

# A constitutional pickle of the Andhra kind

Checks and balances for politicians, bureaucrats and judges are a must as political mudslinging may smear the judiciary



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The division of the larger State was a traumatic phase, and troubled times seem not to have left Andhra Pradesh's people and institutions, caught as they are between warring chieftains Y.S. Jagan Mohan Reddy and N. Chandrababu Naidu. Of special concern now, however, is the latest controversy which threatens to suck in the Indian judiciary at its highest levels. This is embedded in the letter of October 6 written by the State Chief Minister, Jagan Mohan Reddy, to the Chief Justice of India (CJI), S.A. Bobde.

## Allegations against a judge

Historical movie buffs will recall an ancient war machine called the catapult. A huge arm was attached to a tall gibbet into which was put shredded nails or molten fire. As the arm swung back and then spun forward, it released its contents across a wide arc into the opposing castle. On landing, it did devastating damage. The king of the castle had to deal with it, and quickly, to contain the damage. The young Chief Minister's letter evokes this parallel. Except that the target is not the city or the Court, it is one judge – but Justice N. Ramana is no ordinary judge;

he is now the seniormost after the CJI, and is due to take over from him come April 2021, if the convention on seniority holds.

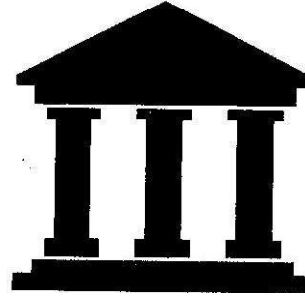
The Chief Minister's letter begins with a reminder that the executive is an equal partner of the judiciary and the legislature in serving the people. It acknowledges the power of judicial review over acts of the other organs of State, and quickly swings this around to emphasise the consequent need for absolute judicial integrity. The arc thus traversed, the contents are offloaded, and they consist of damning allegations against Justice Ramana.

Reference is made to Justice Ramana's proximity to former Andhra Pradesh Chief Minister Chandrababu Naidu and the Telugu Desam Party (TDP) as Additional Advocate General, and we are reminded that former Supreme Court justice Justice J. Chelameshwar has commented adversely on their connection.

That Justice Ramana has, through the State Chief Justice, influenced the selection of the roster and allotment of key portfolios to a few judges close to the TDP.

That important matters relating to State policy and TDP interests are posted before these judges and invariably orders adverse to the government are passed.

That even a decision of the Cabinet appointing a Special Investigating Team to investigate allegations of corruption against the previous TDP administration has been stayed by the High Court.



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The letter makes mention of cases where the High Court has passed orders negating a slew of key decisions of the Jagan Mohan Reddy government in the last 18 months; presumably, these include shifting the capital out of Amaravati, resolution on the abolition of the Andhra Pradesh Legislative Council, and removal of State Election Commissioner N. Ramesh Kumar, etc.

## Gag order as a misstep

The Chief Minister's missive makes specific and pointed reference to insider knowledge and purchase of large land transactions in Amaravati at old prices to make a killing when the development plans were unveiled. He mentions the involvement of D. Srinivas, previous Advocate General of the State and also makes reference to close relatives of Justice Ramana. It is not possible here to discuss the FIR filed by the government in this case owing to a most unusual order passed by the Chief Justice of the Andhra Pradesh High Court, Justice J.K. Maheshwari on September 15. In the face of Supreme

Court precedents, Justice Maheshwari injunctioned further investigation of the case. Crucially, he went one step further (and this may be the fatal misstep) and placed a gag order on the media from reporting the FIR.

Now, this goes against every tenet of freedom of speech, the right of the press to properly report on matters of public importance and our right as citizens to receive such reports, and the tenets of transparency and accountability of high constitutional office-holders in a democracy. Indeed, one would like the Andhra Chief Justice to explain to us what the crucial aspect of security of the State or integrity of the country involved in this case of alleged land grab through insider knowledge is that we the citizens should not know about it. It is galling in the extreme that a senior judge should think that after 70 years of constitutional freedom, we will meekly consent to have our mouths gagged and our ears clogged. Sadly, that gag order continues, contrary to expectation, that the designated sentinel on the watch, the highest court, would order its immediate extinction on becoming aware of its existence.

## Onus is on the CJI

All eyes are now on the CJI to evolve a fair and transparent process which enables Justice Ramana to clear his name; brotherly abolition and Pandora's boxes will cause damage to both man and institution. And here one may express an anxiety which is dogging

us for quite some time about Chief Justices of India falling short of the standards of integrity and probity. The office of the CJI is the most august one – *pater familias* of the legal system, master of the roster, decisive say in appointment of the next generations of judges – it does not get more powerful. We deserve to get the best CJI we can get.

## Wanted, a watchdog

There is pushback against the Andhra Chief Minister, saying that he has levelled these allegations against Justice Ramana because Justice Ramana is speeding up cases of corruption against politicians, and Mr. Jagan Mohan has a slew of cases involving vast amounts of money pending against him. Let us also make it clear that the utmost priority should be given to all such cases the way to good governance lie through punishment of the corrupt governors, and the more stringent and expeditious this is the better. Indeed, one wishes for a Leadership Commission which would focus on the measures required to obtain and keep high levels of integrity from our leaders and that includes not just politicians and bureaucrats, but also judges. And for good measure perhaps, we should also bestow thought on the office of a judicial ombudsman.

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17

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