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SC evasive on asset declaration by judges

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NEW DELHI: When Supreme Court judges adopted a resolution a decade ago to make a periodic declaration of their assets to the Chief Justice of India, they took care to state that the details of their holdings would not be made public. But now, the court is being evasive on whether judges have been filing such declarations at all.

In his response to an RTI (right to information) application, the court's central public information officer (CPIO), additional registrar Ashok Kumar, simply said 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.

The file notings, in possession of *The Times of India*, show that this elusive reply was given with the approval of the Chief Justice of India, Justice K G Balakrishnan, who is 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 typically brief 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.

The documentation behind the CPIO's reply and the CJI's approval of the evasion came to light thanks to another RTI application seeking disclosure of the file notings.

It has exposed the apex court's resistance to transparency: Though the CJI can easily say whether judges have been filing declarations of their assets, the CPIO is made to claim under the RTI Act that the information is not in possession of the registry. The matter is now pending before the Central Information Commission, which will have to give a ruling on whether the Supreme Court could be allowed to make a distinction between its registry and the office of the CJI in an obvious bid to confer immunity on the latter from any obligation under the RTI Act.

If the justification offered for stonewalling the question on assets is taken to its logical conclusion, the CPIO for the Supreme Court cannot answer questions related to the CJI's office and Justice Balakrishnan will therefore have to appoint a separate CPIO for himself.

The RTI Act does not exempt the CJI from its purview.

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