

IN THE SUPREME COURT OF INDIA
ORIGINAL APPELLATE JURISDICTION
CONTEMPT PETITION (CRL.) NO. 10 OF 2009

IN

INTERLOCUTORY APPLICATION NOS. 1324, 1474, 2134 OF 2007

IN

WRIT PETITION (C) NO. 202 OF 1995

IN THE MATTER OF:

Amicus Curiae

Petitioner

Versus

Prashant Bhushan & Anr.

Respondents

Supplementary affidavit of Respondent No. 1

I, Prashant Bhushan, son of Shanti Bhushan, resident of B-16, Sector 14, Noida, U.P. do hereby solemnly state and affirm as under:

1. That I am the first respondent in this petition and am fully acquainted with the facts and circumstances of the case. I had filed an affidavit dated 7/12/09 in response to the notice in this case. This affidavit supplements my previous affidavit.
2. In my earlier affidavit I had explained that of the two parts of my interview which has been made the basis of this contempt application, the first part relating to my statement, that in my view, out of the last 16 to 17 Chief Justices, half have been corrupt, was my perception based on some documentary, some oral and some circumstantial evidence, material and information that I had. I had not detailed the evidence, material and information in my affidavit, thinking that I would not need to do so, as doing so may unnecessarily embarrass the Court.
3. I had also explained that my second remark pertaining to Justice Kapadia's hearing the Vedanta case and passing what I considered to be unconscionable orders, was in the context of a question regarding other kinds of corruption in the judiciary, and not about financial corruption at all. I had stated that I regarded Justice Kapadia to be a judge of financial integrity and the use of the word "corruption" here was only in the context of a conflict of interest in the matter by virtue of his shareholding in the company in whose favour his orders were passed. I had also stated that I would not have been impelled to say this, had I not felt that the orders passed in that case were unconscionable. I had also mentioned that Mr. Harish Salve who has filed this contempt application, styling himself as Amicus Curiae, had a conflict of interest in the matter himself, having held a retainer from Vedanta.
4. The court has however not only decided to pursue the matter, but also persist with Mr. Salve as Amicus in this case, despite his obvious conflict of interest in the matter.

The court vide its order dated 14/7/10 has gone on to say that “*the issues involved in these proceedings have far greater ramifications and impact on the administration of justice and the justice delivery system and the credibility of the Supreme Court in the eyes of the general public than what was under consideration in either Duda’s case or Bal Thakeray’s case.*”

5. In view of this order, I am now constrained to place on record some facts, material and evidence which I was aware of when I made the statement about the former Chief Justices, so as to dispel any impression that my statements were baseless or made with reckless disregard to the truth.
6. At the very outset however, I would like to again clarify my statement regarding Justice Kapadia’s handling of the Vedanta case. I reiterate that I had not imputed nor meant to impute lack of financial integrity to Justice Kapadia. My statement as regards his actions in the Vedanta case was in response to a question about “*other ways in which corruption manifests itself in the judiciary*”; I was referring to other ways in which the judicial process can get derailed or corrupted, by which I meant, affected by extraneous considerations. I had understood the use of the word “corruption/corrupt” here in the wide sense in which the Supreme Court had interpreted in Dr. S. Dutt Vs. State of U.P. (1966 1 SCR 493 at page 500), where the court had said, “*The word ‘corrupt’ does not necessarily include the element of bribe taking. It is used in a much larger sense as denoting conduct which is morally unsound or debased. The word ‘corrupt’ has been judicially construed in several cases, but we refer here to two cases only. In Emperor Vs. Rana Nana, Chief Justice Macleod considered the word to be of wider import than the word ‘fraudulently’ or ‘dishonestly’ and did not confine it to the taking of bribes or cases of bribery. In Bibkhranjan Gupta Vs. The King, Mr. Justice Sen dealt at length with this word. He was contrasting S. 196 with S. 471 and observed that the word corruptly was not synonymous with dishonestly or fraudulently but was much wider. According to him, it included conduct which was neither fraudulent nor dishonest if it was otherwise blameworthy or improper.*”
7. I would like to further clarify that I did not mean or intend to say that Justice Kapadia dealt with this case or passed orders in favour of Vedanta/Sterlite for any personal gain or in order to benefit from his shareholding in Sterlite. However, I did strongly feel that being a shareholder in Sterlite, it was improper on the part of Justice Kapadia to have dealt with the Vedanta/Sterlite case. I have explained in my previous affidavit that the explanation offered by the Amicus for the judge dealing with the case is incorrect and unjustified. The hearing of the case began in 2005, and the disclosure of his shareholding was made only in October 2007. Moreover it was not made to ask lawyers whether he should recuse himself but casually in a different context. In a Public Interest case of the kind that was before the court, the issue of recusal of the judge cannot be left to the consent of parties or their lawyers before the court. Though the Code of Conduct permits a judge having shares in a company to hear its case if he discloses the same and if the parties do not object, that is not consistent with the law

on this subject. Moreover, this cannot apply to Public Interest cases which are not a lis between the parties before the court at all.

8. I reiterate that, I would not have mentioned this case as an example of the judicial process getting corrupted, had I not believed that the orders passed in the case were unconscionable and had led to a gross miscarriage of justice particularly for the local tribal population who would have been displaced and whose lives and livelihoods would be destroyed as a result of these orders. The unconscionable nature of the orders have become even clearer from recent developments in that case, where successive expert bodies appointed by the Ministry of Environment have pointed out exactly what the Court's own Centrally Empowered Committee had warned about in 2005 itself, when it advised the court to reject Forest Clearance to the Vedanta/Sterlite project. The 4 member Saxena committee jointly appointed by the MOEF and the Ministry of Tribal Affairs has after exhaustively examining the matter come to the conclusion that:

“If mining is permitted on this site it will not only be illegal but it will also:

- *Destroy one of the most sacred sites of the Kondh Primitive Tribal Groups.*
- *Destroy more than seven square kilometers of sacred, undisturbed forest land on top of the mountain that has been protected by the Dongaria Kondh for centuries as sacred to Niyam Raja and as essential to preserving the region's fertility.*
- *Endanger the self-sufficient forest-based livelihoods of these Primitive Tribal Groups.*
- *Seriously harm the livelihood of hundreds of Dalit families who indirectly depend upon these lands through their economic relationship with these Primitive Tribe Groups,*
- *Build roads through the Dongaria Kondh's territories, making the area easily accessible to poachers of wildlife and timber smugglers threatening the rich biodiversity of the hills.”*

The Saxena committee has finally recommended that:

“On the basis of oral and documentary evidence collected by the committee it is established beyond dispute that Dongaria and Kutia Kondh have had traditional, customary, and often formalized access to the PML area as well as to the surrounding thick forests on the slope to collect various types of forest produce. These rights would be extinguished if the area is transferred for mining.

- *The Ministry of Environment and Forests cannot grant clearance for use of forest land for non-forest purposes because the legal conditions for this clearance as laid down by its circular of 3 August, 2009, have not yet been met. These include the following: **the process of recognition of rights under the Forest Rights Act has not been completed; the consent of the concerned community has neither been sought nor obtained; and the Gram Sabhas of the***

area concerned (hamlets in a Scheduled Area) have not certified on both these points as required.

- *Mining will severely degrade the Niyamgiri hills ecosystem which is a rich wildlife habitat and an important and recognized elephant corridor, endanger the Dongaria Kondh's self-sufficient forest-based livelihoods, and lead to the extinction of their culture over a period of time.*
- *More than 7 square kilometers of the sacred undisturbed forest land on top of the mountain that has been protected for ages by the Dongaria Kondh as sacred to their deity, Niyam Raja, and essential for the region's fertility, will be stripped off its vegetation, soil and rendered into a vast barren exposed land.*
- *Mining will build roads through the Dongria's territories, opening the area to outsiders, a trend that is already threatening the rich biodiversity of the hills.*
- *The mining at the proposed mining lease site will provide only 3Mtpa of ore out of the total annual requirement of 18 Mtpa of the Refinery after its ongoing expansion from the existing capacity of 1 Mtpa to 6 Mtpa (for which they have already nearly completed the work even before getting permission). The proposed mining site thus has low relevance to the future of the Refinery and is not critical at all for its functioning as is being claimed by the Company and the state officials.*
- *The Vedanta Company has consistently violated the FCA, FRA, EPA and the Orrisa Forest Act in active collusion with the state officials. Perhaps the most blatant example of it is their act of illegally enclosing and occupying at least 26.123 ha of Village Forest Lands within its refinery depriving tribal, dalits and other rural poor of their rights.*

In view of the above this committee is of the firm view that allowing mining in the proposed mining lease area by depriving two Primitive Tribal Groups of their rights over the proposed mining site in order to benefit a private company would shake the faith of tribal people in the laws of the land It may have serious consequences for the security and well being of the entire country."

As a result of the report of the two expert Committees and the recommendation of the Forest Advisory Committee, the MOEF has been forced to reject the forest clearance for the mining project (which is integrally connected to the refinery), and suspend environmental clearance to it. It has also issued show cause notice to the Company as to why the environmental clearance for the refinery should not be cancelled. In the words of the Minister's order dated 24th August 2010:

"IX. The Decision on Stage-II Clearance

The Saxena Committee's evidence as reviewed by the FAC and read by me as well is compelling. The violations of the various legislations, especially the Forest (Conservation Act) 1980, the Environment (Protection) Act 1986, and the Scheduled Tribes and Traditional Forest Dwellers (Recognition of Forest Rights)

Act, 2006, appear to be too egregious to be glossed over. Furthermore, a mass of new and incriminating evidence has come to light since the Apex Court delivered its judgment on August 8th, 2008. Therefore, after careful consideration of the facts at hand, due deliberation over all the reports submitted and while upholding the recommendation of the FAC, I have come to the following conclusions :

- 1. the Stage II forest clearance for the OMC and Sterlite bauxite mining project on the Niyamgiri Hills in Lanjigarh, Kalahandi and Rayagada districts of Orissa cannot be granted. Stage II Forest Clearance therefore stands rejected.*
- 2. Since forest clearance is being rejected, the environmental clearance for this mine is inoperable.*
- 3. It appears that the project proponent is sourcing bauxite from a large number of mines in Jharkhand for the one million tonne alumina refinery that are not in possession of valid environmental clearance. This matter is being examined separately.*
- 4. Further, a show-cause notice is being issued by the MOE&F to the project proponent as to why the environmental clearance for the one million tonnes per annum alumina refinery should not be cancelled.*
- 5. A show-cause notice is also being issued to the project proponent as to why the terms of reference (TOR) for the EIA report for the expansion from one million tonnes to six million tonnes should not be withdrawn. Meanwhile, the TOR and the appraisal process for the expansion stands suspended."*

A copy of the MOEF's order dated 24.08.2010 is annexed as **Annexure A**.

9. All this would not have come to pass if the Court had taken seriously the report and recommendations of the CEC, its own expert committee given to the court in 2005. Instead, the court didn't find time to hear the matter till the refinery came to be constructed, in violation of the Forest Conservation Act. The court then proceeded to grant forest clearance for the mining lease, without even hearing the tribals or dealing with the very serious issues raised by its own expert body. Ignoring all the above issues, the court merely said that it needs to balance environment with development and by ordering that 5% of the mining profits should be earmarked for social development, gone on to allow Sterlite, a sister company of Vedanta to set up the refinery and do the mining in this region despite noting that Vedanta must be blacklisted for its record of dishonesty. This has provoked very strong and adverse comments in the public and media on the manner in which the court has dealt with the case. A recent article by Manoj Mitta in the Times of India on 29th August 2010 expresses some of the outrage that the Vedanta orders have invited in the public. A copy of this article dated 29.08.2010 is annexed as **Annexure B**.
10. As regards my statement about the last 16-17 Chief Justices, I would like to state that these include some of the finest and most upright Chief Justices that we have ever had. When I said that in my view about half of the last 16-17 Chief Justices were

corrupt, I certainly did not intend to paint the entire judiciary or the entire Supreme Court with the same brush. I believe that the Supreme Court has had and continues to have many outstanding judges and Chief Justices, due to whose tireless efforts we have been able to hold on to some of our cherished fundamental rights and continue to be regarded as a nation governed by the rule of law. It is because of them that people in this country still turn to the Courts in the hope of getting justice.

11. However, I would be remiss in my duty as a campaigner for judicial accountability and reforms had I not state my honest opinion about the serious and indeed alarming state of corruption in the higher judiciary. I felt that it is important to dispel an erroneous impression which some people still harbour, that corruption in the judiciary is confined to the lower judiciary and that the higher judiciary is free thereof. It was to underline this, that I mentioned my perception about half of the last 16-17 Chief Justices. I have always felt that it would be self defeating and against public interest to try and preserve public confidence in the judiciary by preserving an illusion about the higher judiciary being clean.
12. As I had stated, my view about corruption at the very apex of the judiciary and in particular among the last sixteen to seventeen Chief Justices, starting with Justice Rangnath Mishra is based upon some documentary evidence, some oral evidence and some circumstantial evidence based on the nature of the orders passed and the circumstances in which they were passed. It is exceedingly difficult to get documentary evidence of corruption in the higher judiciary. This is also for the reason that no investigation is allowed into charges of corruption against the higher judiciary. There is no disciplinary authority which can inquire into or take action against judges who have been charged with corruption or any other kind of misconduct. Moreover, even registration of FIRs and a regular criminal investigation has been prohibited against judges by the Supreme Court judgment in the Veeraswami case, without the written permission of the Chief Justice of India. This permission has hardly ever been given even when credible complaints based on documentary evidence have been made, on some occasions by the Committee on Judicial Accountability of which I have been a founder member. Apart from this, the fear of contempt of court has also deterred citizens who may have evidence of corruption among judges of the higher judiciary, from coming forward with it.
13. Despite all the above impediments in getting evidence of corruption regarding judges of the higher judiciary, I have been receiving and have had access to evidence of corruption against many judges of the higher judiciary including several former Chief Justices who I had in mind when I made my remark about half of last sixteen to seventeen Chief Justices being corrupt. Since the order of this court dated 14th July, 2010 creates an impression that the court perhaps would only be satisfied if I were to produce evidence in support of the perception that I have voiced, I am constrained to place on record some of the evidence that was in my possession regarding the corruption of several of the former Chief Justices which I have mentioned.
14. Chief Justice Rangnath Mishra as a judge of the Supreme Court presided over a

- Commission of Inquiry on the genocide of Sikhs in 1984. He conducted the inquiry proceedings in a highly biased manner and went on to give a clean chit to the Congress party, despite there being considerable evidence implicating senior leaders of the Congress party. The evidence against the Congress leaders and party has come out in subsequent official inquiry reports as well as in the subsequent CBI investigations. He went on after his retirement to agree to become a Rajya Sabha MP of the Congress party. Such actions to my mind clearly smack of corruption. Corruption, as I have mentioned earlier, is not used in a narrow sense of taking bribe alone, but in a wider sense of being morally culpable or blameworthy. A copy of the relevant pages of the book, "When a tree shook Delhi" (Roli Books, 2007) authored by H.S. Phoolka and Manoj Mitta, detailing the biased manner in which Justice Mishra conducted the inquiry proceedings is annexed as **Annexure C**.
15. Chief Justice K N Singh who followed Justice Rangnath Mishra, passed a series of unusually benevolent orders in favour of Jain Exports, and its sister concern Jain Shudh Vanaspati. Several of these were passed during his 18 day tenure as Chief Justice, and many of these cases were ordered to be listed before him by oral mentioning. This became such a talked about scandal in the corridors of the Court that eventually in a hearing on 9th December 1991, the counsel for the Union of India was forced to object to the manner in which the cases came to be listed before Justice K.N. Singh's bench. He was forced to give a labored explanation about how and why he ordered the matter to be listed before him when it was before another bench. A copy of this order dated 9/12/91 in the case of Jain exports Pvt. Ltd. Vs. Union of India is annexed as **Annexure D**. All these judgments came to be reviewed and reversed later by a series of subsequent benches, in some of which, the review petitions were heard in open court, in a departure from the normal procedure.
 16. On 23rd January 1990 Justice K.N. Singh allowed a writ petition (under Article 32) of Jain Exports almost immediately after its filing. This involved the import of industrial coconut oil which was banned. The Customs Dept. had imposed a redemption fine of Rs. 5 Crores which was challenged by them before the Delhi High Court. The High Court dismissed the petition and allowed them to approach CEGAT. Their SLP against this order was dismissed by the Supreme Court in 1988. Jain Exports then went to CEGAT which also dismissed their appeal. It was against this order that they filed an Art 32 petition directly in the Supreme Court. It was this petition that was allowed by Justice K.N. Singh who set aside the order of CEGAT and remanded the matter back to CEGAT asking them to consider the Appellant's plea of bonafides in importing the banned item. A copy of this order dated 23/1/90 is annexed as **Annexure E**. CEGAT again dismissed their plea of bonafides and upheld their earlier order. Against this they filed a fresh SLP which was again allowed by Justice K.N. Singh vide order dated 29/11/91 (during his 18 day tenure as CJI) and reduced the redemption fine to 35% of Rs. 5 Crores. A copy of this order is annexed as **Annexure F**. Both of the above orders of Justice K.N. Singh in this case came to be reviewed and set aside by order dated 21/10/92. These judgments eventually came to be

- reversed by order dated 14/7/93 by a 3-judge bench headed by Chief Justice Venkatachalaiah (who was widely respected and regarded as a judge of great integrity) who held that the import of the banned item was not bonafide and the writ petition and civil appeals were dismissed with costs. A copy of this order dated 14/7/93 is annexed as **Annexure G**.
17. On 1/5/91, and 9/9/91, Justice K.N. Singh allowed 2 Civil Appeals of Jain Exports regarding the import of Caustic Soda and reduced the import duty payable by the company from 92% to 10%. Copies of these orders are collectively annexed as **Annexure H (Colly)**. Both these orders were subsequently reviewed and set aside by orders dated 16/7/93 and 30/11/93 respectively by different benches of the Court. Copies of these orders are collectively annexed as **Annexure I (Colly)**. Finally on 14/8/96, the Court reversed both the orders of Justice K.N. Singh and the appeals were dismissed with costs. A copy of this judgment dated 14/8/96 is annexed as **Annexure J**.
 18. On 28/11/91 (during his 18 day tenure as CJI) Justice K.N. Singh dismissed the appeal of Union of India against Jain Shudh Vanaspati in a case involving the import of edible oil in stainless steel containers (the import of which was banned), which were fraudulently painted over to disguise them as mild steel containers. A copy of the order dated 28/11/91 is annexed as **Annexure K**. This order was reviewed and set aside on 16/7/93 by a bench of Justice J.S. Verma and P.B. Sawant. A copy of this is annexed as **Annexure L**. The order of Justice K.N. Singh was finally reversed by order dated 8/8/96, copy of which is annexed as **Annexure M**.
 19. All these orders of Justice K.N. Singh in the Jain Exports and Jain Shudh Vanaspati cases were widely understood and regarded as having been passed for corrupt considerations. They became a much talked about scandal in the Court, even while he was Chief Justice.
 20. Chief Justice A M Ahmadi who succeeded Justice Venkatachalaiah went on to quash the charge of culpable homicide in the criminal case arising out of the Bhopal Gas leak. Seven benches were changed during the hearing of this case, the only common judge in all these benches was Justice Ahmadi who was Chief Justice and constituting the benches. This judgment of quashing the charge of culpable homicide before the trial, not only delayed the trial, but led to such miscarriage of justice, that the Supreme Court has thought it fit to issue notice on a curative petition filed by the CBI even 14 years after that judgment. Copy of the judgment dated 13/09/96 in Keshub Mahindra vs. State of MP (1996) 6 SCC 129 along with the newspaper report dated 15.07.2010 is annexed hereto as **Annexure N (Colly)**.
 21. Justice Ahmadi then went on to deal with and pass several orders in the Union Carbide case involving the setting up of a hospital from the sale proceeds of Union Carbide India Limited's shares held by Union Carbide Corporation, USA. In fact he passed the orders releasing the amount of 187 Crores for the construction of the hospital, from the attached funds of Union Carbide. Quite remarkably, after having dealt with these cases of Union Carbide, Justice Ahmadi (soon after his retirement)

went on to become the lifetime Chairman of the same hospital Trust whose case he had extensively dealt with as Chief Justice. This too I regard as an act of corruption where again I mean corruption in the wider sense of the term. Copies of some of the orders showing the above facts are collectively annexed as **Annexure O (Colly)**.

22. A Supreme Court bench headed by Justice Kuldip Singh had on 10/5/96 passed an order staying all construction within 5 km of Badkal and Surajkund Lakes in Faridabad for environmental reasons. This order prevented any construction in plots in a development called Kant Enclave which is adjoining Suraj Kund Lake and on land which had been notified as Forest Land under S 4 of the Punjab Land Preservation Act. Being forest land, no construction was permissible on this land without the prior permission of the Union Ministry of Environment and Forests, and also without the permission of the Supreme Court by virtue of the orders of the Court in Godaverman's case. Despite this however, Justice Ahmadi who was at this time the Chief Justice of the Court went on to purchase plots in this development around this time and also went on thereafter to construct one of the first houses on this (a palatial house, where he has lived since his retirement), in violation of the orders of the Court and the Forest Conservation Act.

Soon after the original order of Justice Kuldip Singh, Justice Ahmadi as Chief Justice, set about reconstituting these benches and urgently listing review petitions filed by Kant Enclave and others against these orders, where these orders came to be successively modified. The order prohibiting construction within 5 kilometers of the lakes was modified to 1 kilometer, by the order dated 11/10/96. This order was further modified in the review petitions filed by Kant Enclave and others by order dated 17/3/97, to obviate the need to no objection certificates from the Pollution Control Boards for construction. This was further modified by even allowing construction even within 1 kilometer of Suraj Kund Lake by an order dated 13/5/98 by a bench headed by the then Chief Justice M.M. Punchhi. Copies of these orders are collectively annexed as **Annexure P (Colly)**.

23. The fact that the construction of Justice Ahmadi's house in Kant Enclave is completely illegal and in violation of the Supreme Court's judgments as well as the Forest Conservation Act has now been emphatically stated by the Supreme Court itself in its order dated 14/5/08 on the clarification application on behalf of Kant Enclave. A copy of this order is annexed as **Annexure Q**. The Centrally Empowered Committee of the Court has found the violations of those who constructed their houses in Kant Enclave so egregious, that they have recommended the demolition of these constructions which includes that of Justice Ahmadi in their report dated 13/1/09. A copy of this report is annexed as **Annexure R**. I regard Justice Ahmadi's actions in all this as morally culpable and indeed corrupt. They had become a much talked about scandal in the corridors of the court as well as among judges at that time.
24. Justice Ahmadi was succeeded by Justice Verma who is widely regarded as one of the finest and most upright Chief Justices of the Supreme Court. He was then succeeded by Justice M.M.Punchhi against whom the Committee on Judicial Accountability had

prepared an impeachment motion which had been signed by more than 25 members of the Rajya Sabha, but did not get the requisite number of signatures since he went on to become Chief Justice of India. The six extremely serious charges in the impeachment motion are detailed below:

1. That as a Judge of the Supreme Court, while deciding an appeal of Shri K N Tapuria against a judgment of the Bombay High Court dated 10.12.93 by which he was sentenced to two years rigorous imprisonment, Justice Punchhi allowed the Appeal and acquitted Shri Tapuria on the basis of a purported compromise entered into between Shri Tapuria and the alleged representative of M/s Turner Morrison & Co., and thereby remitted his prison sentence. This was done despite the fact that the offence of criminal breach of trust for which Shri Tapuria had been convicted cannot be compounded in law and thus could not have been allowed to be compromised by the complainant. In fact, the order acquitting Shri Tapuria dated 25.4.95 passed by Justice Punchhi was on extraneous considerations.
2. That as a Judge of the Punjab & Haryana High Court, Justice Punchhi heard and dismissed a Writ Petition of the Vice Chancellor of the Rohtak University, Dr. Ram Gopal containing serious allegations of malafides against the then Chief Minister of Haryana Shri Bhajan Lal. That while he decided this case dismissing allegations against Shri Bhajan Lal, two of his unmarried daughters residing with him, Ms. Madhu and Ms. Priya, applied for and got allotment of two valuable house plots in Gurgaon from the discretionary quota of the Chief Minister, Shri Bhajan Lal. The plots were allotted on 1.5.86, the same day Justice Punchhi dismissed Shri Ram Gopal's Writ Petition against Shri Bhajan Lal. The judgment of Justice Punchhi dismissing the Writ Petition was obviously given on extraneous considerations.
3. That as Inspecting Judge of the Punjab & Haryana High Court, Justice Punchhi made an adverse inspection report questioning his integrity, against Shri K.S. Bhullar, Sub-Judge-cum-Judicial Magistrate of Punjab, for the reason that Shri Bhullar had refused to decide a case before him involving Justice Punchhi's co-brother in his favour.
4. That as a Judge of the Supreme Court, Justice Punchhi attempted to hear and decide a case involving the validity of section 8 (a) of the Capital of Punjab (Development and Regulation) Act, 1952 though he was personally interested in the outcome of the case.
5. That Justice Punchhi attempted to browbeat officials of the Registry of the Punjab & Haryana High Court when they came to take inventory of items of furniture at the residence of the then Chief Justice of the Punjab & Haryana High Court, Justice V. Ramaswami. He ordered them to mention in the inventory report that all the items had been found in order even when these had not been verified and this was not true. Thereafter, when this matter became subject of the impeachment proceedings was put in issue in Writ Petitions filed in the Supreme

Court, Justice Punchhi attempted to hear and decide that case, though in view of his role in the matter, he was clearly disentitled from doing so.

6. That as Judge of the Supreme Court, Justice Punchhi, kept pending with him a matrimonial proceeding involving one Ashok and Rupa Hurra from Gujarat, even after it had become infructuous. The matter was kept pending in order that a fresh Petition to be filed by the husband also come before him. These proceedings were finally decided by him for extraneous considerations in a manner which was contrary to law.

The explanatory note annexed to the impeachment motion details the evidence in support of each of these six charges. A copy of the impeachment motion along with the explanatory note is annexed hereto as **Annexure S**. The annexures to the impeachment motion containing the original evidence is not being filed as they would make the record bulky, but could be produced if the court so desires.

25. Justice Punchhi was succeeded by Dr. A.S. Anand who too enjoyed a very controversial tenure as Chief Justice of India. During his tenure, evidence of several acts of very serious misconduct came to light and came to the possession of the Committee on Judicial Accountability. As a result of this, an impeachment motion was also prepared by the Committee on Judicial Accountability against Justice Anand which contained 4 serious charges which are detailed below :

- That Shri A.S. Anand, when he was the Chief Justice of the High Court at J& K, heard and passed favourable interim orders in the case of one Krishan Kumar Amla, soon after he had accepted gratification from Shri Amla in the form of a 2 Kanal plot of land at Ganderbal, Shrinagar. That Shri Anand accepted this gratification from Shri Amla even though he had been as a judge hearing and dealing with the cases of the companies owned by Krishan Amla and his father Tirath Ram Amla. These acts constitute gross misconduct and misbehavior on the part of a Judge.
- That Shri A.S. Anand abused his office and influence as a judge and Chief Justice of the J&K High Court to hold on to the ownership of Agricultural land which should have been vested In the government under the J&K Agrarian Reforms Act of 1976.
- That Shri A.S. Anand while he was a judge of the Supreme Court abetted his wife and mother-in-Law in filing a suit based on false averments in a civil court in Madhya Pradesh. During the proceedings before the Civil Court, he abused his influence and authority to get the revenue authorities to suppress from the trial court the record of the proceedings before the revenue Court. That he subsequently used his influence to get the State Government of M.P. to withdraw the Special Leave Petition filed by the State against his wife.
- That Shri Anand abused his office and influence as Chief Justice of the J&K High Court to get from the government of J&K a 2 Kanal plot of land at Gandhinagar in Jammu for a price which was a small fraction of the Market price of that land.

That in doing so, he gave a false and misleading affidavit that he owned no land or immovable property In Jammu.

The evidence in support of these charges is explained in the explanatory note attached to the impeachment motion which is annexed hereto as **Annexure T**. The annexures to the impeachment motion containing the original evidence is not being filed as they would make the record bulky, but could be produced if the court so desires.

26. However, despite the fact that there was documentary evidence of serious charges of corruption against Justice Anand it was not possible to get the impeachment motion signed by the requisite number of MPs against a sitting Chief Justice of the Supreme Court. It has been our experience that MPs are very reluctant to sign an impeachment motion against a sitting judge of the Supreme Court or a sitting Chief Justice of a High Court, even if one has documentary evidence of serious charges of misconduct against the judge concerned. This is because of a fear of judicial backlash against the MP or his Political Party most of whom have cases pending in the courts. Mr. Shanti Bhushan had thereafter written a letter to all the judges of the Supreme Court seeking an in-house inquiry into these charges in accordance with the restatement of judicial values adopted by the Supreme Court. A copy of this letter dated 20.02.2001 is annexed as **Annexure U**. Unfortunately, however, no in-house inquiry was made into these charges either despite the seriousness of the charges and their being supported by documentary evidence.

27. On 3rd August 2007, the Campaign for Judicial Accountability had issued a press release detailing several serious charges against Chief Justice Y. K. Sabharwal. The most serious among these charges was that he passed a series of orders for sealing commercial properties in Delhi which were operating in residential areas. The immediate consequence of his orders was to force shops and offices to shift to shopping malls and commercial complexes being constructed by builders and developers, which resulted in increasing their prices enormously almost over night. At precisely the time when Justice Sabharwal passed these orders of sealing, his sons entered into partnerships with some of the largest shopping mall and commercial complex developers and thus made huge profits by virtue of his orders. Moreover, the registered offices of his sons' companies were at the official residence of Justice Sabharwal at this time.

Apart from this, Justice Sabharwal's sons were allotted huge commercial plots by the Mulayam Singh/Amar Singh government of U.P. in NOIDA at highly concessional rates, at a time when Justice Sabharwal was dealing with the case of Amar Singh's tapes, the publication of which he had stayed. As a result of these transactions, the sons of Justice Sabharwal, who till he started dealing with the sealing case, were small traders having a turn over of less than 2 crores went on to purchase a property of 15.43 crores in Maharani Bagh in March, 2007 and more recently a property at 7 Sikandra Road for 122 crores (in partnership with their builder friends) in April, 2010. Copies of the two press releases issued by the Campaign for Judicial Accountability on 3.8.2007 and 19.7.2007 are collectively annexed as **Annexure V**.

The annexures to the two press releases containing the original evidence are not being filed as they would make the record bulky, but could be produced if the court so desires.

28. The Campaign for Judicial Accountability thereafter wrote to the CBI and the CVC on 26.11.2007 seeking registration of an FIR and an investigation into these offences under the Prevention of Corruption Act. Copies of these are annexed as **Annexure W (Colly)**. Unfortunately, however, no FIR appears to have been registered nor any investigation done by the CBI. The property at Sikandra Road was purchased by Justice Sabharwal's sons for Rs. 122 Crores with the help of a number of unconscionable judicial orders of single judges of the Delhi High Court, at a time when the property was worth well over Rs. 150 Crores. Copies of the relevant orders of the Delhi High Court are annexed as **Annexure X (Colly)**. A copy of the news report in the Times of India dated 25th August, 2010 detailing the highly unusual manner, with which this property worth well over Rs.150 crores was purchased for Rs. 122 crores by the sons of Justice Sabharwal is annexed as **Annexure Y**.
29. What I have mentioned above is some of the documentary evidence that we received about the corrupt acts of about half of the last 16-17 Chief Justices, when I made the statement. I have not mentioned the oral evidence that we had been receiving about many of these Chief Justices and some others who are not mentioned above, but who were present to my mind when I gave my interview to Tehelka. Some of this information was received from former judges and Chief Justices of this court and from other very responsible lawyers and individuals whose information and opinion I trust.
30. I have placed the above documentary information on record to dispel any impression that I my remarks were baseless or made with reckless disregard to the truth. They reflected my honest perception of the extent of corruption at the very apex of the judiciary in India. I submit that the above material shows that my perception is substantially correct and true. I had done so in public interest, only to draw attention to the extent of the problem and the urgent need to correct the situation by putting in place robust and effective institutional mechanisms for enforcing the accountability of the higher judiciary. I submit that this cannot and must not be held to be contempt of Court.

Deponent

Verification: I, the deponent above named do hereby verify that the contents of the above affidavit are true to my knowledge and nothing material is concealed therefrom. Verified at New Delhi on this the 15th day of September 2010.

Deponent