
Panel to pave way for Justice Sen's ouster

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NEW DELHI: Final preparations for the impeachment of Justice Soumitra Sen of Calcutta High Court on charges of corruption got underway with Chief Justice of India K G Balakrishnan setting up a three-member judicial team to draft the chargesheet against him.

The team, comprising a Supreme Court judge, a Chief Justice of a High Court and a jurist, will prepare the charges against Justice Sen, against whom the CJI had sent a communication to the Prime Minister on August 4 last year for impeachment.

The three-member panel headed by the SC judge will look into the in-house inquiry report against Justice Sen as also the latter's elaborate defence, which was also sent to the government along with the findings of the inquiry and the recommendation for dismissal of the judge through the cumbersome parliamentary process.

The chargesheet prepared by the judicial team will form the basis for MPs to participate in the debate on the impeachment motion, which needs the support of two-thirds of MPs present and voting. Moreover, to impeach the HC judge, the motion has to be passed by both Houses of Parliament, if debating and voting separately, in the same session.

The chargesheet will detail the accusations against Justice Sen, his defence, the view of the in-house inquiry panel and the final view of the three-member committee headed by the SC judge.

Justice Sen, who was appointed as a judge of Kolkata HC on December 3, 2003, was found guilty of misappropriating sale proceeds to the tune of Rs 24 lakh in the 1990s in a case where he as an advocate was appointed as receiver.

He was later directed to deposit Rs 52 lakh by the HC, which found him to have acted in a corrupt manner. In addition, he had unauthorisedly invested Rs 25 lakh from another account.

Though he paid the money back, the in-house committee noted in its February 6, 2008 report to the CJI that "mere monetary recompense under the compulsion of judicial order does not obliterate breach of trust and misappropriation of receiver's funds for his personal gain".

The committee -- which comprised the then Chief Justice of Madras HC Justice A P Shah, CJ of MP HC Justice A K Patnaik and judge of Rajasthan HC Justice R M Lodha, now an SC judge -- concluded, "The conduct of Soumitra Sen has brought disrepute to the high judicial office and dishonour to the institution of judiciary, undermining the faith and confidence reposed by the public in the administration of justice."

The report was sent to Justice Sen with an advice -- resign or take voluntary retirement. He made a detailed representation to the CJI on February 25 and sought "reconsideration of the decision of his removal and a personal hearing".

On March 16, an apex court collegium comprising the CJI and two senior-most judges of the Supreme Court -- Justices B N Agrawal and Ashok Bhan -- gave a patient hearing to the 50-year-old Justice Sen, who has been sitting idle as the HC has not assigned him any judicial work for more than a year.

During the hearing, the earlier advice was reiterated -- resign or take voluntary retirement on or before April 2. However, Justice Sen in his letter dated March 26, 2008 expressed his "inability to tender resignation or seek voluntary retirement".

This made the CJI to write to the PM on August 4 saying, "I write this to recommend that the proceedings contemplated by Article 217(1) read with Article 124(4) of the Constitution be initiated for removal of Justice Soumitra Sen, Judge, Calcutta High Court."

Article 217(1) (b) states that "a judge may be removed from his office by the President in the manner provided in Article 124(4) for the removal of a judge of the Supreme Court".

Article 124(4) provides: "A judge of the SC shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority not less than two-thirds of the members of that House present and voting has been presented to the

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President in the same session for such removal on the ground of proved misbehaviour or incapacity."

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