

# SC MUST RE-EXAMINE PROCEDURE TO PROBE ALLEGATIONS AGAINST CJI GOGOI

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

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The writer is a former judge of the Delhi High Court

A panel of three Supreme Court judges has cleared the Chief Justice of India of the allegations of sexual harassment levelled by an ex-staffer of the Court. While the CJI stands vindicated, the procedure adopted by the panel in arriving at its conclusion has left much to be desired. In fact, one of its own, Justice D Y Chandrachud, had reportedly written to the panel to broaden its membership by including an external member. He also asked the panel to allow legal assistance to the complainant. The Hon'ble judge, it seems, went by the call of his conscience, and echoed the sentiments of a large majority, both within and outside the judicial circles. Given the sensitivities of the case, and the fact that it involves someone as high as the CJI, the stand taken by Justice Chandrachud is highly courageous and deserves kudos.

In 1997, in the Vishaka case, the SC laid down that a committee inquiring into allegations of sexual harassment at the work place should be headed by a woman, and not less than half of its members should be women. To rule out pressure or influence from senior levels, the Court directed that such a committee should comprise a member from a third party. After the Vishaka judgment, came The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. This piece of legislation was enacted, keeping in view the Vishaka guidelines.

There is no doubt that the SC's in-house panel in the case against the CJI was not constituted according to the Vishaka guidelines; it also did not go by the provisions of the 2013 Act. We have been told that the panel was set up under the SC's own procedure to examine whether the allegations warranted an inquiry. The intention behind adopting this procedure is to protect judges from motivated and false allegations. Such charges can, of course, tarnish the reputation of the judge concerned and more importantly, embroil the court in a controversy. But this gives rise to another question: Should the law of the land be ignored when it involves high-ranking individuals? By the same logic, many other organisations and institutions may adopt their own set of procedures on the plea that a non-internal inquiry may bring into disrepute not only the individual concerned but also the institution itself. Would the SC be comfortable with such a procedure? I, therefore, humbly suggest that the Court revisits its procedure in the case against the CJI.

Meanwhile, the complainant has suffered on two counts. The in-house panel was not constituted as per the law and she was not allowed the assistance of a lawyer. It is true that the matter which the panel was dealing with was unprecedented since it involved the highest judicial functionary of the country. Therefore, it was quite likely that everyone involved was under strain. However, even then, the rules of the game ought not to have been given a go-by. While it was imperative that the reputation of the CJI did not suffer because of allegations, it was equally necessary to give the complainant a fair deal. After all, she was merely asking for legal assistance, and now, a copy of the report of the panel.

As I wrote in an earlier piece ([‘Let the truth prevail’ IE, April 24](#)), the truth must come out, however bitter it maybe for either side. May we, in the meanwhile, also hear from those leading lights of the Bar who have been quiet so far.

***This article first appeared in the print edition on May 10, 2019, under the title ‘An unfair process.’ The writer is a former judge of the Delhi High Court. Views expressed are personal***

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