

# SC: Chief Justice office under RTI Act but 'conditions apply'

Top court cautions that the Right to Information Act cannot be used as tool of surveillance



ILLUSTRATION: AJAY MOHANTY

## HOW CJ OFFICE BECAME A 'PUBLIC AUTHORITY'

NOV 11, '07: RTI activist Subhash Agrawal files plea in SC seeking info on judges' assets

NOV 30: Information denied to him

DEC 8: First appeal filed at SC's registry against the denial of information

JAN 12, '08: Appeal dismissed by SC's registry

MAR 5: Agrawal approaches CIC

JAN 6, '09: CIC asks SC to disclose info as CJ's office comes within the ambit of RTI Act

JAN 17: SC moves Delhi HC against CIC order

JAN 19: HC stays CIC order; asks expert Fali Nariman to assist, but he declines

MAR 17: SC says judges not averse to declaring assets and Parliament can enact a law

MAY 4: HC reserves order on SC plea

SEP 2: Single judge Bench of HC upholds CIC's order

OCT 5: SC challenges single judge Bench verdict before division Bench

OCT 6: HC agrees for urgent hearing of SC plea

OCT 7: HC admits the appeal and constitutes a three-judge Bench

NOV 13: HC reserves judgment on the appeal

JAN 12, '10: HC says the office of CJ comes within the ambit of the RTI Act

NOV 26: Secretary General of SC and CPIO file 3 appeals against the HC and CIC orders

AUG 17, '16: SC refers the matter to a Constitution Bench

APR 4, '19: SC reserves verdict

NOV 13: SC upholds 2010 Delhi HC verdict

PRESS TRUST OF INDIA

New Delhi, 13 November

The Supreme Court (SC) has held that the office of the Chief Justice of India is a public authority and falls within the ambit of the Right to Information (RTI) Act.

A five-judge Constitution Bench, headed by Chief Justice Ranjan Gogoi, upheld the 2010 Delhi High Court verdict and dismissed three appeals filed by Secretary General and the Central Public Information officer of the SC.

Cautioning that RTI cannot be used as a tool of surveillance, the top court in its judgment held that judicial independence has to be kept in mind while dealing with transparency. The Bench, also comprising Justices N V Ramana, D Y Chandrachud, Deepak Gupta and Sanjiv Khanna, said only the names of judges recommended by the Collegium for appointment can be disclosed, not the reasons. While the CJ and Justices Gupta and Khanna have penned one judgment, Justices Ramana and Chandrachud have written separate verdicts.

It said that the Right to Privacy is an important aspect and it has to be balanced with transparency while deciding to give out information from the office of the Chief Justice.

Justice Chandrachud, who wrote a separate judgment, said the judiciary cannot function in total insulation as Judges enjoy constitutional post and



PHOTO: REUTERS

discharge public duty. Justice Khanna said independence of judiciary and transparency go hand in hand.

Justice Ramana, who concurred with Justice Khanna, said there should be balancing formula for right to privacy and right to transparency and independence of judiciary should be protected from breach.

The move to bring the office of the CJ under the transparency law was initiated by RTI activist S C Agrawal. His lawyer Prashant Bhushan had submitted in the SC that though the apex court should not have been judging its own cause, it is hearing the appeals due to "doctrine of necessity".

The lawyer had described the reluctance of the judiciary in parting information under the RTI Act as "unfortunate" and "disturbing", ask-

ing: "Do judges inhabit different universe?" He had submitted that the apex court has always stood for transparency in functioning of other organs of state, but it develops cold feet when its own issues require attention.

The Delhi High Court on January 10, 2010, had held that the CJ office comes within the ambit of the RTI law, saying judicial independence was not a judge's privilege, but a responsibility cast upon him.

The HC judgment was seen as a setback to the then CJ, K G Balakrishnan, who has been opposed to disclosure of information relating to judges under the RTI Act. The HC had dismissed a plea of the SC that contended bringing the CJ's office within the RTI Act would "hamper" judicial independence.

## 17 rebel Karnataka MLAs can contest Dec 5 by-polls: SC

The Supreme Court on Wednesday upheld the disqualification of 17 Congress-JD(S) MLAs in Karnataka by the then Assembly Speaker but paved the way for them to contest the December 5 by-polls on 15 seats in the state. The SC set aside the portion of the orders by the then speaker K R Ramesh Kumar by which the legislators were disqualified till the end of the 15th Karnataka Legislative Assembly's term in 2023. **PTI**

## Supreme Court asks Delhi govt to share data on pollution

The Supreme Court issued notice to the Delhi government on a plea challenging the odd-even road rationing scheme. A Bench of Justices Arun Mishra and Deepak Gupta also directed the government and the Central Pollution Control Board (CPCB) to place before it the data of pollution in Delhi from October till November 14. It also directed them to submit pollution data from October 1 to December 31, 2018. **PTI**

## SC to give verdict on Rafale, Sabarimala review pleas today

The Supreme Court will pronounce on Thursday its verdict on pleas seeking a review of its judgment giving a clean chit to the Narendra Modi government in the Rafale fighter jet deal with French firm Dassault Aviation. It is also scheduled to pronounce its verdict on a batch of petitions seeking re-examination of its decision to allow entry of women of all age group in Kerala's Sabarimala Temple. **PTI**

## Cabinet secy again asks depts to follow up on CCEA decisions

ARCHIS MOHAN

New Delhi, 13 November

For the second time in nearly a month, Cabinet Secretary Rajiv Gauba has asked secretaries of all ministries and departments to diligently implement the decisions of the Union Cabinet and Cabinet committees, adhere to deadlines.

In a letter to all secretaries on Monday, Gauba said it was "of utmost importance that follow up action on Cabinet/Cabinet committee decisions is monitored and pursued till all decision points are implemented".

He said it was important that "timelines indicated in the implementation schedule" and on the "statement on major milestones and corresponding target dates" appended to cabinet notes are "adhered to".

This is the second such instruction Gauba has issued to secretaries of all departments and ministries. He sent a similar letter on October 9. That letter had asked secretaries to "conduct a review of all the



unimplemented Cabinet committee decisions from May 2014" pertaining to their respective departments, implement them expeditiously and record the reasons for delay. The first Narendra Modi government took office on May 27, 2014, and the second on May 31 this year.

In his letter on Monday, Gauba said the status of Cabinet/Cabinet Committee on Economic Affairs (CCEA) decisions for the period May 31 to October 31 was presented to the Cabinet and council of ministers recently. "It was decided to present the status of decisions before the council of ministers on a regular basis," he said.

Gauba said the progress report should also be reported regularly on the eSamiksha portal of the government. The portal is a real time system for monitoring of follow-up action on the decisions taken during the presentations made by different ministries and departments to the prime minister.

In his October 9 letter, Gauba had asked secretaries to "examine the reasons for slippages from adherence to approved time-lines". "Concrete action plans may be prescribed with clearly identifiable time-lines and milestones for different activities to ensure effective implementation," he had said.

## Pakistan army says considering options for Jadhav case review

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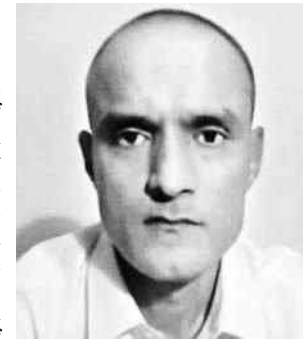
Islamabad, 13 November

Pakistan is considering various legal options for the review of death-row convict Kulbhusan Jadhav's case, the country's army said on Wednesday amid reports that the government there was preparing to amend the Army Act to implement the International Court of Justice's verdict.

Spokesperson for Pakistan Armed Forces Major General Asif Ghafoor, however, termed as "speculation" the reports that the government was planning to amend the Army Act to allow Jadhav the right to file an appeal against his conviction in a civilian court.

The amended law will outline the procedure to seek redress in the civil courts against sentence by Army courts, the report said.

In a major victory for India, the ICJ on July



Kulbhusan Jadhav

17 ruled that Pakistan must review the death sentence given to Jadhav.

Ghafoor said the reports of the amendment in the Pak Army Act to implement ICJ verdict regarding Jadhav are "incorrect". "Legal options for review and reconsideration of the case are being considered. Final status shall be shared in due course of time," he said.

Jadhav, 49, a retired Indian Navy officer, was sentenced to death by a Pakistani military court on charges of "espionage

and terrorism" after a closed trial in April 2017. India has maintained that Jadhav was kidnapped from Iran where he had business interests after retiring from the Navy. Pakistan claims that its security forces arrested Jadhav from restive Balochistan province on March 3, 2016 after he reportedly entered from Iran.