

# THE RIFT BETWEEN THE EXECUTIVE AND JUDICIARY IN A.P.- IMMEDIATE NEED OF A CONSCIENTIOUS JUDICIAL SYSTEM

The tussle between the ruling political party in governmental state power – the YSRCP – and the opposition ruling party - the TDP – in Andhra Pradesh has reached to a climax. A high drama is being enacted in the state by both these sparring political parties vying with each other for political superiority and governmental power. The feud between them is condensed into a sensational farce of a widening rift between the two important state organs viz the executive and judiciary. This exposes the hollowness of the Constitution in providing a scope for asserting the supremacy of one constitutional organ over the other. The climax to this farce is the letter of the chief Minister of AP to the Chief Justice of India accusing a sitting Judge of the Supreme Court of Judicial impropriety and corruption and state High Court Judges of bias.

The Chief Minister of AP, in his letter to the Chief Justice of India accused the sitting Supreme Court Judge of influencing the allocation of benches at the state High Court (his parent High court) to hear politically sensitive cases that led to passing a string of orders staying a number of investigations of corruption against the previous government of the State of AP, headed by Chandrababu Naidu. He showed an example of extraordinary order passed by the Chief Justice of High Court staying all investigations into the F.I.R of involving a land scam, which mentions the close relatives of the sitting Supreme Court Judge and a former Advocate General as beneficiaries and the Chief Justice also issued an unprecedented gag order on the media reporting the contents of the F.I.R. In essence the AP Chief Minister contends that the High Court is being used and manipulated to trample on his democratically elected and constitutionally established govt.

On the other hand, the rival TDP and its forces along with its staunch supporting media portraying this act of writing a letter to the Chief Justice of India accusing a sitting Judge of Supreme Court, that too would be Chief Justice of India and making public the contents of the letter to C. J. I. as a sacrilege against our sacrosanct Constitution and projecting it as an attack against the independency of the judiciary and judicial system granted by our Constitution. They are portraying as if our entire judicial system is in peril and are posturing themselves as the saviors of the unprotected judicial system under attack. Without discussing the grave nature of the accusations and its impact on the rule and governance of the state apparatus, they are harping on the question of moral right of Jagan Mohan Reddy to complain against a sitting Judge of the Supreme Court, conveniently hiding the fact that he had written the letter as the elected head of a state, which is an important organ of the state. They also argue that such letters of accusations against the Judiciary must not be entertained because such an act will weaken people's faith and confidence in our judicial system. The same sitting judge of the Supreme Court against whom the accusations are leveled extorts that the judiciary must earn the faith and confidence of people. At the same time the concerned Judge do not come forward voluntarily proposing for an impartial enquiry, to vindicate the accusations to be false.

It is not a secret that of late almost all the judgments of our courts on crucial matters, particularly the recent judgment of acquitting the accused in the case of the demolition of Babri Masjid and the indictment of Prashant Bhushan in the contempt of Court case have demolished the belief and faith in the impartiality and fairness of courts and judicial institutions. The experience is warning the people not to have uncritical faith or confidence in our judicial system and judiciary. The people are observing how the laws in various cases are applied unequally and how our judicial system is lacking accountability. They are observing how the culprits who are accused of committing heinous crimes, with the support of ruling political party in governmental power are being acquitted scot free and allowed to pose as respected people as though they were falsely implicated in those cases. The people are observing how the people like Dr.Vinayak Sen, Varavara Rao and Satan Swamy the accused in Bhim – Koregaon case, though are disabled, in advanced age and suffering with serious

old age ailments are denied bails by the judiciary and courts with unequal and mis – application of the law. None of these instances infuse faith and confidence in our judicial system as an impartial one.

It is also no secret that the cases pertaining to common people particularly to the workers who have been unjustly victimized by the capitalist managements or the cases of rural poor who have become the targets of atrocities of the rich, land-lord, feudal classes do not come on to the bench for hearing for ages, leave alone punishing the culprits. The abnormal delay in trails and rendering justice or the unaffordable financial burden of entering into courts is not inducing any faith and confidence in the common people (the majority of our population) in our judicial system. By their experience they learnt that justice in our country is an affair of convenience and an undisclosed privilege of the rich and the mighty, and that there is no equitable justice as has been proclaimed by the Constitution.

In this context much is talked about the so-called independency of the judicial system and it is sought to be impressed that the Constitution has granted such an inviolable independency to it. But nowhere we find in the Constitution whether implicitly or expressly a mention about independency of judiciary and judicial system. The Article No. 50, simply prescribes that “the state shall take steps to separate the judiciary from the executive in the public service of state”. But during the course of 73 years of independent India, the judiciary has established its so called independency and supremacy through its own judgments making them as precedents and despite all talk of a pious, sincere, honest and good intention of rendering impartial and fair justice without any fear of threats or favor they are here to serve, in the main, those in power and mighty. But this does not make the judiciary above the people and their aspirations and cannot grant “sky- high powers” to the judiciary and immunity from any constructive criticism and accountability of the judiciary.

Even the justices and judges are a part and parcel of the society and people, who are not insulated from the natural human instincts, emotions, prejudices and ideas of their social environments and conditions. So there is no guarantee that they are not tempted to corruption of diverse means, bias and political opinions, understanding and loyalties of their own. Their activities too need scrutiny and be controlled particularly in the instances of such accusations made against them as has been done in the present case. Judiciary also must be treated on par with any other common man, if we want to establish a real democracy and democratic rule in our Country. There is no justification whatever to exempt the judiciary from its accountability of its judicial impropriety and corruption.

The random comments of judiciary against other organs of the state, sometimes even ridiculing them without taking any responsibility on its own is in no way any substitute for conscientious justice or any solace to people that are very far away from the reach of impartial justice.

Serious accusations made by a Chief Minister of AP raise the question of the professional and personal integrity of the concerned Supreme Court Judge. Neither flat denials nor assertions can protect and rescue judiciary from its judicial impropriety and corruption if it is a fact and a reality. An impartial enquiry and probe into the accusations alone can reveal the facts and can earn credibility, faith and confidence of people in our judicial system. To avoid such an enquiry under whatever pretext will un-questionably lead to unwarranted consequences that further widen the rift between the executive and judiciary to the detriment of the larger interests of the people. This shall not be viewed in the narrowest terms and sense of tussle between YSRCP and TDP in their tug of war for political supremacy and governmental power. Let us hope that wisdom prevails!

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