

The Times of India, Mumbai, 22 Feb 2008

## Was CJI rap on Teesta too harsh?

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**New Delhi:** The last time any strictures were passed on her was in 2003, when the Gujarat HC infamously upheld the acquittal of all the accused in the Best Bakery case. The following year, the Supreme Court not only ordered a retrial in Mumbai but also expunged all adverse references to activist Teesta Setalvad in the HC verdict. So, why does the same SC now find an article of hers on Gujarat riots "shameful" and declare that it would not entertain the grievances of anybody associated with her?

The outburst of CJI KG Balakrishnan is surprising given that the article, titled "Shame, shame: A travesty of justice", seems to be a legitimate critique of the Supreme Court for its handling of the bail applications of the 84 persons accused in the Godhra case.

Published this month in Malayalam magazine Mathrubhoomi in Kerala, the CJI's home state, Setalvad's article gives the sequence of the excuses trotted out by the court over six hearings in the last one



Teesta Setalvad

year for not being able to hear the bail pleas of so many Godhra accused. This despite the fact that most of the accused, as the article asserts, are "innocent" as they were picked up on the basis of "cooked up police witnesses" and one of them is a "100% blind boy".

Further, it is almost three years since the Central Pota Review Committee held that none of the alleged offences in the Godhra case warranted the invocation of the draconian law designed to deny bail. Though terror charges against MDMK leader Vaiko were dropped on the recommendation of the same panel, the courts have failed to follow that precedent in the Godhra case.

More seriously, Setalvad's article makes out a case of "discriminatory justice". While hundreds of Hindu accused in the post-Godhra riot cases are roaming free, the Muslim accused have been languishing in jail for six years for want of a hearing of their bail applications.

"Can such a blatantly discriminatory scheme of dispensation of criminal justice win the faith of a community that is at the receiving end? Can no questions be asked about the system in operation in the SC? Which matters get automatic priority and which do not?" are some of the questions asked by Setalvad as a consumer of justice.

The CJFs attack on Setalvad without giving her an opportunity to defend herself is reminiscent of the very lapse of the Gujarat HC that the SC corrected in 2004. "Observations should not be made by courts against persons or authorities unless they are essential or necessary for decision of the case," Justice Arijit Pasayat ruled, while deleting HC's strictures on Setalvad.