March 18, 2005 20 acres of farm land. Valued around Rs five lakh but the market value is above Rs.3 crore. A copy of the said sale deed is annexed herewith as **Annxure-19.**
- KG Bhaskaran along with wife and children purchased on March 18, 2005 farm land 2.13 acres. Valued around Rs Two lakh but the market value is above Rs.50 lakh. A copy of the said sale deed is annexed herewith as **Annxure-20.**
- KG Bhaskaran along with wife and children purchased on March 18, 2005 farm land 20 acres. Valued around Rs 1.71lakh but the market value is above Rs.5 crore. A copy of the said sale deed is annexed herewith as **Annxure-21.**

(All documents accessed through Asianet and Tehelka)

This amassing of wealth beyond their known source by the kin of Justice Balakrishnan during his tenure as Judge/ Chief Justice of the Supreme Court clearly indicates that this wealth was given to these people as illegal gratification to the then Justice Balakrishnan.

II. Benami properties in the name of his former aide M. Kannabiran.

According to a story covered by *Headlines Today* on 4th February 2011, Tamil Nadu Chief Minister M. Karunanidhi misused his discretionary power and allotted two prime plots of land in Chennai to a former aide of Justice Balakrishnan. Documents accessed through *Headlines Today* show how Justice Balakrishnan's aide M. Kannabiran, whose monthly income was just around Rs 10,000, was awarded the plots, one currently costing Rs 48 lakhs and the other around Rs 2.5 lakhs. Copies of the supporting documents are annexed herewith as **Annxure-22 Colly..**

The documents show that the Tamil Nadu Housing Board (TNHB) swiftly cleared Kannabiran's application and issued the letter of allotment for both the plots just a day after receiving the request. As per the Chief Minister's discretionary quota,

only one plot can be allotted to a person. However, Kannabiran was allotted the two plots under the quota for government employees. It was not clear how he qualified for it. Also, Kannabiran was not even working in Tamil Nadu at the time he was granted the land. Kannabiran resigned from his job after the news coverage of the said allotments. It is obvious that rules would not have been bent for a lowly employee and in fact Justice Balakrishnan used his influence with the Chief Minister of Tamil Nadu to get these allotments. This in itself is misbehaviour. Further, in light of the fact that Kannabiran's monthly income was just around Rs 10,000, it appears that the said plots must have been purchased benami by him for Justice Balakrishnan.

III. Justice Balakrishnan approved of evasive and false replies given by CPIO, Supreme Court in response to the RTI application filed by Sh. Subhash Chandra Agarwal regarding declaration of assets by judges.

According to a news-story published in *Times of India* on April 14, 2008, in response to an RTI application filed by Sh. Subhash Chandra Agarwal regarding declaration of assets by judges, Supreme Court's central public information officer (CPIO) stated that the information relating to declaration of assets by judges is "not held by or under the control of" its registry and therefore could not be furnished by him. When Sh. Agarwal filed another RTI application to access the file notings which led to the approval of the reply, it was revealed that this elusive reply was given with the approval of the then Chief Justice of India, Justice Balakrishnan, who was himself supposed to be the custodian of those declarations.

The file related to the RTI query on asset disclosures was in fact placed before Justice Balakrishnan on two occasions.

The first time was when a note prepared by the CPIO on November 27, 2007, was "put up to Hon. CJI for approval" by the head of the SC registry, secretary general V K Jain.

The second time was when Jain again "submitted for orders" of the Chief Justice a slightly revised note of the CPIO dated November 30, 2007.

The second note bears Justice Balakrishnan's signature with the same date. In a reference to the three points proposed to be mentioned in the RTI response, the Chief Justice wrote: "A, B & C approved."

What is crucial is point B, which says: "The applicant may be informed that the information relating to declaration of assets by Hon'ble Judges of the Supreme Court is not held by or under the control of the Registry, Supreme Court of India, and therefore cannot be furnished by the CPIO, Supreme Court of India, under the Right to Information Act, 2005."

In keeping with the CJI-approved note, the CPIO wrote his formal reply under RTI on that very day, November 30, 2007.

Later on the Central Information Commissioner and the single and division benches of Delhi High Court held that Supreme Court could not be allowed to make a distinction between its registry and the office of the CJI for the purpose of giving reply to an application under the RTI Act and that the CPIO had to disclose the information asked for in the said application since it was available at the Chief Justice's office. A copy of the said news story dated 14.04.2008 is annexed herewith as **Annexure-23**.

IV. Resisting attempts to stop elevation of Justice Paul Dinakaran to the Supreme Court despite many charges of land-grab, encroachment and possessing assets beyond his known sources of income.

The Supreme Court Collegium recommended the name of Justice Dinakaran along with chief justices of four other high courts in August 2009. In spite of representations made by Bar Association of India, Supreme Court Bar Association, Forum for Judicial Accountability and many noted jurists, Justice Balakrishnan resisted all the attempts to stop the elevation of Justice Dinakaran and in fact made every effort to elevate him. Even after the Central Government rejected the Collegium's recommendation for elevation of Justice Dinakaran in December 2009 and impeachment proceedings against Justice Dinakaran had started, Justice Balakrishnan defended Justice Dinakaran as late as on January 16th 2010 in an interview to CNN IBN. Seeking to knowingly elevate a corrupt

judge to the Apex Court is a clear case of misbehaviour. It may be noted that the Statutory inquiry committee headed by Justice Aftab Alam has framed several very serious charges against Justice Dinakaran on 16th March 2011 including possessing wealth disproportionate to the known sources of his income; unlawfully securing five Housing Board plots in favour of his wife and two daughters; entering into benami transactions prohibited and punishable under the Benami Transaction (Prohibition) Act, 1988; acquiring and possessing agricultural holdings beyond the ceiling under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961; illegal encroachment on government and public property to deprive Dalits and the poor of their right to livelihood; violation of the human rights of Dalits and the poor; destruction of evidence during official enquiry; obstructing public servant on duty; repeated undervaluation of properties at the time of registration of sale to evade stamp duty; illegal construction in breach of the town planning law and planning permit; misuse of official position to unlawfully secure property and facilitate other illegal acts for personal gain; abuse of judicial office to pass dishonest judicial orders; contrary to settled principles of law to favour a few individuals or for his own unjust enrichment, at the cost of the public exchequer and the country's natural resources; in matters where he had a personal and direct pecuniary interest to secure several properties for his family; to take irregular and dishonest administrative actions; for constituting Benches and fixing rosters of judges to facilitate dishonest judicial decisions and to make arbitrary and illegal appointment and transfers. A copy of the news report dated 19.03.2011 appearing in The Hindu is annexed herewith as **Annexure-24**.

V. Suppressing a letter written by a High Court judge alleging that former Union Minister A. Raja tried to interfere his judicial function and later lying to the press that he had not received any such letter implicating any Union Minister.

Justice R Raghpathy of the Madras High Court had written a letter 2.7.2009 to Justice Balakrishnan, the then Chief Justice of India, in which he

stated that the Chairman of Bar Council of Tamil Nadu and Pondicherry K Chandramohan, who is reportedly a friend of Sh. A. Raja, tried to influence him to grant anticipatory bail to his clients Dr Krishnamurthy and his son, who were wanted by the Central Bureau of Investigation (CBI) for forging mark-sheets in MBBS examinations. In his letter to Justice Balakrishnan, Justice Raghpathy said that Chandramohan wanted him to talk to 'a Union Minister by name Raja' over the bail issue as both the accused were Mr. Raja's family friends. Justice Raghpathy mentioned this incident in an order dated 7.12.2010. Justice Balakrishnan in his press conference dated 8.12.2010 stated that he had not received any such letter implicating any Union Minister and that Mr. Raja's name was not mentioned in Justice Raghpathy's letter. This claim of Justice Balakrishnan was refuted by Justice H.L. Gokhale, a Supreme Court Judge who was the Chief Justice of Madras High Court at the time the said letter was written. In a detailed press note dated 14.12.2010, Justice Gokhale said that he had forwarded to the former CJI a copy of Justice Raghpathy's letter dated July 2, 2009 by a letter dated July 5, 2009. The former CJI had in fact acknowledged the same in his subsequent letter dated August 8, 2009 as follows:"vide letter dated July 5, 2009, you have forwarded to me a detailed letter/report July 2, 2009 of Justice Raghpathy explaining the actual state of affairs concerning the alleged misbehaviour of a Union Minister of the Government of India reported in the media." Justice Gokhale said: "The former CJI informed me by that letter that he had received a copy of the memorandum concerning the above incident, addressed by a large number of Members of Parliament to the Prime Minister. A copy thereof was enclosed to seek my views/comments on the issues raised therein. I replied to this letter on August 11, 2009."

On Justice Balakrishnan's statement that there was no mention of the name of any Union Minister in the report sent by him, Justice Gokhale said: "I may point out that Justice Raghpathy's letter was already with him [Justice Balakrishnan] and in the second paragraph thereof Justice Raghpathy had specifically mentioned the name of Minister Raja. I had no personal knowledge about the

incident, and the observations in my reply were in conformity with the contents of Justice Raghpathy's letter.”

Justice Raghpathy and Justice Gokhale’s revelations have made it clear that Justice Balakrishnan not only suppressed the letter implicating Mr. A. Raja but did not flinch from lying to the nation about these grave allegations. A copy press release issued by Justice Gokhale is annexed herewith as **Annxure-25**.

The above facts show that Justice Balakrishnan has been guilty of several acts of serious misbehaviour. We, therefore, request you to kindly make a reference to the Supreme Court for inquiry into the above acts of misbehaviour of Justice K. G. Balakrishnan, Chairman, National Human Rights Commission and ex-Chief Justice of India under Sec 5(1) of Protection of Human Rights Act, 1993.

Yours Sincerely,

(Prashant Bhushan)

