

## CAMPAIGN FOR JUDICIAL ACCOUNTABILITY AND REFORM

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To,  
Shri Hamid Ansari  
Vice President of India  
6 Maulana Azad Road  
New Delhi

21/1/09

**Subject: Inquiry Committee appointed to inquire into the motion for the removal of Justice P.D. Dinakaran**

Dear Sir,

We learn that you have appointed an inquiry committee comprising of Justice V.S. Sirupurkar, Justice A.R. Dave, and Shri P.P. Rao to inquire into the charges against Justice P.D. Dinakaran. We also understand that the selection of judges has been made on the recommendation of the Chief Justice of India whom you had consulted for this purpose.

We find that there is no requirement under the Judges Inquiry Act 1968 to consult the Chief Justice in the appointment of the Inquiry Committee. Moreover, in this case, the appointment of members on the advise of the Chief Justice would be inappropriate since the Chief Justice had not only recommended Justice Dinakaran's name for appointment to the Supreme Court, but he has also been consistently defending him, even after the motion for his removal has been admitted by you.

We have come to know that Justice Sirupurkar has been a colleague of Justice Dinakaran in Chennai High Court from 1997 till 2003, during which time they sat on several benches and administrative committees together. Moreover, we learn that he has also told several responsible lawyers after this controversy arose that he knows Justice Dinakaran well and that he was an independently wealthy and an honourable man. Thus, apart from his friendship with Justice Dinakaran, he has also prejudged the issue.

We have also learnt that Shri P.P. Rao was consulted by Justice Dinakaran on the charges against him and that he advised him to get a commission of inquiry appointed to inquire into the charges.

Though we do not doubt the integrity or impartiality of either Justice Sirupurkar or of Shri Rao, we strongly believe that Justice Sirupurkar's friendship with Justice Dinakaran, coupled with his prejudgement of the matter, places him in a position where if he inquires into this matter, justice will not be seen to be done. The same would be the case with Shri P.P. Rao who has been formally consulted in the matter by Justice Dinakaran.

You must be aware of the principle laid down in such matters by the Supreme Court which is set out in the case of Capt. Ranjit Thakur Vs. Union of India (1981 (1) SCR 512) in the following words: "*7. As to the tests of the likelihood of bias, what is relevant is the reasonableness of the apprehension in that regard in the mind of the party. The proper approach for the judge is not to look at his own mind and ask himself, however honestly, "Am I biased?" but to look at the mind of the party before him.*"

This principle has also been reiterated in the Bangalore Principles of Judicial Conduct presented to the UN Commission on Human Rights which says:

*2.5 A judge shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judge is unable to decide the matter impartially.*

Applying these tests, there can be little doubt that if Justice Sirupurkar or Shri Rao proceed to deal with the matter as judges in the inquiry committee, there is a serious risk that the report of the committee would not carry credibility and it may give rise to unnecessary controversy.

In these circumstances, I would request you to kindly place these facts before Justice Sirupurkar and Shri P.P. Rao and ask them if they would like to recuse themselves from the inquiry committee. That will avoid any further controversy in the matter.

With warm regards,

Prashant Bhushan

(Convenor, CJAR)