

LETTING IN LIGHT

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 Supreme Court's decision to open the office of chief justice of India to scrutiny under the Right to Information Act is enormously welcome. The ruling comes nine years after the Delhi High Court ruled in favour of bringing the CJI's office under RTI. It is a remarkable case where the Court, in its administrative avatar, appeared as a litigant before its judicial avatar, argued against transparency and eventually ruled against itself. For an institution that has insulated itself from public scrutiny and one that gives little insight into its own functioning, the verdict pushes the envelope on greater judicial accountability. The tug of war between the executive and judiciary on appointments is often complicated by the reluctance of the court to make the reasons and compulsions behind its decisions public. While the government discloses its reasons for not accepting the collegium's recommendations, the judiciary's defence remains absent from public debate.

However, there is reason to be circumspect in celebrating the verdict. The verdict binds the court to accept applications seeking information but the process of obtaining it may not be easy. The ruling allows for an ordinary citizen to seek information on appointments, transfers of judges to the high courts and Supreme Court but the reasons behind these recommendations could still be clouded in secrecy as the decisions of the collegium are largely based on reports of the Intelligence Bureau which is exempted from providing information under RTI. The verdict itself asks information commissioners to keep in mind the right to privacy and the independence of the judiciary while deciding on RTI requests. Justice NV Ramana, in his separate opinion, cautions that the RTI must not be used as a tool of surveillance against the court.

Institutionally, the transition to transparency may not be easy and hinges on the actions of the chief justice of India, as administrative head of the court. Eight chief justices retired without hearing this difficult case. Even when former CJI Dipak Misra decided that collegium decisions, along with reasons, will be published on the Supreme Court website, CJI [Ranjan Gogoi](#) signalled a departure from the practice after 256 decisions were published. Just two months ago, when criticised for transferring former Madras High Court Chief Justice VK Tahilramani to Meghalaya High Court, the collegium headed by CJI Gogoi issued an unusual statement that though "it would not be in the interest of the institution to disclose the reasons for transfer, if found necessary, the Collegium will have no hesitation in disclosing the same." The reasons never came and Justice Tahilramani resigned subsequently. However, the fact that the five-judge bench comprises of three future chief justices — NV Ramana, DY Chandrachud and Sanjeev Khanna — is reason to hope for a new era of transparency in the Supreme Court.

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