

# Office for Profit: A Stink You Should Smell

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**TEHELKA COVER**

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*Former Supreme Court Chief Justice YK Sabharwal was involved in dubious judicial deal-making that earned his sons huge profits. So says a group of engaged and credible citizens led by former Law Minister Shanti Bhushan. And they have evidence to back their claims. **Sanjay Dubey** pieces together their case*

The issue of sealing was difficult as on the one hand it was a question of law and on the other of the suffering among the people." This is how Justice YK Sabharwal, the former Chief Justice of India (CJI), described the demolition drive that had brought the nation's capital to a virtual standstill for weeks. In an interaction with the media on the eve of his retirement in January, Sabharwal singled out the Supreme Court's action against Delhi's shopkeepers as the most difficult decision he had taken as the Chief Justice. He elaborated on why it had become such a huge dilemma for him. "I earned the wrath of my relatives. Yesterday one of my relatives [affected by the sealing order] told me sarcastically that I am a big man. I told him I couldn't solve individual problems."

The anguish with which the former chief justice of India described the sealing drive as the most difficult decision of his career, however, flies in the face of facts unearthed by a committee of equally eminent citizens called the Campaign for Judicial Accountability and Judicial Reforms. The Committee's patrons include such veteran torchbearers of public integrity as former law minister Shanti Bhushan, Justice VR Krishna Iyer, Admiral RH Tahiliani and the Supreme Court lawyer Prashant Bhushan.

Documents gathered from many government departments by the committee cast a shadow of taint over the actions of Justice Sabharwal who, Shanti Bhushan says, "was a very competent judge". (See interview) Contrary to what Sabharwal said, the Committee's findings show that far from earning the wrath of his relatives, "the former chief justice has earned the gratitude of his family," as Shanti Bhushan puts it. The documents — perused by TEHELKA — show that Sabharwal's sons, Chetan Sabharwal and Nitin Sabharwal, clearly stood to benefit from their father's orders. His orders, thus, are against the principles of natural justice which say that no judge can hear a case in which he has a personal interest. According to Shanti Bhushan, instead of recusing himself because of conflict of interest, Sabharwal remained the presiding officer of the sealing case from 2004 till he retired in January 2007.

It all flared up on February 16, 2006, the day then Chief Justice of India, YK Sabharwal, passed the order which set in motion the process of sealing of properties being used for commercial purposes in designated residential areas in Delhi. The sealing and demolition drive to implement the court order forced thousands of small and medium-sized commercial establishments to either shut shop or buy or rent premises in malls and commercial complexes.

There were reports of suicides and heart attacks as the government tried to cope with a precarious law and order situation in the capital; it had little choice but to implement the Supreme Court's (SC) orders. Everything was being done in the name of upholding the law — or so it seemed. It now transpires that even as Delhi was bleeding, Justice Sabharwal's elder son Chetan and younger son Nitin, were breaking the law.

Documents presented by the Committee reveal that at least two companies owned by Chetan and Nitin — Pawan Impex (pi) and Harpawan Constructors (hc) — were operating from their father's private residence, 3/81, Punjabi Bagh, when the sealing drive was in full swing. Even more surprising is the fact that for the greater part of 2004, Pawan Impex was operating out of 6, Motilal Nehru Place, the official residence of Justice Sabharwal, who was then one of the senior-most SC judges. According to documents filed by Pawan Impex with the Department of Company Affairs, its registered office was shifted from 3/81, Punjabi Bagh to 6, Motilal Nehru Place in January 2004. For the next 10 months, the house of a senior SC judge — Sabharwal — was also the firm's registered office.

Documents from the Department of Company Affairs also reveal that on October 23, 2004, the promoter of one of the biggest shopping malls and commercial complexes in Delhi, Kabul Chawla of Business Park Town Planners (BPTP) Limited, was inducted in Pawan Impex as a 50 percent shareholder. On the same day, Pawan Impex's registered office was shifted back to its old address in Punjabi Bagh. Soon thereafter, Chawla's wife, Anjali Chawla, was also made a director in the company.

Sabharwal's sons nurtured ambitious real-estate dreams. And they began laying its foundations when they set up a construction company, called Harpawan Constructors, on April 8, 2005. An important decision taken by their father a few days earlier was going to change both Delhi's and their fortunes.

On March 17, 2005, Justice Sabharwal, who at the time was dealing with the case of polluting industries operating in residential areas, ordered that he would now also deal with the case of commercial establishments operating from residential areas. Another bench of the Supreme Court had admitted this case in 2003.

In October 2005, another bigwig in the Delhi mall business, Purushottam Bhageria of Fargo estates, joined hands with Chetan and Nitin. He was appointed a director in Harpawan Constructors, as was his brother Madhusudan Bhageria. Soon after this, Bhageria announced his plans to develop Square 1 Mall in Saket in New Delhi. It was touted as one of the largest and most luxurious malls planned in Delhi.

In November 2005, Justice Sabharwal became the cji and by February 16, 2006 when he passed the "most difficult" order of his life to seal the commercial establishments operating from residential areas, his sons were on track to enter the mall and commercial complexes business in a big way, having sewn up partnerships with two of the biggest commercial real estate developers in Delhi.

The Sabharwals' commercial complex development business took off thereafter. On June 21, 2006, Pawan Impex's share-capital increased from Rs 1 lakh to Rs 3 crore. Then, on September 30, 2006, the Chawlas of BPTP developers invested Rs 1.5 crore in the company. On August 22, 2006, Pawan Impex was given a Rs 28-crore loan by the Union Bank of India. The loan was secured by mortgaging the "plant, machinery and other assets" lying in plots A-3, 4 and 5 in Sector 125, Noida. But, in fact, there is no plant or machinery here. Instead, a huge it park — Park Centra — worth hundreds of crores is being built by BPTP Ltd.

Sources in the Noida Authority have confided that these three plots (A-3, 4 and 5 in Noida's Sector 125) were allotted to Pawan Impex on December 29, 2004 by the Mulayam Singh government then in power in UP at Rs 3,700/sq. metre, when the market price of commercial land here was at least Rs 30,000/sq. metre. Moreover, a commercial plot measuring 12,000 sq metres (plot 12A, in Sector 68) was allotted to another company owned by the Sabharwals, Sabs Exports, on November 10, 2006, at Rs 4,000/square metre. The market price of commercial plots there at the time was at least 10 times as much.

These are not the only plots allotted at throwaway prices to the Sabharwals. On November 6, 2000, Sabs Exports was allotted three plots (C103, 104 and 105) measuring 800 square metres each in Sector 63 at a rate of Rs 2,100/square metre, when the market price was many times higher.

TEHELKA has documents which show that a residential plot in Noida's upscale Sector 44 was allotted to Justice Sabharwal's daughter-in-law, Sheeba Sabharwal, in 2005. It is noteworthy that this plot was part of the Noida allotment Scam — wherein plots were allotted to sundry influential people and their relatives, when in fact they were supposed to have been allotted by a random draw of lots.

An embarrassed UP government cancelled the allotments. The SC for some reason immediately stayed the CBI probe into the allotments ordered by the Allahabad High Court. It is perhaps also significant that Justice Sabharwal himself stayed the publication of the so-called Amar Singh tapes, which were said to have phone conversations that showed Singh in poor light.

“Thus, from owning smalltime export-import firms till 2004, the Sabharwals in just two years time got into the business of developing commercial complexes and appear to be rolling in money,” the report by the Committee concludes. All this happened when Justice Sabharwal was a senior judge and then the Chief Justice, dealing with the sealing cases and passing orders which stood to benefit his sons and their partners.

The continuing good fortune of the Sabharwals can be gauged by their recent purchase of a property worth several crores. TEHELKA has a sale deed of a house in south Delhi's upscale Maharani Bagh which shows that Chetan and Nitin purchased a 1,180-square-yard bungalow (B-9 Maharani Bagh) in March 2007 from the heirs of former Law Minister Jagannath Kaushal for a stated consideration of Rs 15.43 crore. They gave their father's name as Yogesh Kumar (minus the surname Sabharwal) and their office address instead of their Punjabi Bagh residence address.

On May 28, the Income Tax department sent a notice to Pawan Impex seeking details of their business activities, accounts, assets and sources of funds. But the legal experts TEHELKA spoke to feel that the matter is more serious. The conduct of Justice Sabharwal and his sons appears to involve offences beyond the purview of the Income Tax Act.

Legal experts, including Prashant Bhushan, feel that the extent to which mall developers funded the asset-acquisition by the Sabharwals needs to be probed.

Several attempts by TEHELKA to contact Justice Sabharwal for his response to the charges went unanswered.

The charges made by the committee underscore the need for a National Judicial Commission, an independent body with an investigative arm, which can look into complaints against judges. It only stands to reason that the guardians of the law come under the purview of the same laws they base their judgements on.

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