

## CLEANSING ACT

# Stemming rot: Judges don't need complete immunity, says CJI

## Response To PIL Seeking Protection From Police Investigation

New Delhi: The much respected judiciary is caught on the backfoot. Suddenly, charges and accusations of corruption against judges, always talked in hushed tones in court corridors, are flying thick and fast — all in the open. Weighed down by the gravity and the spread — from Kolkata to Punjab — of the accusations and perturbed by the southward trend of the judicial index in public, the Supreme Court on Tuesday conceded, “The rot has set in.”

The scams have hit one by one in close regularity — the Ghaziabad judiciary scam involving judges of all threeters in the illegal withdrawal of Rs 23 crore from provident fund accounts belonging to class IV employees in February, the cash-for-judge scam in Punjab in August followed by the CJI's recommendation for impeachment of a tainted Calcutta HC judge.

Expressing concern over the state of affairs of the once most respected wing of governance, senior advocate Anil Devan wondered whether the immunity given to SC and HC judges from registration of FIRs should remain valid, given the changed standards of public life.

He said unless an investigation was carried out, how would one know whether the allegations against a judge were true or not. “Any delay in investigation against a judge means adding fuel to the fire set by speculation,” he said. Solicitor general G E Vahanvati was also for some urgent drastic action that would give a much needed boost to the sagging image of the judiciary. “The time has come,” he said.

He also felt that retired judges be excluded from the immunity granted to sitting judges, who could only be proceeded against or even an FIR registered against them, only with prior consent of the concerned Chief Justice.

“The time has come because people have started categorising some judges as very honest despite it being the foremost qualification of any judge. It is the system. We have to find a mechanism to stem the rot,” an SC Bench said conceding that the rot has set its foot in the hitherto forbidden territory and spread fast.

The Bench comprising Justices Arijit Pasayat, V S Sirpurkar and G S Singhvi appeared to

agree that the standards of public life, which used to be impeccable in case of judges, had fallen. It wanted to know: “Has the existing mechanism become outdated? Should with some minor modification, the mechanism could still be effective?”

The existing mechanism appears to have worked in case of Justice Soumitra Sen, corruption charges against whom were first inquired by a 3-judge committee which recommended his removal and on his refusal the CJI recommending the PM to initiate impeachment process against him. But, should he have escaped the rigours of a criminal investigation under the Prevention of Corruption Act, appears to be the moot question.

At this juncture, when judiciary is fighting to emerge from the lengthening shadow of corruption, a PIL sought a direction from another Bench comprising Chief Justice K G Balakrishnan, Justice P Sathasivam and J M Panchal to make all sitting judges immune from all types of investigations by police.

The CJI, who is in thick of solving so many entangled knots involving judges of the HCs and lower judiciary, knew better. He laughed at the proposal and said, “Complete immunity to the SC and HC judges cannot be granted. We (the judges) do not want any such protection.” When the advocate petitioner Trupurari Mishra realised the impossibility of the task, he sought time to amend the relief he had sought.