

EXCLUSIVE
CORRUPT JUDICIARY
GHAZIABAD COURT SCAM

BENCH WEAK

In the Ghaziabad court scam, 33 judges stand accused. It's an evil that

by Chandrani Banerjee

THE "Ghaziabad Court Provident Fund scam" is a mouthful. To those late on the story, it might even signify one of those routine cases of a minor, mofussil nature. Nor even do the amounts—Rs 34.56 crore yearly (official figure Rs 23 crore)—sound particularly earth-shattering. But if the case has been exciting much feverish comment in recent days, it's because it involves 33 judges, including one sitting judge of the Supreme Court and several serving and retired high court and district judges. In a country where corruption in the judiciary does not easily yield to scrutiny, it may yet become the landmark case that changed it all.

The alleged conduct of those who hold such high positions has come in for all-round criticism. The Chief Justice of India, K.G. Balakrishnan, who has been very critical of corruption in the higher judiciary, has directed the UP government to exercise the option of handing

over the Ghaziabad case to the CBI. This was after the officer handling the investigations wrote to the DGP, UP, that his probe was being hampered because it would be difficult for him to get permission to question the judges involved.

Here is what Ghaziabad SSP Deepak Rattan wrote to DGP Vikram Singh in his June 23, 2008, report: "Out of the several judges whose names have emerged, one is posted in Uttarakhand, one in West Bengal, one at the Supreme Court, eight at the Hon'ble Allahabad High Court, and the remaining are posted as district judges. It is impossible for the local police to visit all these states and interrogate the Hon'ble judges impartially. The present embezzlement is a very large scam of the judiciary and several judges who were posted in Ghaziabad from time to time appear to be directly involved in the scam...." The officer went on to make a case for handing over the investigations to the CBI.

So who were these people in high places alleged to have been beneficiaries of the multi-crore embezzlement of PF funds of Class III and IV employees of the courts? *Outlook*, after seeking the



JUDGES UNDER THE SCANNER

Judges allegedly involved in the Ghaziabad PF sc

SUPREME COURT

Justice Tarun Chatterjee

HIGH COURT

Justice P.K. Samant, Calcutta High Court

Justice J.C.S. Rawat, Uttarakhand High Court

Justice Tarun Agarwal, Allahabad High Court

Justice B.M. Sahay, Allahabad High Court

Justice Susheel Harkoli, Allahabad High Court

Justice Anjani Kumar, Allahabad High Court

Justice Ajay Kumar Singh, Allahabad High Court

Justice R.N. Mishra, Allahabad High Court

Justice O.A. Khandelwal (retd), Allahabad High Court

Justice D.S. Tripathi (retd), Allahabad High Court

Justice R.S. Tripathi (retd), Allahabad High Court

Justice R.P. Yadav (retd), Allahabad High Court

Justice Swantantra Singh (retd), Allahabad High Court

NESS

dare not speak its name.

“This is a criminal case. No one is high in the eyes of the judiciary...let there be no cover-up” —Chief Justice of India K.G. Balakrishnan on the case.

JITENDER GUPTA



views of senior retired judges, has decided to print the names of those allegedly involved in the scam. The list of the judges (*detailed below*) surfaced after Ashutosh Asthana, a treasury official in the Ghaziabad court, recorded his statement under Section 164 of the Indian Penal Code (IPC) before Ghaziabad judicial magistrate Dinesh Kumar six months ago. Legally, his submission is admissible in a court of law as evidence and has become a matter of official record.

Says Nahar Singh Yadav, senior lawyer and former president of the Bar Association of Ghaziabad, “Asthana has named the people who were involved, including the judges as well as their kith and kin who were also beneficiaries. And as soon as the documents were submitted before the Supreme Court it has become a public document. The names of all the judges are out in the open.” It was Yadav who filed the PIL to the Allahabad High Court and, later, the Supreme Court, which is monitoring the case.

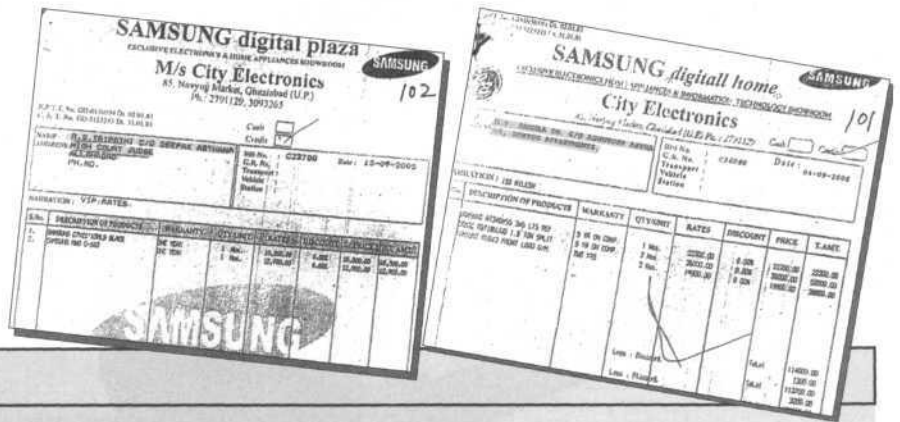
HOW THE SPOILS WERE SHARED

Going by the confessions of Ghaziabad Court treasury official Ashok Asthana, this is the volume of cash/largesse passed on to judges and court officials from the employees’ PF fund:

- Monthly cash component: Rs 4 lakh
- Shopping, household expenses, travel, medical: Rs 4 lakh
- Average monthly outflow per judge/official: Rs 8 lakh
- Annual payment per judge/official: Rs 96 lakh
- Yearly Embezzlement: Rs 34.56 crore (For 33 judges and three court officials)

The scam came to light after Rama Jain, the vigilance officer of the Ghaziabad court noticed discrepancies in the PF accounts of Class III and IV employees. Her investigations led her to alert the Allahabad High Court, which asked her to file an FIR. Investigations by local police were slow and hit a roadblock when it came to questioning the judges. This was when Yadav filed a PIL in the high court in March 2008 seeking a CBI inquiry. However, despite the court’s guidelines to the

Pelf marks These bills, submitted as evidence, shows purchases made in judges’ names



am being investigated by the CBI

LOWER COURTS

- Ashok K. Chowdhary, Addl District Judge, Ghaziabad
- Subhash Chand Agarwal, District Judge, Purvanchal
- Ali Jamin, Additional District Judge, Varanasi
- Deepak Srivastava, Additional District Judge, Ghaziabad
- Akhilesh Dubey, Chief Judicial Magistrate, Ghaziabad
- Himanshu Bhatnagar, Additional Civil Judge, Mathura
- Hamidullah, Add. Chief Judicial Magistrate, Ghaziabad

- Anil Kumar Singh, Railway Magistrate, Ghaziabad
- R.P. Mishra (retd), District Judge, Ghaziabad
- R.S. Choubey (retd), District Judge, Ghaziabad
- Arun Kumar (retd), Additional District Judge, Ghaziabad
- Sadhna Chowdhary (retd), Add. District Judge, Barabanki
- Chander Parkash (retd), District Judge, Barabanki
- R.C. Singh (retd), District Judge, Etah, UP
- C.K. Tyagi (retd), Additional District Judge, Ghaziabad

The last/current posting of six district judges could not be verified



P.B. Sawant
former judge, Supreme Court of India

"Media can always report these issues, highlighting the charge without commenting on it. There is an urgent need for some mechanism that will take

up cases where members of the judiciary are facing some kind of corruption charges."



Hosbet Suresh
retired judge, Bombay High Court

"It is unfortunate we have no law to remove a sitting judge if he is found incompetent or facing corruption charges. The media should freely report on

corruption in the judiciary. Section 19 (1) (a) covers freedom of expression of the media."

police, there was little headway. Yadav then approached the Supreme Court.

The modus operandi for siphoning out the PF money has been detailed by Asthana—a key player in the scam. Fake requests for advance release of monies from PF accounts by employees were submitted by Asthana. These were approved by the then district judges and the money was withdrawn and distributed. The scam had been going on since 2001, though neither Asthana nor the investigators have a clear picture of the total volume of the amounts involved. All that

the treasury official has computed is the average monies he used to distribute every month in the past few years.

Asthana's detailed confessions also contain other revelations:

- He has given details of the money illegally withdrawn from the PF accounts of various employees.
- He has confessed that the PF money changed hands only through him or with his knowledge.
- Asthana has named seven district judges who gave their consent for pulling out the money.

● He alleges that the 33 judges and three court employees were paid on an average Rs 4 lakh by him in cash every month, excluding household expenses, travel and shopping bills (*see chart*).

● Here is what Asthana had to say about R.P. Yadav, a former judge of the Allahabad High Court: "I used to pay his monthly household expenses, around Rs 25,000 to 30,000, from the PF money. His son studied at the Institute of Management and Technology, Ghaziabad, and the entire fees were paid from this money. Anokhelal, the official contractor



Rajindar Sachar
former judge, Delhi High Court

"Members of the judiciary are part of society. They can be questioned. A recorded statement under Section 164 already submitted in the court

is a public document. Anyone can read it and report it. It is perfectly all right to report it."



V.S. Malimath, former Chief Justice,
Karnataka & Kerala High Courts:

"I am not saying that there shouldn't be any accountability of members of judiciary but before going ahead a thorough probe in full confidentiality is

required. Reason: if the person named is later exonerated, the damage is very high."

of the Ghaziabad court, did all the woodwork at his Gomti Nagar residence in Lucknow. The total cost was about Rs 1,00,000-2,00,000. It was paid by me from the PF accounts."

● Asthana has furnished bills pertaining to various purchases allegedly made on behalf of judges. The receipts bear their names. (*See accompanying document*). The purchases by him ranged from TVs to furnishing. Some of the owners of establishments which sold the goods have been arrested by the UP police following Asthana's statement.

● In 10 months, between April 2007 and January 2008, Asthana bought 33 mobile phones worth about Rs 3 lakh. All purchases were allegedly made for judges from the same store—Touchpower, Kalkagarhi Chowk, Ghaziabad.

So where do the investigations stand? The CBI took over the case on September 23 but the agency has made tardy progress since then. Joint director Alok Pateria, who is heading the probe, admits: "We are in the process of collecting documents. Questioning of those involved and other steps will happen later. It

will take time because we have just started. It would be inappropriate to disclose anything about the papers we have collected at this preliminary stage."

Lawyers like Prashant Bhushan who have been campaigning for judicial accountability are sceptical. Says he: "To get to the truth, the CBI needs to be given a free hand to investigate the judges. There should be a separate Judicial Bureau of Investigation. And only if this works as an autonomous organisation without any interference and any political influence is there hope." ■