

REPORT OF THE COMMITTEE **ON IN-HOUSE PROCEDURE**

This Committee has been constituted with a view to devise an In-House Procedure for taking suitable remedial action against Judges who, by their acts or omission or commission, do not follow universally accepted values of Judicial life including those included in the Restatement of Values of Judicial Life.

Complaints are often received containing allegations against a Judge pertaining to the discharge of his judicial functions. Sometimes complaints are received with regard to the conduct and behaviour of the Judge outside the court. The complaints are generally made by a party to the proceedings who feels dis-satisfied with the adverse order passed by the Judge or by persons having a personal grudge against the Judge. Most of these complaints are found to be false and frivolous. But there may be complaints which cannot be regarded as baseless and may require deeper probe. A complaint casting reflection on the independence and integrity of a Judge is bound to have a prejudicial effect on the image of the higher judiciary of which the Judge is an honoured member. The adoption of the In-House Procedure would enable a complaint against a Judge being dealt with at the appropriate level within the Institution. Such a procedure would serve a dual purpose. In the first place, the allegations against a Judge would be examined by his peers and not by an outside agency and

thereby the independence of the judiciary would be maintained. Secondly, the awareness that there exists a machinery for examination of complaints against a Judge would preserve the faith of the people in the independence and impartiality of the judicial process. The Committee has approached the task assigned to it in this perspective.

HIGH COURT JUDGE :

A complaint against a Judge of a High Court is received either by the Chief Justice of that High Court or by the Chief Justice of India (CJI) directly. Some times such a complaint is made to the President of India. The complaints that are received by the President of India are generally forwarded to the CJI. The Committee suggests the adoption of the following procedure for dealing with such complaints :-

(1) Where the complaint is received against a Judge of a High Court by the Chief Justice of the High Court, he shall examine it. If it is found by him that it is frivolous or directly related to the merits of a substantive decision in a judicial matter or does not involve any serious complaint of misconduct or impropriety, he shall file the complaint and inform the

CJI accordingly. If it is found by him that the complaint is of a serious nature involving misconduct or impropriety, he shall ask for the response thereto of the Judge concerned. If on a consideration of the allegations in the complaint in the light of the response of the Judge concerned, the Chief Justice of the High Court is satisfied that no further action is necessary he shall file the complaint and inform the CJI accordingly. If the Chief Justice of the High Court is of the opinion that the allegations contained in the complaint need a deeper probe, he shall forward to the CJI the complaint and the response of the Judge concerned along with his comments.

(2) When the complaint is received by the CJI directly or it is forwarded to him by the President of India the CJI shall examine it. If it is found by him that it is either frivolous or directed related to the merits of a substantive decision in a judicial matter or does not involve any serious complaint of misconduct or impropriety, he shall file it. In other cases the complaint shall be sent by the CJI to the Chief Justice of the concerned High Court for his comments. On the receipt of the complaint from the CJI the Chief Justice

of the concerned High Court shall ask for the response of the Judge concerned. If on a consideration of the allegations in the complaint in the light of the response of the Judge concerned the Chief Justice of the High Court is satisfied that no further action is necessary or if he is of the opinion that the allegations contained in the complaint need a deeper probe, he shall return the complaint to the CJI along with a statement of the response of the Judge concerned and his comments.

(3) After considering the complaint in the light of the response of the Judge concerned and the comments of the Chief Justice of High Court, the CJI, if he is of the opinion that a deeper probe is required into the allegations contained in the complaint, shall constitute a three member Committee consisting of two Chief Justices of High Courts other than the High Court to which the Judge belongs and one High Court Judge. The said Committee shall hold an inquiry into the allegations contained in the complaint. The inquiry shall be in the nature of a fact finding inquiry wherein the Judge concerned would be entitled to appear and have his say. [But it would not be a formal judicial inquiry involving the examination and cross-

examination of witnesses and representation by lawyers.]

(4) For conducting the inquiry the Committee shall devise its own procedure consistent with the principles of natural justice.

(5) After such inquiry the Committee may conclude and report to the CJI that (a) there is no substance in the allegations contained in the complaint, or (b) there is sufficient substance in the allegations contained in the complaint and the mis-conduct disclosed is so serious that it calls for initiation of proceedings for removal of the Judge, or (c) there is substance in the allegations contained in the complaint but the mis-conduct disclosed is not of such a serious nature as to call for initiation of proceedings for removal of the Judge.

(6) In a case where the Committee finds that there is no substance in the allegations contained in the complaint, the complaint shall be filed by the CJI.

(7) If the Committee finds that there is substance in the allegations contained in the complaint and the misconduct disclosed in the allegations is such that it calls for initiation of proceedings for removal of the Judge, the CJI shall adopt the following course :-

(i) the Judge concerned should be advised to resign his office or seek voluntary retirement;

(ii) In case the Judge expresses his unwillingness to resign or seek voluntary retirement, the Chief Justice of the concerned High Court should be advised by the CJI not to allocate any judicial work to the Judge concerned and the President of India and the Prime Minister shall be intimated that this has been done because allegations against the Judge had been found by the Committee to be so serious as to warrant the initiation of proceedings for removal and the copy of the report of the Committee may be enclosed.

(8) If the Committee finds that there is substance in the allegations but the mis-conduct disclosed is not so serious as to call for initiation of proceedings for removal of the Judge, the CJI shall call the Judge concerned and advise him accordingly and may also direct that the report of the Committee be placed on record.

CHIEF JUSTICE OF THE HIGH COURT :

A complaint against the Chief Justice of a High Court is normally received either by the CJI or by the President of India who forwards it to the CJI. On receipt of such a complaint the CJI shall examine it and if it is found by him that it is either frivolous or directly related to the merits of a substantive decision in a judicial matter or does not involve any serious complaint of misconduct or impropriety, he shall file the complaint without any further action. In case it is found by the CJI that the complaint is of a serious nature involving misconduct or impropriety, he shall ask for the response of the Chief Justice concerned about the allegations contained in the complaint. If, on a consideration of the allegations in the light of the response of the Chief Justice concerned, the CJI is satisfied that no further action is necessary he shall file the complaint. If, however, he is of the opinion that the allegations contained in

the complaint need a deeper probe, he shall constitute a three member Committee consisting of a Judge of the Supreme Court and two Chief Justices of other High Courts. The Committee shall hold an inquiry on the same pattern as the committee constituted to examine a complaint against a Judge of the High Court and further action in the light of the findings of the Committee shall be taken by the CJI on the same lines.

JUDGE OF SUPREME COURT :

If a complaint is received against a Judge of the Supreme Court by the CJI or if such a complaint is forwarded to him by the President of India, the CJI shall first examine it and if it is found by him that it is either frivolous or directly related to the merits of a substantive decision in a judicial matter or does not involve any serious complaint of misconduct or impropriety, he shall file the complaint without any further action. In case it is found by him that the complaint is of a serious nature involving misconduct or impropriety, he shall ask for the response thereto of the Judge concerned. If, on a consideration of the allegations in the light of the response of the Judge concerned, the CJI is satisfied that no further action is necessary he shall file the complaint. If, however, he is of the opinion that the matter needs a deeper probe, he would constitute a Committee consisting of three Judges of the Supreme Court. The said Committee shall hold an inquiry on the same pattern as the committee

constituted to examine a complaint against a Judge of a High Court and further action on the same lines in the light of the findings of the Committee shall be taken by the CJI.

The Committee feels that the In-House Procedure suggested herein will allay the misgivings in certain quarters that the members of the higher judiciary are not accountable for their conduct. At the same time, it will also serve as a safeguard for the members of the higher judiciary from being maligned or being subjected to vilification by false and frivolous complaints. The Committee earnestly hopes that the occasions for invoking the In-House Procedure will seldom arise.

(S.C. AGRAWAL) (A.S. ANAND) (S.P. BHARUCHA)

(P.S. MISHRA) (D.P. MOHAPATRA)

The Supreme Court of India at its Full Court Meeting held on December 15, 1999 to consider the Report of the Committee on "In-House Procedure" devised to take suitable remedial action against Judges who, by their acts or omission or commission, do not follow universally accepted values of Judicial life including those included in the 'Restatement of Values of Judicial Life', dated October 31, 1997 has unanimously adopted the Report of the Committee with the following addition to Para 5 of the Report. The amended Para 5 of the Report would now read thus :

"5(i) – After such inquiry the Committee may conclude and report to the CJI that (a) there is no substance in the allegations contained in the complaint, or (b) there is sufficient substance in the allegations contained in the complaint and the mis-conduct disclosed is so serious that it calls for initiation of proceedings for removal of the Judge, or (c) there is substance in the allegations contained in the complaint but the mis-conduct disclosed is not of such a serious nature as to call for initiation of proceedings for removal of the Judge.

(ii) A copy of the Report shall be furnished to the Judge concerned by the Committee."