



'Instead of helping shopkeepers, he made his sons rich'

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*Former law Minister **Shanti Bhushan** tells **Harinder Baweja** that the shopkeepers who suffered because of the sealing drive should file a suit for damages against former Chief Justice **YK Sabharwal***

According to your findings on Justice Sabharwal, a former Chief Justice of India is being implicated on charges of corruption.

The documents are there and they bear out the sequence of events. It is not a matter of inference. The documents speak for themselves and these are all government documents. The sealing drive led to the displacement of a huge number of shopkeepers. It is shocking because the documents make it clear that his sons had already tied up with big mall owners when Sabharwal's order came. In fact big mall owners had been inducted into his son's companies. They had also started another company for constructing malls etc., so what does it mean? It means that they were going to be beneficiaries of this drive. Because, immediately, the demand for space in a mall or shopping complex or a commercial complex was going to increase manifold. Residential areas have been used for commercial purposes for decades and the reason behind this is that the Delhi Development Authority (DDA) has not created sufficient commercial areas as it was supposed to do. Soon after his sons entered the mall business and constituted a new company, he started this sealing drive. So, what is the inference? Sabharwal should not have heard this matter at all because his sons were going to benefit. It clearly shows it was all planned.

You are saying it was all part of a design?

Yes. Even after Parliament came out with an Act granting relief to a large number of people, he asked for the sealing drive to continue on the pretext that the people had given an undertaking to stop it before the new law came into force. The undertaking did not apply after the new Masterplan was brought out, but he still continued with the sealing drive. So, it is clear that this was a planned thing and it was aimed to benefit the family.

What does this say of the integrity of the Chief Justice of India?

It is shocking that one can even dream of doing such a thing. Although, he is a very competent judge. True, serious charges have been leveled at politicians and bureaucrats but people still have faith in the judiciary. People believe that judges won't do it. It now becomes clear as to why he was insisting on elevating corrupt judges.

How inappropriate was his conduct?

Not merely inappropriate. It verges on corruption because his family was going to benefit. Won't such conduct shock the people?

Sabharwal referred to the sealing drive as his most difficult case because on one hand was the law, and on the other the suffering of the people.

And he opted for the law and not the sufferings of the people. If the carrying on of commercial activity from residential areas was contrary to the law then the Supreme Court should have directed the government to alter the law, which it did. Why go on with the drive even after that? Therefore it was not a painful decision.

Sabharwal also said he had to live with the wrath of his friends and relatives.

Yes, yes, but he earned the gratitude of his family. He had a choice, either to earn the immense gratitude of his family and make them big tycoons with properties worth crores or provide succour and relief to people who were going to suffer. He made his choice.

His sons were running their businesses from his house even as he ordered the demolition of other businesses being run from residences.

Yes. Why should their businesses have his official residence as their registered address? This means his official house was being used for commercial purposes. Running a company is a commercial purpose.

Prima facie, can a case under the Prevention of Corruption Act be registered against Sabharwal?

It is a borderline case. Mainly, what will have to be proved under the Prevention of Corruption Act is that the object of his order was to benefit his sons. Now what he can say is that there were other judges on the bench also but then he was the presiding judge. As per practice, only the presiding judge passes the critical orders.

Then why is it a borderline case?

You see, ultimately it has to be decided by the judiciary and the judiciary considers itself to be a family. Therefore they would not like to pass a judgement in which the Chief Justice himself was guilty under the Prevention of Corruption Act. Even an fir can't be registered against a judge without the permission of the Chief Justice. Not once has a Chief Justice ever permitted the registration of an fir. Judges have been put above the law and they feel if politicians and bureaucrats are making money then why not them.

If a common man has a genuine grievance against a sitting judge, what recourse does he or she have?

None. Because as soon as he makes an allegation he will be guilty of contempt. Now Parliament has amended the contempt law and truth has been made the defence.

So it will remain a source of embarrassment, but there will be no case?

Yes, but judges will pause after this because they will fear exposure. They may not go to jail but they will be ostracised. That is why I have always supported genuine sting operations. How else can you show the truth? Only recently, contempt notices have been issued against [senior Supreme Court lawyer] RK Anand. The advantage is that it establishes the truth because the camera can't lie and forensic examinations can verify the tapes.

Why did the media black out your findings?

We can only speculate. The press conference was packed and all the TV crews were there. We explained at length that contempt applies only to sitting judges and that's why we were amazed at the total blackout. Either the media has been managed or they were scared. To rectify such things, the first step is exposure and the media needs to understand its role.

The judiciary is opposing the setting up of the National Judicial Commission. How will taint in the judiciary ever be addressed?

It is only when the people rise and put pressure that we will see change. All the shopkeepers who suffered crores and crores worth of losses should get together and file a suit for damages. The documents prove that Sabharwal had extraneous reasons when actually he should not have been a part of this case. The shopkeepers should come forward and make this a test case.

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http://www.tehelka.com/story_main33.asp?filename=Ne180807Instead.asp

