

Justice in tumult: on the turmoil in Supreme Court

There is absolutely no doubt that the Chief Justice of India is the master of the roster. So, it is impossible to dispute the legal reasoning behind Chief Justice Dipak Misra's ruling that no one but he can decide the composition of Benches and allocation of judicial work in the Supreme Court. However, the circumstances in which he had to assert this authority have the potential to greatly diminish the court's lustre. The scenes witnessed in the court amidst troubling allegations of possible judicial corruption are worrisome for their capacity to undermine the high esteem that the judiciary enjoys. Chief Justice Misra chose to stick to the letter of the law, but there remain troublesome questions about potential conflict of interest in his decision to overrule Justice J. Chelameswar's extremely unusual order that delineated the composition of a Constitution Bench to hear a writ petition seeking a fair probe into the corruption allegations. It is a fact that in the Prasad Education Trust case, the petitions alleging that some individuals, including a [retired Orissa High Court judge](#), were plotting to influence the Supreme Court, had been heard by a Bench headed by Chief Justice Misra. However, it would be perverse and irresponsible to attribute corrupt motives without compelling evidence. At the same time, by heading the Bench himself, the Chief Justice may have contributed to the perception that he will preside over a hearing in his own cause, rather than leaving it to another set of judges to reiterate the legal position on who has the sole say in deciding the roster.

Prashant Bhushan storms out of court after spat with CJI

Justice Chelameswar, the senior-most puisne judge, may have passed his order based on the petitioner's claim that there would be a conflict of interest were the Chief Justice to choose the Bench. But in doing so, he chose to ignore the principle that allocation of judicial work is the preserve of the Chief Justice. Both justices may have found themselves in a situation in which law and strict propriety do not converge. As for the lawyer-activists involved, it is one thing to flag corruption, another to foster the impression that they want to choose the judges who will hear them. The only way to end the current turmoil in the judicial and legal fraternity is to ensure that the Central Bureau of Investigation holds an impartial probe in the case registered by it. The involvement of serving judges may only be a remote possibility, but it is vital to find out whether the suspected middlemen had any access to them. An unfortunate fallout of the controversy is the perception of a rift among the country's top judges. To some, the charges may represent an attempt to undermine the judiciary. These perceptions should not result in the sidestepping of the real issue raised by the CBI's FIR: the grim possibility of the judiciary being susceptible to corruption. Tumult and turmoil should not overshadow this substantive issue.

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