

FORUM FOR JUDICIAL ACCOUNTABILITY

Room No.2, I Floor, 45 Armenian Street, Chennai-600 001.
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9th September, 2009

To

Hon'ble Mr.Justice K.G. Balakrishnan
The Chief Justice of India

Hon'ble Mr.Justice B.N. Agarwal

Hon'ble Mr.Justice S.H. Kapadia

Hon'ble Mr.Justice Tarun Chatterjee

Hon'ble Mr. Justice Altamas Kabir

Supreme Court of India,
New Delhi.

Sirs,

**Sub : Representation against Mr.Justice P.D.Dinakaran,
Chief Justice, Karnataka High Court - amassing of
huge assets, corruption and serious irregularities.**

As per newspaper reports (*The Hindu dt. 28th August 2009*) Mr. Justice P.D.Dinakaran, presently Chief Justice of the Karnataka High Court, has been recommended by the collegium of the Supreme Court to be appointed as a Judge of the Supreme Court.

The said Judge was a Judge of the Madras High Court between 19.12.1996 to 06.08.2008. We, the members of the Bar of the Madras High Court are greatly perturbed by the news of his possible elevation to the Apex Court, in view of disturbing reports that are strong pointers to abuse of office and lack of probity by Mr.Justice P.D.Dinakaran.

We bring to your notice several aspects concerning the Judge including (1) huge rural land holdings, illegal appropriation of Government and public land amounting to land-grabbing, illegal constructions, ownership of urban properties, (2) certain inappropriate

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and startling judicial orders and (3) conduct raising issues of gross impropriety and lack of probity. We feel the materials given below call for a detailed investigation before taking up his case for appointment as a Judge of the highest Court.

The following are the issues of deep concern:-

I. Amassing Wealth and Appropriation of Public Property

RURAL PROPERTY

It is common knowledge in the Bar at Madras that the Judge has acquired vast extents of lands, near his hometown of Arakkonam, Vellore District and in Tiruvallur District, Tamil Nadu. The acquisition started before his appointment as a judge of the Madras High Court and is reported to have increased manifold during his tenure as a judge.

All these land holdings in the villages are beyond the ceiling limit under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961, as per which a family of five persons can possess not more than 15 standard acres of land.

However, more shocking is the unbecoming conduct of the judge in encroaching upon Government lands and public property meant for the villagers, amounting to land-grabbing and depriving the poor of their resources and livelihood.

1. LANDS IN KAVERIRAJAPURAM VILLAGE (440 Acres)

(a) In the villages of Kaverirajapuram, Tiruttani Taluk, Tiruvallur District, Anaipakkam, Arakkonam Taluk, Vellore District and Mulvoy, Arakkonam Taluk, Vellore District, the extent of lands possessed by the Judge is approximately 500 acres. Most of the

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property is in Kaverirajapuram, a village whose population predominantly consists of dalits, Irulas (scheduled tribe), and most backward classes like Naidus and Boyars and others. The total extent of the village is about 1700 acres.

Annexed to this petition are:-

- (i) A map showing the details of land held and owned by the Judge and his family members; and public and Government lands occupied by him, and
 - (ii) Extracts from village 'A' Register which provides the classification of land of the relevant survey numbers in the judge's occupation, from reliable sources. The current 'A' register reflecting transfer of Patta is not accessible.
 - (iii) Photographs showing the naming of the village road leading to his lands which is in Tamil and reads as "Emperor of Justice P.D.Dinakaran Road, Kaverirajapuram" (translation in English) and the fencing of the land.
 - (iv) Extracts of Revenue Standing Orders on Assignment of Land.
- (b) In all, the judge is in possession of approximately 440 Acres in Kaverirajapuram Village alone, almost one fourth of the village. Out of this 440 acres:
- (i) 310.33 acres are 'patta' lands owned by the Judge and his family (In his name, his wife Dr.Vinodini's name, his two daughters – Amudha Porkodi & Amirthra Porkodi, one Cannan and another person, the latter two are reported to be his close relatives).

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(ii) About 41.27 acres is public land classified as Government poramboke, eri (lake, stream) and other water bodies, pathway and Tamarind Grove.

(iii) About 88.33 acres are classified as Government 'Anadhinam' lands (which can be allotted only to landless poor as per Board Standing Orders of the Tamil Nadu Government).

2. **Startling Modus Operandi**

- i) Reports are that the patta lands originally belonged to backward and most backward classes. The purchase of lands seems to have started before his appointment as a judge and continued there after.
- ii) Patta lands have been bought in the name of the judge, his wife Dr. Vinodini, his unmarried daughters Amudha Porkodi and Amirtha Porkodi, one Cannan and another person, the latter two are reported to be close relatives. Daughter Amudha Porkodi got married recently on 15.12.2008.
- iii) Vast extents of Government 'poramboke' lands, Government Anadhinam lands, waterbodies like lakes, canals, streams, common village pathways and an ancient mud fortress abutting his patta lands were progressively encroached upon.
- iv) The villagers were then prevented access to these common property resources. Nearly 600 families of dalits and landless poor in the village are reported to have sought distribution of Government poramboke and Anandhinam lands to them as per G.O.(Ms)No.241 dated 12.09.2006 issued by the State Government. They are yet to receive the assignment.

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- v) Immediately thereafter, these common /government lands were fenced in by the judge.

There is every possibility that after this representation the fence around the encroached areas may be removed. But as on today, the fence exists around the Government lands and village common resources and we write this after some of us personally inspected the fence and the relevant records and maps. The fact remains that the common village lands near the judge's property are out of bounds for the villagers. Enquiry reveals that the local police is used to prevent access to the area.

- iv) The Government Anadhinam lands are meant to be assigned only to landless poor for small holdings and personal cultivation as per Standing Orders of the Board of Revenue, Tamil Nadu Government.
- v) The Government poramboke lands also are meant for common enjoyment of the villagers and cannot be occupied by any individual. Under a recent Scheme of the State Government, they can be distributed to the landless poor.
- vi) The water-bodies too are meant only for common enjoyment of the villagers.
- vii) By erecting a fence the judge has deprived the local villagers access to common property resources of the village, on which many of them depend for their livelihood.
- viii) The villagers are not able to have access to the water bodies and due to extensive use of water for the judge's farm where there are huge fruit orchards and other cultivations, the water source for the village

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has got depleted. Large bore wells/ open wells are said to have been dug inside the farm.

- ix) It is reported that the entire village administration and government machinery has been exploited to provide facilities and free labour for the judge's property. It is reliably learnt that the judge is attempting to manipulate revenue records to obtain pattas for the public and government lands in his occupation.
- x) It is an open secret in legal circles that the judicial officers and staff of the judiciary are often asked to supervise and facilitate the maintenance and upkeep of the farm.
- xi) We have specific reports that anyone who seeks any information like Survey Numbers and extent regarding even the village common lands and Government lands is intimidated and not provided the information. Villagers are under mortal fear in this regard.
- xii) Even the village road that leads to the property has been named as 'Neethi Arasar P.D. Dinakaran Saalai'. ("Emperor of Justice, P.D. Dinakaran road")

3. **Lands in Poovalai Village**

The judge is also reported to possess more than 50 acres of lands with mango orchards in Poovalai Village, Gummidipoondi Taluk, Vellore District, Tamil Nadu. He has been seen visiting the orchard periodically.

4. **Land Value**

The market value of these properties are in the range of about 20-25 lakhs per acre. It appears that the land holding is of an extent of approximately 550 acres.

It needs to be ascertained whether the judge has filed returns before the Tax authorities in respect of these properties. It also needs to be verified if these disclosures of these assets has been made, and

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updated, as per the 1997 Resolution regarding Declaration of Judge's assets.

URBAN PROPERTY

i) On the plot bearing Door No.28, East Park Road(junction of Pulla Avenue and East Park street), Shenoy Nagar, Chennai – 600 030 allegedly owned by the Judge, a office/commercial construction has been put up consisting of stilt + 5 floors, making it a multi storeyed building under the Development Control Rules. Having regard to the dimensions of the plot, fire safety requirements, etc., under the Development Control Rules, construction of such a multi storeyed building is illegal. This is a newly constructed building and he was frequently observed at the site to check the construction.

ii) The Judge has been observed a number of times to be supervising the construction of a building at J – 81, I Main Road, Anna Nagar East, Chennai – 600 102. His involvement in this immovable property and source of funding needs to be ascertained.

iii) In Arakkonam Town, the residential building 'Anbagam' (a residential building said to be owned by Mr.Justice P.D.Dinakaran) was recently renovated. It reportedly encroaches on the main road by 10 feet.

II. Inappropriate judicial orders in certain cases

A. JUDGMENT IN BINNY LTD.

Binny Ltd. was a BIFR company but subsequently came out of it. It had extremely valuable immovable properties situated in the heart of the city. These were directed to be auctioned by Justice Dinakaran at 35% of the guideline value. Approximately

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1260 grounds of land (about 70 acres) situated in Perambur was sold to SSI Ltd. for just Rs.66 crores. At that time, the guideline value was almost Rs.180 crores and the actual market value was even higher.

The promoters of SSI Ltd. who had purchased the land from Binny Ltd. were subsequently involved in extensive rigging of their shares. The assessments of these promoters were reopened under Sec.148, Income Tax Act, 1961. It is reported that the demand was to the tune of more than Rs.52 Crores. Six Writ Petitions were filed challenging the reopening of the assessment under Sec.148. The Writ Petitions were heard by Justice P.D.Dinakaran. The judgment is reported in 279 ITR 679.

Justice P.D.Dinakaran falsely stated that a “concession” was made by the Counsel for the Income Tax Department. This was objected to by the Counsel after receiving the copy of the Order. Justice P.D.Dinakaran promised to expunge those sentences that referred to the alleged concession but this was not done. Last week, the Writ Appeals filed by the Department against this Order have been allowed by the Division Bench presided by Justice F.M.Ibrahim Kalifullah. The Standing Counsel for the Income Tax Department offered to file an Affidavit stating that she never conceded and also referred to the oral representation to Justice P.D.Dinakaran. The Division Bench has allowed the six Writ Appeals by imposing costs of Rs.10,000/- each.

- B. On 18-03-2009, the Times of India, Bangalore Edition carried the following report :

“CJ leads speedy disposal of bail

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BANGALORE. In a special drive to prevent pendency of cases, the High Court on Tuesday disposed of numerous bail applications out of around 300 petitions in a record time. Each bail plea was dealt with in about 30 seconds. Chief Justice, P.D.Dinakaran himself disposed of 46 cases in 20 minutes by granting bail (some conditional) in all of them.

The rapid fire sequence went something like this :- What is the charge (section) ? What stage is the trial ? Completed or not ? Chargesheet has been filed ? Final report submitted. Bail granted. The cases were marginal and some pertain to charges of rape, theft, murder and dacoity including Vasanth Salian, accused in Chemmanur Jewellers dacoity case. The Chief Justice and five judges heard these cases between 4 and 4.45 p.m.”

The members of the Bangalore Bar state that while minor cases were allocated to the other Judges, the ones posted before Chief Justice P.D.Dinakaran included cases of persons charged with serious crimes under the Indian Penal Code and also those who had serious cases filed against them by the Enforcement Department. Bail was granted in all these cases. It is further stated that this was a one-time disposal drive. This matter needs to be investigated to ascertain the names of the accused and the gravity of the offences.

- C. Another matter of concern raised by the Bangalore Bar pertains to cases of illegal mining filed against several influential persons. These were transferred from the Dharwad Circuit Bench which was hearing these matters to the Chief Justice’s Bench.
- D. Yet another matter related to the mining lobby which wanted to acquire 540 acres of forest land. The State Government had granted leases in respect of 380 acres of forest land. This was set aside by a Single Judge of the High Court who pointed out several illegalities on the part of the State Government including that some

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applicants had filed applications after the date of the opening of the tender. The Writ Appeal Order passed by Chief Justice P.D.Dinakaran granted licenses to all the applicants and even increased the area allotted over and above what was granted by the Government. The issues pointed out by the Single Judge were not dealt with. This is a matter which has greatly agitated the Bangalore Bar.

III. Number Plate of Chief Justice P.D. Dinakaran's Car – Contrary to Motor Vehicles Act

Chief Justice P.D.Dinakaran, known to misuse office to exhibit pomp and grandeur, had the number plate of his official car (KA-03-GA-5767) done up in red background with gold embossed letters. This is permitted under the Motor Vehicles Rules only for the President of India and State Governors. Even the Prime Minister and the Chief Justice of India cannot use such a number plate. There were adverse news reports in leading newspapers on this issue. (Midday dated 29.06.2009).

Our Appeal

We are greatly saddened that we are forced to impugn the conduct of a holder of high judicial office; we are doing so only in the larger interests of the institution of the judiciary which is sacred and since the increasing reports against the judge have assumed alarming proportions.

Conscious of our responsibility not to lightly bring any judge to disrepute, we have exercised due diligence to verify the allegations to the best of the means available to us, including visits to some of the concerned properties. However as private citizens and members of the Bar we have severe limitations to call for information and to investigate these matters. In fact there are reports against Mr. Justice P.D.

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Dinakaran of irregular acquisition of properties elsewhere, permitting illegal appointments, favouritism and other improprieties in the discharge of judicial and administrative functions as a judge of the High Court. The information we have gathered so far is reliable and does not permit us to let it pass without calling for urgent attention and appropriate action by the Supreme Court and other Constitutional functionaries.

We also wish to convey the fear expressed by the villagers in Kaverirajapuram, all of whom are greatly apprehensive of the severe reprisals and consequences if they speak out. In fact, after speaking to them we ourselves are greatly anxious for their safety. It also is evident that the entire administrative machinery has been intimidated by the judge, as no official is willing to respond to any queries regarding the village properties, including innocuous questions like details about government lands.

The allegations set out above are strongly suggestive of abuse of office and corruption amounting to grave judicial misconduct. As the matter involves the Head of the State Judiciary in Karnataka, it is one of immense gravity and calls for immediate investigation and action. When a judge's reputation is clouded in such adverse reports, his elevation to the highest Court of our country portends grave consequences for the judiciary itself.

This case also exposes the shortcomings of the present procedure adopted for choosing judges for appointment to the higher judiciary and underscores the urgent need to put in place a Judicial Commission which will have a more democratic and transparent functioning to enable the choice of persons of impeccable integrity and calibre to dispense justice.

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We, as responsible members of the Bar, duty bound to safeguard the independence of the Judiciary, feel impelled in these circumstances to request you

- (i) not to appoint Mr. Justice P.D. Dinakaran as judge of the Supreme Court of India; and
- (ii) initiate a thorough enquiry into all the allegations against Mr. Justice P.D.Dinakaran, Chief Justice of Karnataka High Court and take appropriate action thereafter.

We request you to act on our representation in public interest, as otherwise the confidence of the public in the majesty of law will be shaken.

Yours truly,

sd/-
R. Vaigai

sd/-
Sriram Panchu
Senior Advocate

sd/-
K.R. Tamizhmani

sd/-
Anna Mathew

sd/-
S.S. Vasudevan

sd/-
Geetha Ramaseshan

sd/-
Sudha Ramalingam

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sd/-
N.L. Rajah

sd/-
D. Nagasaila

sd/-
S. Devikarani

sd/-
T. Mohan