

A letter reveals anguish at judicial orders

Making a case: Justice J. Chelameswar during a press conference in New Delhi on Saturday. R.V. Moorthy

A letter written by the four senior-most Supreme Court judges to Chief Justice of India Dipak Misra reveals their anguish at the recent judicial orders and an erosion in the judicial independence of the court.

Justices J. Chelameswar, Ranjan Gogoi, Madan B. Lokur and Kurian Joseph said the letter, written in October 2017, did not mend matters. Their efforts to convince the Chief Justice to take corrective measures had failed, forcing them to go public.

The letter said the Chief Justice's authority, as the master of the roster to decide which Bench should decide which case, did not make him a "superior authority". "The Chief Justice is only the first among equals — nothing more or nothing less," the letter said. Yet, they said, "there have been instances where cases having far-reaching consequences for the nation and the institution have been assigned by the Chief Justices of this court selectively to the Benches of their preference without any rational basis for such assignment."

Institutional damage

The letter said it did not want to embarrass the institution by quoting the names of the cases which were assigned to select Benches, where they were met with quiet burials.

The judges said such instances and departure from the tradition of impartiality of the court had damaged the institution.

The press conference follows a recent judgment of a Constitution Bench, led by Chief Justice Misra, which declared the authority of the Chief Justice of India as the master of the roster.

The Bench held that it was the "exclusive domain" of the CJI, and none other, to allocate cases to judges in the court. The Constitution Bench was formed after a Bench, led by Justice Chelameswar, decided to hear a petition for a fair investigation into a case of conspiracy to bribe Supreme Court judges in a private medical college case.

The case was decided by a Bench led by the Chief Justice.

The Constitution Bench effectively overruled Justice Chelameswar's order to have the case before him. Ultimately, the petition was dismissed by a three-judge Bench of Justices R.K. Agrawal, Arun Mishra and A.M. Khanwilkar and Rs. 25 lakh in costs was imposed on the NGO.

MoP issue

The letter also highlighted an order passed by a Bench of Justices A.K. Goel and U.U. Lalit that there be no delay in finalising the memorandum of procedure (MoP) for appointment of judges to the Supreme Court and the High Courts.

The letter said there was no occasion for Justices Goel and Lalit to pass such an order when the Collegium had already finalised the MoP and sent it to the government on March 2017.

It said the government had met the draft MoP with silence, which meant that the Centre accepted

the terms of the Collegium. Besides, any issue with the MoP had to be decided at the Chief Justices' Conference and by the Full Court, and not by a Bench of two judges.

END

Downloaded from crackIAS.com

© **Zuccess App** by crackIAS.com

crackIAS.com