

Editorial

Saturday, January 13, 2018

Trial by fire

The litmus test for any self-professed progressive country regardless of the political situation or ideological leanings is the willingness coupled with the right amount of political will to accept its weaknesses and drawbacks, respect the rights and freedom of its citizens without any distinction, and above all to ensure justice is dispensed in the most effective and efficient manner. In a country where freedom is portrayed to be guarded with a fervent zeal and rights of its citizens are claimed to be respected and protected, the contrasts to these claims as experienced by the common people cannot be stressed enough. Might is right and judging by the manner in which the less powerful or influential mortals are prepared to go the extra mile to appease the high and the mighty and be in their good books, power will continue to be an attribute to be revered and feared, overlooking the fact that the very power most of us so regarded as unattainable and unapproachable have its genesis in the universal suffrage of the common people.

This glaring example of the chasm that has existed between the optimistic projections of the government and the ground reality has once again been pushed to the forefront of public debate with the admission of the state's once-dreaded encounter specialist Head Constable Thounaojam Herojit of being a part of a large number of fake encounters in Manipur between 2003 and 2009 which propelled the state to the top spot of having the maximum number of fake encounters in 2008-09 according to NHRC date. The more pertinent question which would put a lot of how things work - read arranged - within the power structure of the state government of that time in true light is the why of it. Why did Herojit decided to wait till 2016 to make the sensational disclosure, or more important, what compelled him to make such a damning disclosure? Having moved the Supreme Court with his sensational disclosures, the very foundations of power in the state will undoubtedly be shaken, and heads will definitely roll. The past has indeed started catching up and the public might very well be treated to a glimpse of the unspoken wish for justice to prevail which, at that point of time would have been akin to declaring one's death wish.

Hopefully, the era of state-sponsored terrorism has seen its last days. And hopefully the brave disclosures and sensational revelations of Herojit, despite the unmistakable animosity and threat to his very existence such a step will bring, will pave the way for a more tolerant, humble and productive society which can focus on collective and inclusive development. Thounaojam Herojit is asking for justice- and is prepared to face the consequences for his own actions. But what about those who sanctioned him the authority to carry out such excessive and mindlessly violent acts? Evidently, there still are machinations in motion with the objective of hampering the progress of the case.

For now, the public need to repose its trust in the judiciary, however difficult it might turn out to be, and follow the progress as we let the law run its course. But that does not in any way mean that the public will take things for granted and accept anything presented to them at face value. Miscarriage of justice, particularly of this incident will more than likely tear down the judiciary and ignite the tinder of discontent and deception.

More National News

Boxer found dead with multiple bullet wounds in Greater Noida flat

Greater Noida, Jan. 13: A former boxer from Delhi, who had taken part in competitions in Uzbekistan, France and Russia, was found dead with bullet injuries at his apartment in Greater Noida today, police said.

The body of Jitendra Mann (27), who was working as a trainer at a gym at sector Alpha here, was found by his former flatmate Pritam Tokas, Superintendent of Police (Rural) Suniti Singh said. On January 10, he went to the gym in the morning but since then his mobile phone was switched off, she said.

On failing to contact him, Tokas, who had a key of Mann's apartment, reached there and opened the house. He found Mann's body lying in a pool of blood with bullet wounds, Singh said. Tokas informed police who reached

the spot and sent the body for post-mortem, the SP said. Mann's father Satya Prakash and mother Rajbala lives in Delhi, she said.

In 2008, Mann had registered himself as a boxer with Haryana State Boxing. He also used to play for Delhi. He had taken part in several boxing events in France, Uzbekistan, Cuba and Russia. He left boxing several years ago and started working as a gym trainer, Singh said.

He was living alone in Greater Noida for the last few years and shifted to this flat in AVJ heights Apartments four months ago. Prima facie said the assailants locked the door of Mann's house after killing him and had taken away his mobile phone as well as the house' keys with them, she said.

Police are trying to identify the assailants through CCTV footage and arrest them, the SP said.

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For the Supreme Court Judges to go public Is unsettling, but they were left with no option

By David Devadas

Courtesy: The Wire dot in

The last thing a democracy can afford is a judiciary which won't even dare to stand up for its own rights.

The press conference by four judges of the Supreme Court is extraordinarily unsettling. It is deeply regrettable that things have come to such a pass.

However, if one takes a close look at the options, this bold step was better than their accepting a situation they considered unfair. The last thing a democracy can afford is judges who don't even dare to stand for their own rights as judges, and for the systematic working of the highest court.

All four - Justices J Chelameswar, Ranjan Gogoi, Madan B Lokur and Kurian Joseph - have as good as given up the likelihood of a post-retirement sinecure such as a governor's post. The two judges who are in line to be chief justice may even have risked that appointment. It is a courageous move, which must therefore be lauded.

Silence is no answer, and the judges could not have turned to any other authority than the people. And let us make no mistake, it is the people who are the ultimate authority in a

truly democratic republic.

The various institutions of the state, including the apex court, are creatures of the constitution, which explicitly comes from "we the people". That is the fundamental difference between constitutions such as of India, France and the United States on one hand and systems that hinge on the sovereignty of a monarch on the other.

Isolated institution

The four judges could only turn to the people since the Supreme Court is the one institution of the Indian Union that is almost completely separate from other institutions. The others act as checks and balances on each other in a far more direct and integrated way with the Lok Sabha as the centrepiece.

The president is elected by both houses of parliament. A Lok Sabha is not valid until the president has addressed parliament. Although it may seem just ceremonial, it is the president's address that validates the continuance of the government each year.

In the first place, the government cannot take office unless the president invites it, based on a list of elected members which the Election Commission sends it —

and then administers oaths of office. And it is the Public Accounts Committee of parliament, always headed by a Lok Sabha member, which acts on reports of the Comptroller and Auditor General of India (CAG).

The Supreme Court, on the other hand, is not organically integrated with the president, and certainly not with the government or parliament. If the judges are dissatisfied with the way Chief Justice Dipak Misra allocates work, they can only place this before the people.

Equal powers

The judges who addressed the media are absolutely right in stating that every judge of the Supreme Court is equal. If, for example, the chief justice and another judge give different judgments on a two-judge bench, the chief justice's verdict has no greater validity than the other judge's verdict.

The chief justice is charged with the task of allocating work to the other judges on the Supreme Court, not supervising their hearings or judgments.

In fact, any order a Supreme Court judge gives in that capacity immediately becomes the law of the land. That is why a Supreme Court judge retires at a particular instant

(midnight), not just a particular day. Indeed, no superior court can interfere with the work of another court - except to transfer a case in certain circumstances. Each court functions within its jurisdiction, and cannot be instructed how to decide a case.

Pros and cons

Friday's press conference will be debated long and hard. Books and law schools will discuss it threadbare for decades.

The main point to be considered is whether form is more important or the conduct of work in the highest constitutional offices in a balanced and accountable manner. There is a strong argument for keeping up appearances, of at least the pretence that things are going along on even keel. It is this argument that undergirds the pomp and ceremony of state functions, the majesty of a sovereign, or of the system.

However, fair play, responsiveness and accountability in the conduct of the business of state has to have the highest priority. Form cannot be more important than content. Particularly in an age when the internet and social media have made it so easy to expose all things to all people, the hope that one can keep up appearances has been utterly upturned.

National & International News

Decks cleared to acquire land for new prison in Mumbai: Maha to HC

PTI

Mumbai, Jan 13: The Maharashtra government has told the Bombay High Court that it has finally completed formalities to acquire land for a new prison complex here, four years after it made the proposal. As per an affidavit submitted in the high court by the Maharashtra government yesterday, the city collector will hand over around 52,000 sqm plot at Mandale village near Mankhurd to the state by next month for the construction of the new prison.

The construction of the new prison was proposed by the Maharashtra government in 2014 to tackle overcrowding in the existing prisons in and around Mumbai.

As per the affidavit, the state home department, the revenue department, and other stakeholders met on January 3.

All formalities were completed during the meeting and the state revenue minister directed the city collector to hand over the 52,000 sq.m. plot within a month's time.

Appearing for the state, advocate Anil Sakhre informed the court that the Public Works Department had also been directed to appoint an architect and prepare the plan and estimates for the new construction.

In the meantime, Sakhre said, the state had already begun

constructing "eight new barracks at the Yerwada Central Jail premises in Pune since the prison has sufficient space" for the same. "All new construction at the Yerwada premises and the proposed site in Mankhurd will be done in line with the suggestions of the state's prison reforms committee," Sakhre said.

The affidavit was filed in compliance with a previous order of the high court.

In February 2017, a bench led by Justice AS Oka had directed the Maharashtra government to set up a committee headed by a retired high court judge and experts as members to conduct a "scientific study on

setting up a model prison with necessary infrastructure and steps to reduce overcrowding in jails."

Following the court's order at the time, the state had conducted an inspection, which revealed that the Arthur road jail in Mumbai and the Yerwada jail were severely overcrowded.

It had also revealed that the prisons across the state did not have adequate number of toilets and bathrooms, and that the male inmates often had to bathe in the open. In the women's cell too, there were inadequate number of toilets and bathrooms.

The inspection report had also said that these toilets were ill-maintained

and dirty.

In the affidavit submitted on Friday, the state said that the central prisons in Mumbai, Pune, Thane, Aurangabad, and Nagpur required around 200 additional toilets, bathrooms, and bathing platforms. "We are carrying out repair work at the existing toilets and bathrooms. We will soon allocate funds for construction of new toilets and bathrooms too," Sakhre said.

The court has now directed the state to submit by February 12 a chart detailing all repair and construction work that is proposed or currently being undertaken, the cost for the same, and the time that will be taken to complete all such work.

GNRC media fellowship announced

By NJ Thakuria

Guwahati, Jan. 13: Assam's pioneer healthcare institute, GNRC hospitals has announced another round of medical journalism fellowships to working journalists starting from the first week of February 2018. Nine scribes representing the print/electronic media will be selected for the media fellowship programme, run in association with Guwahati Press Club.

The fellows, who will be paid a lump sum remuneration of rupees 10,000 (ten thousand rupees only) each,

are expected to attend regular interactive sessions with the physicians at three campuses of GNRC hospitals and report about their experiences in their respective media outlets.

"As we expect the media to play an important role in the field of healthcare, it becomes essential for the journalists to understand different issues relating to medical care and infrastructures in our region. The outputs of the enlightened journalists are expected to help the policy makers in formulating schemes for the

development of healthcare exercise," said Dr NC Borah, chairman cum managing director of GNRC hospitals.

Interested media persons (preference will be given to press club members) may send their applications to the office of Guwahati Press Club, Ambari, Guwahati-781001 by 25 January next. The application should include a very brief profile of the journalist and few lines (within 500 words) describing why s(h)e is interested to join the fellowship programme.

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