

Statement on the Proposed Bill on Declaration of Assets by Judges

Pursuant to widespread public demand and outcry against the refusal of the Supreme Court and the Chief Justice of India to provide information on asset disclosure statements by judges (pursuant to a Full Court Resolution and Code of Conduct), the government has announced that it is preparing a Bill making it mandatory for judges to declare their assets.

However, the details of the proposed Bill as accessed and reported by NDTV, provide for disclosure of assets by judges only to their respective Chief Justices and not to the public. Even worse, the Bill seeks to make the disclosure of assets of judges to any citizen a penal offence punishable with imprisonment upto 3 years. The only positive feature in the proposed Bill is that non declaration of assets by judges has been made a violation of the Code of Conduct which is proposed to be made actionable under the Judges (Inquiry) Bill, 2006 through an in-house judges' committee.

Experience with the existing Code of Conduct (which though non-statutory was unanimously adopted by the Chief Justices' Conference in 1997) has shown that declaration of assets to the Chief Justice alone is unsatisfactory. Most Chief Justices have not looked into them critically, and it is virtually impossible for any Chief Justice to do so, given their preoccupation with judicial and administrative matters. Unless declaration of assets of judges or other public servants are made known to the people, such declarations will not serve any purpose. It is only vigilant citizenry who can and will be able to point out unusual accretion to a judge's assets or false declaration of assets by a judge.

Three reasons for withholding public disclosure have been advanced by judges. 1. Disgruntled litigants will misuse the disclosure to indulge in mudslinging against judges. 2. That judges cannot defend themselves unlike politicians. 3. That there are no clear rules and format for disclosure. None of these reasons seem to be strong enough to justify the proposed secrecy. Disgruntled persons can fling mud on others in authority as well. But the Supreme Court rightly did not let that come in the way of ordering disclosure of assets of aspiring MPs and MLAs. They do not even have the protection of the Contempt of Courts Act which judges have. Making baseless allegations is civil and criminal defamation for which action can be taken by judges more easily than other persons. Moreover, the reputation of persons in public office is not sullied by baseless allegations of motivated persons. It is built upon their actions and behaviour, which is generally known.

So far as a format for disclosure is concerned, a format for disclosure has been rigorously prescribed by the Supreme Court itself for election candidates. The

same format could be used by judges, with whatever amendments that may be required.

Only a public and annual declaration of assets as is done by all federal judges of the U.S. including judges of the U.S. Supreme Court, would ensure that the objective of transparency through this proposed Bill is achieved. We therefore appeal that the proposed Bill on declaration of assets by judges be finalized after effective consultation with civil society.

Endorsed by:

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2. Shanti Bhushan (Senior Advocate, Supreme Court of India)
3. Justice Rajinder Sachar (Former Chief Justice, Delhi High Court)
4. Admiral R.H. Tahiliani (Former Chief of Naval Staff & Director, Transparency International, India)
5. Anil Divan (Senior Advocate, Supreme Court of India)
6. Aruna Roy (Founder, Mazdoor Kisan Shakti Sanghatan and RTI & NREGA Activist)
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13. Kuldip Nayar (Veteran Journalist)
14. Ravi Chopra (People's Science Institute)
15. Anil Sadgopal (Education Activist & Former Professor of Education, Delhi University)
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17. Vandana Shiva (Education & Agriculture Activist)
18. Trilochan Sastry (Professor & Dean, Academic, IIM, Bangalore)
19. Shekhar Singh (National Campaign for People's Right to Information)
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