

UP cops want CBI probe against 34 judges

NEW DELHI: UP police has identified 34 sitting judges, including one in the Supreme Court, as among those allegedly involved in the embezzlement of provident funds of class IV employees of Ghaziabad court. This development, which extends the crisis of credibility facing institutions to the judiciary as well, could become the jolt for it to consider whether to persist with the immunity that judges enjoy at present.

Besides an apex court judge, those under the scanner include eight in the Allahabad high court, one each in Uttarakhand and Calcutta HCs and 23 lower court judges.

The preliminary finding of the police chief of Ghaziabad forced the Supreme Court to recognise the necessity of handing over the embarrassing matter to the Central Bureau of Investigation for a "transparent and fair probe".

Stating that the judges concerned, who served as the district judge of Ghaziabad at different points of time, appeared to be "directly involved in this scam", the SSP in his report stressed: "Several documentary/oral evidences have been collected against one judge of the Supreme Court, 10 judges of the HCs and 23 judicial officers of district level."

"It has also emerged during investigation of this case that all the costly items (split ACs, refrigerators and mobile phones) which are mentioned in the aforesaid bills got recovered by Ashutosh Asthana, were given to then district judges, additional district judges etc, who have been elevated presently as judges in the Supreme Court and various HCs," the report further said.

The Bench comprising Justices Arijit Pasayat, V S Sirpurkar and G S Singhvi asked the state to give its response to the plea of the petitioner for a CBI probe into the scam within two weeks and posted the matter for further hearing on October 22.

The judges appeared to be in agreement with senior advocate Anil Devan and Solicitor General G E Vahanvati who, citing the falling standards, questioned the desirability of keeping the immunity judges have from prosecution. Stating that "the rot has set in", the Bench appeared to endorse the calls for a fresh look at the immunity.

A Supreme Court bench on Tuesday said it was time to stem the rot that seems to have crept into the judicial system. "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 the mechanism to stem the rot," it said.

Further, it asked: "Has the existing mechanism become outdated? Should with some minor modification, the mechanism could still be effective?"

The alacrity may have contrasted with the widely perceived reluctance of the judiciary to agree to investigation other than in-house probes, but was seen as reflecting the concern that has gripped the judiciary with skeletons tumbling out of its closets with frightening frequency.

The earlier hearings in the Supreme Court were marked by fiery exchanges between the judges — CJI K G Balakrishnan and Justice B N Agarwal — on the hand and counsel on the other.

The letter of the SSP of Ghaziabad to his superiors, which was shown to the court, left little room for doubt about the need to get to the bottom of the most serious case of corruption in its ranks.

The officer, showing remarkable boldness, termed the embezzlement a "very large scam in judiciary" in which "judges appear to be directly involved" — breaking away from the routine of not letting the arc of probe extend beyond the low level functionary.

He was also candid in admitting the handicap that he faced in conducting a probe of such a scale and spread and involving the judges before whom the local cop has to appear on a daily basis and whom he may be loath to offend.

In the letter he wrote to the UP DGP on June 23 this year, the Ghaziabad SSP recommended a CBI probe — something that the Bar Association of Ghaziabad had also demanded.

The case involves fraudulent withdrawal of Rs 23 crore from the PF deposits of class IV employees of the courts in Ghaziabad by the central nazir or the treasury officer, Ashutosh Asthana. The treasury officer took out the money by forging applications of employees which were approved by the district judges concerned many of whom have since been elevated to High Courts and the Supreme Court.

The allegation is that Asthana's operations spread over 5 years would not have continued that long without the indulgence of the district judge. And the SSP of Ghaziabad, after probing the matter, also concurred with the dominant opinion that many of the district judges were acting in concert with the treasury official in allowing the withdrawal of the money from the PF accounts.

The issue which first appeared to be a case of routine corruption took on a huge dimension after the vigilance judge, Rama Jain, stumbled upon the involvement of judges, leading to an investigation and subsequent directive of the Allahabad HC for registration of an FIR.

SC slams UP govt for sitting on SSP's report

The Bench was irked by the fact that the UP government did not share it with the June 23 recommendation of the SSP for a CBI probe.

Reflecting on the past unpleasantness during hearings on this issue leading to recusal from the case first by CJI Balakrishnan and followed by the senior most judge, Justice B N Agrawal, the Bench said it did not appreciate the manner in which the state had conducted itself.

The state was defended by additional advocate general Shail Kumar Dwivedi who told the court that the police have filed chargesheet against 75 accused, including the key accused Ashutosh Asthana, who was the central nazir during the scam period.

When an advocate Viplav Sharma objected to the ordering of CBI probe into the PF scam saying it would harm the independence of judiciary, the Bench trashed it and said: "We are all concerned for independence of judiciary but at the same time if we find that someone is acting in a manner that impinges on the image of judiciary and hurting its independence, then should we stay aloof."

"In the last 42 years, the situation has changed. If somebody, rightly or wrongly, points a finger at the integrity of judiciary, can we order a departmental probe and be happy about it? Can a departmental probe be a substitute for police investigation under Criminal Procedure Code?" the Bench asked.

"In this case, the PF scam, an FIR has already been lodged on the directive of the Allahabad High Court and a police investigation is going on. Can we now order a departmental inquiry to scuttle the police investigation," it said.

dhananjay.mahapatra@timesgroup.com