

Shri Justice V. Ramasubramanian ji

Hon'ble Chairperson of National Human Rights Commission

Manav Adhikar Bhawan, Block-C, GPO Complex,

INA, New Delhi - 110023

Re Unchecked corruption in Indian Judicial System : Judicial Reforms necessary

Respected Sir

Kindly find enclosed my suggestions “*Judicial Reforms necessary to prevent unchecked corruption in Indian Judicial System*” which have rather become need of time considering routine news-items about controversies and corruption in Indian Judicial System.

Suicide by 34-year-old Atul Subhash on 09.12.2024 alleging in detail corruption in lower judiciary in his 24-page suicide-note and video-recording followed by big cash-haul at New Delhi residence of a sitting High Court judge Yashwant Verma require urgent Judicial Reforms for ensuring transparency and accountability in India judicial system. ***Now even Madras High Court has confessed -None can deny there is corruption in judiciary, judges are not holy cows-*** with India ranking poorly at 86th place out of 143 countries in WJP Rule of Law Index. Corruption in Indian Judicial System is also one of main factors of India with India ranking poorly at 96th place out of total 180 countries in Corruption Perception Index while ranking at 118th place out of total 147 countries in World Happiness Report.

Unfortunately, when these suggestions were sent to Hon'ble Chief Justice of India, Supreme Court registry replied that my suggestions were filed on verbal directions of Competent Authority without even mentioning who was Competent Authority at Supreme Court!

I request that my suggestions based on my bitter experience may kindly be considered by NHRC, and may kindly be forwarded to concerned ones also including like Law Commission for study and follow-up action, please. I may kindly be kept aware on action-taken report on my suggestions.

Regards

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Human Rights being crushed because of unchecked corruption in Indian Judicial System
Time for National Human Rights Commission to intervene (Please see attachments)

by

Subhash Chandra Agrawal

Suicide by 34-year-old Atul Subhash on 09.12.2024 alleging in detail corruption in lower judiciary in his 24-page suicide-note and video-recording followed by big cash-haul at New Delhi residence of a sitting High Court judge Yashwant Verma should make law-makers to bring transparency and accountability in India judicial system. ***Now even Madras High Court has confessed -None can deny there is corruption in judiciary, judges are not holy cows-*** with India ranking poorly at 86th place out of 143 countries in WJP Rule of Law Index.

Corrupt practices in higher judiciary have earlier also been reported. Letter dated 15.03.2010 from Human Rights Division of Ministry of Home (copy enclosed) mentioned “***Because of the adverse media and other reports with regard to Mr Justice YK Sabharwal, it was felt that the highly sensitive post of Chairperson NHRC may not be offered to him***”. Corruption in Indian Judicial System is also one of main factors of India with India ranking poorly at 96th place out of total 180 countries in Corruption Perception Index while ranking at 118th place out of total 147 countries in World Happiness Report. It is indeed shocking that government shielded YK Sabharwal by challenging CIC-decision allowing disclosure of file-notings on the above referred MHA letter 15.03.2010 at Delhi High Court.

India is perhaps the only country where judges recommend to appoint judges in higher judiciary resulting in a constant tussle between legislature and judiciary. Collegium-system at Supreme Court for recommending appointments and transfers at Supreme Court and High Courts is also at times under criticism for some selected families observed as dominating Indian judiciary. It may also not be advisable to hand over appointment in higher judiciary in hands of political hands of legislature. A balanced approach can be achieved by instituting a high-powered National Judicial Commission having retired Supreme Court judges as member-nominees of President, Prime Minister, Leader of largest Opposition Party in Lok Sabha, Chief Justice of India (CJI) and Bar Council of India with Chief Vigilance Commissioner as ex-officio member of the Commission with Union Law Secretary as ex-officio member-secretary of such a Commission. CJI may head such a high-powered Commission. Recommendations of such a Commission should be final, and

sent directly to President of India for a formal endorsement. Retirement-age of High Court judges should be raised to 65 years to be at par with that of Supreme Court judges to avoid any chances of lobbying for promotion as Supreme Court judges only because to be in system for 3 extra years. Reforms for future may be there to establish Indian Judicial Service (IJS) on lines of Indian Administrative Service (IAS) where those passing the tough competition may be appointed first at District Courts and ultimately to be elevated to High Courts and Supreme Court.

Status of Chief Justice of India should be made at par with that of Union Cabinet Secretary, and of all other Judges of Supreme Court and High Courts at par with that Secretary in the Government in all respects of monetary and other benefits while on post and after retirement. However, for protocol purposes, Chief Justice of Indian and other Judges of supreme Court and High Courts, existing position may be maintained.

To prevent chances of influencing locally appointed High Court judges either through their former bar-colleagues or local relations, all High Court judges should be compulsorily appointed outside from their home-states. To eliminate political bias in judiciary, it should be ensured that no person may be appointed as judge with an active political background. Even after retirement if any judge joins politics, he must lose all his post-retirement benefits. No judge should be given any post-retirement job anywhere after two years of retirement as was rightly advocated by the then Opposition Leader in Rajya Sabha during earlier regime. It should be ensured that any person seated as CJI must get at least one year to be on post before he attains retirement-age of 65 years. Indian system is witness of contrast cases with Justice Kamal Narain Singh having been CJI for just 18 days (25.11.1991 to 12.12.1991) while Justice Yeshwant Vishnu Chandrachud having been CJI for more than seven years (22.02.1978 to 11.07.1985).

Suggested National Judicial Commission should also be empowered to probe all complaints against judges including Chief Justices of Supreme Court and High Courts, abolishing cumbersome and impractical system of removal of tainted judges through impeachment. Findings of the Commission and punishment suggested for such guilty-found judges should be endorsed for action with all post-retirement benefits of such tainted judges abolished. Even a senior Advocate associated with first-ever impeachment-case of Justice V Ramaswamy had expressed impeachment-process to be highly impractical. Tax-payers' hard-earned money was wasted in paying a judge of a High Court for no work after the Supreme Court Collegium decided to

recommend his impeachment. Judges are also human-beings picked up from the same society which has both honest and dishonest persons. Chairs of judges are not made from some divine material which can turn some undesirable one found entry as judge to turn fair.

Pay, perks of existing and retired judges should be decided by Pay-Commissions at time of deciding new pay-scales for government-employees. No extra-ordinary privileges should be provided to retired judges which presently also include life-time domestic help for them and their spouses. Since pensions to government-employees has been done away, same system should be there for those in judiciary (and even in legislature).

It should be made compulsory for all judges from Supreme Court to trial-courts to record reason for recusal from the case on the file. Moreover, any such recusal should be informed immediately on setting up the bench or listing of such a case before a judge so that a new bench may be there for hearing without requiring any postponement of the hearing. A judge of Delhi High Court once recused herself from hearing a case where she herself issued notice to former President Pranab Mukerji after admitting a writ filed by some individual urging some contents of the book authored by the former President to be deleted. At times judges of higher courts have written to sitting Chief Justice of India about pressure and influence especially also from politicians. Making it compulsory to give reasons for recusal will prevent pressure and influence on judges.

Courts at times give very lengthy judgements running into hundreds or thousands of pages which are practically not read by even litigants themselves. Such lengthy court-verdicts are show-pieces for libraries and are read only by researchers and select lawyers. India should adopt practice of countries where there is a limit on number of pages of court-verdicts which is different for Supreme Court, High Courts and Trial Courts. Or else, every lengthy court-verdict exceeding say 50 pages may be compulsorily accompanied by a precise version with a limit of say 50 pages to be simultaneously issued and posted on website on date of judgement itself. All verdicts must be announced within say one month of completion of hearing. In case a bench decides to recommend higher bench to hear the case, it should be within one month of first listing the case before the bench recommending for a larger bench.

Biggest weakness of our justice-delivery-system is liberal ex-party stay-orders followed by frequent adjournments in courts which the main and foremost reason of ever-increasing huge

pendency of cases in courts resulting in justifying the proverb Justice-Delayed-Is-Justice Denied. This is despite the fact that several Division Benches of Supreme Court have observed and rightly too of the bitter reality that at times those having taken ex-party stay-orders seeking frequent adjournments ultimately lose the cases.

Long summer vacations in courts were designed by erstwhile British rulers to save British judges in India from severe hot weather of this country and also to facilitate them to visit their homeland in England. This costly facility unfortunately continues in free India even after 75 years of independence, that too with long pendency of court-cases. Long-pending recommendation of Law Commission for scrapping long court-vacations should be implemented. Courts should adopt normal government-calendars for holidays abolishing system of week-long vacations for religious festivals apart from long winter and summer vacations.

Whole system of continuing naming High Courts is confusing where some High Courts are still named after cities where these are situated. Indian cities Bombay, Madras, Allahabad have since been renamed as Mumbai, Chennai and Prayag respectively long time back. But High Courts located in these cities are still officially named after old names of these cities. System should be that names of High Courts may get auto-changed with change in names of cities. Best is to end the British legacy by naming all High Courts after names of states rather than on cities. Proposed legislation should incorporate feature that names of High Courts may be automatically changed with change in name of states or cities without needing any separate legislation.

Writer is Guinness World Record Holder for writing most letters and RTI Consultant

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F.No. 15011/29/2009-HR-III
Ministry of Home Affairs
Human Rights Division

1st Floor, A Wing, Lok Nayak Bhawan
Khan Market, New Delhi, the 15th
March, 2010.

To

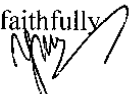
Shri Subhash Chandra Agrawal
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Subject: Appointment of NHRC Chairperson.

Sir,

Reference is invited to your e-mail dated 18th December, 2009 on the subject cited above. It is true that both Mr. Justice R.C.Lahoti and Mr. Justice Y.K.Sabharwal were eligible for appointment to the post of Chairperson, NHRC as per the provisions of the Protection of Human Rights Act, 1993. However, it was recorded in our notes, that their acceptance to the post is doubtful. In the case of Justice R.C.Lahoti the then Home Secretary had spoken to the learned Judge enquiring about his availability for the post. It appears that Mr. Justice Lahoti indicated that he was otherwise very busy and would not be in a position to accept the offer.

Because of the adverse media and other reports with regard to Mr. Justice Y.K.Sabharwal, it was felt that the highly sensitive post of Chairperson NHRC may not be offered to him. Accordingly, it was recorded on the file that Mr. Justice R.C.Lahoti and Mr. Justice Y.K. Sabharwal 'are not inclined/not available for different reasons'. As the offer of the post was made to Mr. Justice Lahoti orally there is no correspondence recorded between the Union Government and Mr. Justice Lahoti. However, the conversation between them had been reported by the then Home Secretary to the Home Minister.

Yours faithfully

(T.K.Sarkar)
Section Officer
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