

Editorial

Imphal, Friday, October 16, 2015

Time to stop faking and face the facts

Man, being a social animal has to exist with and amongst other humans and in order to adjust and make co-existence possible certain laws and regulations are drawn up to safeguard the welfare of every member of the group or community, curtailing certain personal freedoms and liberties that might infringe on other person's welfare. This is the basic idea of a social set-up. Leaders and arbitrators are then chosen to oversee the smooth working of the social system with adequate executive powers as deemed necessary to enforce the same. The Government as we know, create and accept in the contemporary world. A society, being made up of individual members as well as diverse communities, is bound to come up with conflicting interests and emotions. This is where the quality and the efficiency of the people entrusted to sort out these social issues are being tested. The problems being faced by our society as a collective whole in recent times is uncountable and varied- indeed an intimidating and daunting task for those entrusted to solve them. Public memory is short lived- or so it is believed. But sweeping away these problems under the carpet and shrouding them with silence, putting the theory about public memory to the test is not the right step towards easing or erasing the problems. Nor is the polished method of prolonging the issues and tiring out the protesting parties to buy time and making these matters fade out of the mind of the public the prudent way of resolving things. The truth about the existence or otherwise of the much discussed and debated 'National Register of Citizens 1951'- should be clarified by the state government without further ado as the recent flare-ups and the still simmering social tensions that is increasingly taking on a communal tone needs to be addressed immediately lest the state will be thrown into another bout of mayhem. It's better to call a spade a spade and wind up the matter before things become irreparably damaged. It needs to speed up the workings of its various departments and deliver the goods in time to avoid and prevent more problems. Genuine issues should be resolved before things get out of hand and "mob Justice" takes precedence for those whose voices has been gagged for so long and their grievances fallen on deaf ears. Justice delayed is justice denied.

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AR apprehends UG cadres

In another operation, the same unit on having specific intelligence of movement of a cadre established another vehicle check post on NH 37 and apprehended an NSCN (K) cadre on 14 Oct 2015. The apprehendee was identified as No 14336, SS 2nd Lt Chamding Kamei alias Chakamei, aged 43 years, S/o Late Kalanglung Kamei, resident of Tanagong, District - Tamenglong. The apprehendee has been handed over to the Lamphel Police Station. In yet another operation, the same unit apprehended one UNLF cadre identified as No 1683, Batch No 17, SS Sgt Aheibam Angouba alias Bulu Meithai, aged 33 years, S/o Late A Dewan Meithai, resident of Takyel Kolam Leikai from the general area Takyel on 15 Oct 2015. The apprehendee has also been handed over to the Lamphel Police Station. 12 BIHAR apprehended fourth cadre in succession when on a specific intelligence, another UNLF cadre was apprehended in a joint operation with Bishnupur Police Commandos near the Nambol Bridge in general area Nambol Bazar. The apprehendee was identified as No 1632, Batch No 26, SS Corporal Khundongbram Kiran Khahanganba, aged 28 years, S/o Kh. Phajabi of Heirok Mayai Leikai. He revealed to have joined UNLF in February, 2003 after receiving training in a camp in Churachandpur. He also revealed to have attacked the Indian Army in 2005-06 at Sotobekra, Deibijang and New Samtal, whilst presently he was working with their Military Intelligence unit.

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National & International

Supreme Court verdict on NJAC snubs Parliament, people's will; but tussle not over

By R Jagannathan

The five-judge Supreme Court's verdict striking down the National Judicial Appointments Commission (NJAC) puts the judiciary in conflict with not only the executive but the will of the people. That the apex court can strike down a law passed with overwhelming majorities in both houses of parliament and by 20 state assemblies shows that it is more keen to protect its own narrow interests than see its powers in the wider context of achieving the right balance of power between legislature and judiciary.

While the details of the reasoning behind the bench's verdict are awaited, the point that needs underscoring is that the judges are themselves an interested party in this verdict. So the judgment can hardly be called impartial or credible. A larger constitutional bench needs to rehear the matter.

To be sure, the NJAC bill was not exactly perfect. The court was right to consider the issue of judicial independence, and whether the new law would affect this. But the logical thing to do was to read down the NDA law so that the power of the executive to influence appointments to the higher judiciary was limited. In particular, the insertion of the law minister into the commission could have been proscribed, and a more politically neutral member position created.

Worse, the judgment appears to have restored the old, opaque collegium system with no checks and balances. That system was the result of the court effectively reinterpreting Ambedkar's constitution to mean that the executive will have absolutely no say in the appointments of judges. Judges will thus appoint themselves, violating the fundamental democratic principle of balance of power and checks and balances.

The bottomline: we have not heard the last of this issue. The battle will be rejoined shortly. Here's what I had said earlier on matter.

The government's aggressive stand during hearings in the Supreme Court on the constitutional validity of the National Judicial Appointments Commission (NJAC) will effectively ensure that even if the bench strikes down the law, the old collegium system will not be revived.

The NJAC law, passed in 2014 by both Houses of Parliament almost with no dissent, and by 20 states assemblies subsequently, clearly represents the overwhelming will of the people of India. This does not mean the court can't strike it down on grounds of unconstitutionality, but it will certainly make the collegium system of appointing judges impossible to defend or revive. The collegium system came into being in the 1990s when the

Supreme Court decided in two cases that judges will appoint themselves — unheard of in most parts of the world — and giving the executive almost no say in the business. This was not the mandate of the original Article 124 of the Constitution on the appointment of judges, which said that the President will appoint judges after consultations with the Chief Justice and any other judge he may want to.

That the judiciary does not like the NJAC has been apparent from the start. First, the petitioners forced Justice AR Dave to recuse himself from the bench as he would have been part of the NJAC by law. This was followed by the CJI, HL Dattu, also refusing to join the committee to pick eminent persons to join the NJAC.

The five-judge bench hearing the NJAC case also got the government to agree that the tenures of the additional judges whose probation would have ended during the pendency of the hearings would be extended without constituting the NJAC. However, Attorney General Mukul Rohatgi has been more than blunt in his arguments before the bench in order to send the clear message that there was no way the collegium could be restored. At best, there can be a stalemate over the appointment of judges, which neither government nor the judiciary may want.

First, Rohatgi argued that the collegium system, which was brought in by a nine-judge bench, cannot be restored or the NJAC law overturned by a smaller, five-

judge bench. He also got five BJP state governments to send in their lawyers to back his contention. At the hearing yesterday (11 May), Rohatgi not only again sought an 11-judge bench to hear the case, but also said that the collegium system was dead. This court could not revive it, for Parliament will not be pushed around by what it would say when it had decided otherwise.

According to a report in The Indian Express, the bench asked Rohatgi what would happen if it quashed the amended Article 124 that enabled the constitution of the NJAC. His unambiguous reply: Article 124 is over. If the court strikes it down, Parliament would not revive the old article, which a nine-judge Supreme Court bench had interpreted to give itself an unintended mandate to choose judges.

The Express reports that the Rajasthan government's lawyer, K Parasaran, made it clear that Article 124, in the form it had been interpreted by the top court to establish a collegium, would never be revived.

To drive home the message deeply, Rohatgi emphasised the court's own interest in the case. He pointed out, unsubtly, that the court was effectively judging its "own cause". The five-judge bench may yet recuse itself and ask for a 11-judge bench to finally hear the case. But it was left in no doubt that the collegium system was never going to come back.

NJAC may be stillborn, but the collegium is over for good. **Courtesy First Post**

Muslims can continue to live in India, but only if they stop eating beef: Haryana CM Khattar

New Delhi, Oct 16: The beef debate that has been steadily spreading across the nation has now moved to Haryana. Chief Minister Manohar Lal Khattar is the latest to weigh in, showing great benevolence in assuring Muslims that they can stay in the country, but only on one condition.

"Muslim *rahein*, *magar is desh mein beef khaana chhodna hi hoga unko. Yahan ki manyata hai gau* (Muslims can continue to live in this country, but they will have to give up eating beef. The cow is an article of faith here)," Khattar told *The Indian Express*.

The Haryana Assembly, it may be recalled, passed a bill banning cow slaughter in March this year. The 'Gau Sanrakshan and Gau Samwardhan Bill 2015' states that offenders will face rigorous imprisonment for between three and 10 years, and a fine of between Rs 30,000 and Rs one lakh.

But wait, there's more. Even the vehicle used to transport the cow to be slaughtered isn't safe, and can be impounded.

Khattar, meanwhile, pointed out to *The Indian Express* that while the

Dadri lynching was 'wrong', the whole incident occurred due to a 'misunderstanding' and that 'both sides' were at blame. Mohammad Akhlaq's fault, according to the chief minister, was a 'loose comment' that hurt the sentiments of people who were apparently hurt enough to murder the man. The report mentions that Khattar, at this point, compared the hurt experienced by the men to the emotions a person whose sister or mother had been killed or molested would experience. Khattar also questioned whether eating beef was a prerequisite to being Muslim, or Christian for that matter. "Culturally, we are democratic. Democracy has freedoms, but those freedoms have a limitation. Freedom of one person is only to the extent that it is not hurting another person," he added eloquently.

Jawahar Yadav, the OSD to the Haryana chief minister, was quick to clarify that Khattar had said nothing of the sort, and that the newspaper got it wrong. The real message the chief minister was trying to send out was apparently that 'we should respect everyone'.

SC strikes down NJAC

ANI
New Delhi, Oct 16: The Supreme Court on Friday struck down the National Judicial Appointments Commission (NJAC) for the appointment of judges and dubbed it as unconstitutional. The apex court also upheld the collegium system for the appointment of judges.

"Amendment has been declared unconstitutional. Old collegium system has been restored," said advocate Surat Singh.

A five-judge bench headed by Justice J.S. Khehar had reserved its judgement on July 15 after a marathon hearing for 31 days on the issue of validity of the 99th Constitutional amendment and the NJAC Act.

On April 7, a three-judge bench of the apex court had referred the matter to a five-judge constitution bench, the batch of petitions challenging the validity of NJAC Act to replace the two-decade-old collegium system.

State News

AR organises lecture on drug abuse



Imphal, Oct 16: 22 Assam Rifles of 28 Sector Assam Rifles under the aegis of HQ IGAR (South) had organised lectures cum awareness meet about "Drugs Abuse and Effect on Society" and "Indian Armed Forces" especially targeting young generation at Elite Children English School (Chaired Khunou) and Serou Higher Secondary School (Serou) on 13 Oct 15. More than 500 School students including teachers were present basically educating the youths on the ill effects of drugs and to make all endeavors to end the menace through a concerted effort by all the communities. The programme focused primarily on

educating the school/college students about the effects of drugs on the human body as well as the legal aspects of illicit drug trafficking. The students were motivated to join the armed forces imparting Guidelines about "How to prepare/ join National Defence Academy and Indian Military Academy" and help in building a strong nation. The school administration expressed their gratitude for organising such a beneficial event and praised the benevolent act of 22 Assam Rifles. The Unit reaffirmed its commitment to help the local populace and continue giving its assistance to the people of Manipur.

AR interacts woem of Kwatha

Imphal, Oct 16: 24 Assam Rifles of 26 Sector Assam Rifles under the aegis of HQ IGAR (South) conducted an interaction with Women Society at Kwatha Village on 13 Oct 2015. The programme was attended by 32 local women including few elders of Kwatha Village. The President of Women Society along with members of the society projected points for the welfare of the women of Kwatha Village. The President of Women

Society informed that this society is improving the environment in and around the village by imposing fine/restriction on males who indulge in drinking & domestic violence. The women society also commended various other projects being under taken by Assam Rifles for the society. The function culminated with interaction of women society and Assam Rifles personnel followed by tea and snacks.