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Master of Roster: Inevitability to Reconstruct the Convention

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ABSTRACT

“Power corrupts and absolute power corrupts absolutely.” The supreme law of the country is designed as such that it does not lay complete authority and power on one single person. Chief Justice is the Master of Roster which makes him the sole authority authorised to allocate cases to be adjudged by the judges. Lately, questions over this absolute authority were raised in the Apex Court. It has been argued that since there is no check on this power, it is likely to be misused and there have been instances to support the same. Therefore, to uphold the rule of law and revive the faith of public in the supreme organ of justice delivery, the Master of Roster should be deemed to constitute of five senior-most judges.

*“Power corrupts and absolute power corrupts absolutely.”*² The supreme law of the country is designed as such that it does not lay complete authority and power on one single person. No individual in the capacity of the authority placed on him by the Constitution can exercise sole discretion. The authority of the Prime Minister gets checked on by the Parliament and the Council of Ministers, the authority of the President is checked upon by the Prime Minister and there are many such are instances where one authority is validated by another in order to maintain the integrity of the system and keep the process transparent.

In the case of *S.P. Gupta v. Union of India*,³ this was rightly highlighted by Bhagwati, J. that, *“it is not prudent to vest power in one single individual, as how high-so-ever the post may be, there is always a need for checks and balances.”*⁴ Hence it would be correct to say that conferring discretionary power to some extent for proper governance is indispensable for the working of the Court however this discretionary power should not rest with one individual but with a body of men.

Conferring absolute power to Chief Justice for allocation of cases may lead to prejudicial behaviour on his part as by taking the advantage of his discretionary power to allocate cases

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² Mahendra Singh Paswan, *Judicial Accountability: Need of Hour*, 8 RMLNLUJ (2016) 192.

³ *S.P. Gupta v. Union of India*, AIR 1982 SC 149.

⁴ *S.P. Gupta v. Union of India*, AIR 1982 SC 149, ¶ 31.

he might assign a case to a particular judge in order to get a predetermined outcome on the basis of preconceived notion about earlier disposition of a particular kind of cases by the judge. For instance, some judges grant bail to all the accused (i.e. mother in law, father in law, sister in law etc.) except husband in cases of Dowry Death except in exceptional circumstances.

Judiciary has been vested with superior administrative functions, it is the duty of the judiciary to ensure that the rule of law prevails and when such an important function of distribution of cases and allocation of benches is to be exercised in a fair and transparent manner then it should be performed by a bench rather than a single individual⁵ and this has been a convention of the Court that all the important decisions are taken by a bench of five senior-most judges and so should be the procedure followed herein.

Chief Justice is no different from other members of the Bench and carries same weight.⁶ The Chief Justice is the '*first among equals*' which signifies that all the judges are equal in status and amongst them Chief Justice is the senior-most. The word 'First' only signifies that Chief Justice is the senior-most judge of the Court. Hence, sharing of authority of Chief Justice with the other senior-most judges of the Court would not pose a question on authority and dignity of the position of the Chief Justice.

Moreover, the makers of Constitution reposed great trust in the judiciary. The judiciary is regarded as the basic structure of the Constitution. It has four major aspects; impartiality, independence, fairness and competence.⁷ Erosion of credibility of judiciary from the minds of public at large is a great threat to the independence of judiciary.⁸ Credibility of judiciary rests with the faith of the people.⁹ When such instances happen where the power and authority is used undesirably then public starts losing their faith in the system. There have been instances where the Chief Justice has allotted the matter in which his own interest is vested to himself.¹⁰ In the *Lucknow Medical College scam case*, such dispute as to the matter of assignment of cases arose and thereafter a number of petitions questioning the authority of Chief Justice as the Master of Roster came up.¹¹ Such instances question the integrity and transparency of the Court.

⁵ Supreme Court Advocates-On-Record Association v. Union of India, 1994 AIR SC 268, ¶ 427.

⁶ Shanti Bhushan v. Supreme Court of India Through Its Registrar, (2018) 8 SCC 396, ¶ 24.

⁷ Supreme Court Advocates-On-Record Association v. Union of India, 1994 AIR SC 268, ¶ 34.

⁸ State of Rajasthan v. Prakash Chand, (1998) 1 SCC 1, ¶ 58.

⁹ S.P. Gupta v. Union of India, AIR 1982 SC 149, ¶ 874.

¹⁰ In Re: Matter of Great Public Importance Touching Upon the Independence of Judiciary, 2019 SCC OnLine SC 603.

¹¹ Kamini Jaiswal v. Union of India, (2018) 1 SCC 194; Campaign For Judicial Accountability And Reforms v.

It is a settled principle of law that, “*there cannot be any direction to the Chief Justice as to who shall take up the matter and who shall compose the bench.*”¹² The Constitution of the country gives Supreme Court the power to make rules.¹³ The Supreme Court has time and again made rules and given authority to Chief Justice to nominate the judges to hear any matter,¹⁴ to constitute a larger bench when referred upon by a smaller bench,¹⁵ and constitute a bench to hear a cause.¹⁶

However, it is been precisely said that, “*Exploration of new principles is essential in areas which were not explored before and in situation where the old solutions are unresponsive to the modern challenges.*”¹⁷ Therefore, the matters regarding distribution of cases and allocation of benches should be performed by five senior-most judges of the Court as this would not result formulation of new rights but only announcement of existing rights on the basis of better understanding of situation in light of new set of conditions. Also it has been said that, “*Justice must not only be done, it must be seemed to be done.*” Wherein the question as to the integrity of highest judicial officer arises, the faith reposed in the system dampens. Therefore, the Court in order to rebuild the faith of the public must ensure that the process becomes more transparent and rational and for that it would be prudent to devise a bench of five senior-most judges for assignment of matters and allocation of benches.

Union Of India And Another (2018) 1 SCC 196.

¹² Campaign For Judicial Accountability And Reforms v. Union Of India (2018) 1 SCC 196, ¶ 7; Asok Pande v. Supreme Court of India, (2018) 5 SCC 341, ¶ 10.

¹³ INDIA CONST. art. 145.

¹⁴ Supreme Court Rules, 2013, G.S.R. 368(E), Order VI, Rule 1, p. 11.

¹⁵ Supreme Court Rules, 2013, G.S.R. 368(E), Order VI, Rule 2, p. 11.

¹⁶ Supreme Court Rules, 2013, G.S.R. 368(E), Order VI, Rule 4, p. 11.

¹⁷ Supreme Court Advocates-On-Record Association v. Union Of India, 1994 AIR SC 268, ¶ 15.