

KNOW YOUR JUDICIARY - JUSTICE P.N. BHAGWATI

Prafulla Chandra Natwarlal Bhagwati (21 December 1921-15 June 2017) was an Indian Judge, Governor, and Advocate who introduced the concepts of Public Interest Litigation and absolute liability in India. He is held to be a pioneer of Judicial activism in the Country. He entered the Indian Judiciary in 1960 as a judge of Gujarat High Court and later on was elevated as a judge of Supreme Court in 1973 and afterward became the Chief Justice of India in August 1985, where he continued till his retirement.

EARLY AND PERSONAL LIFE

P.N. Bhagwati was born in Gujarat in 1921 as the son of the former Justice Natwarlal .H. Bhagwati of the Supreme Court and was the elder brother of the economist Jag dish Bhagwati and the neurosurgeon S.N Bhagwati.

Mainly he received his early education in Bombay (present Mumbai). Justice Bhagwati graduated as a Mathematician from Elphinstone College, Mumbai. Later, he completed his degree in Law from the Government Law College, Mumbai. He married Prabhavati and the couple has three daughters Parul, Pallavi, and Sonali. After completing his graduation in Law, he began his career practicing at the Bombay High Court.

EARLY EDUCATION & CAREER

Bhagwati began his career practicing at the Bombay High Court in 1948. In July 1960, he was appointed a Judge of the Gujarat High Court. In September 1967, he was appointed the Chief Justice of that court. On two occasions, he acted temporarily as Governor of Gujarat (7 December 1967 to 25 December 1967 and 17 March 1973 to 3 April 1973). In July 1973, he was appointed a Judge of the Supreme Court of India. In August 1985, he became Chief Justice of India.

As a Supreme Court judge, Bhagwati introduced the concepts of Public Interest Litigation and Absolute Liability to the Indian Judicial system. He is therefore held, along with Justice V. R. Krishna Iyer to have pioneered judicial activism in the country.

The appointment of Justice Prafullachand Natwarlal Bhagwati as Chief Justice of India has been widely welcomed, not just for his reputation as a pathfinder, but for the sweeping changes he is expected to usher into the Supreme Court.

In 2007 Bhagwati was awarded the Padma Vibhushan in public affairs, India's second-highest civilian award.

POLITICAL AND SOCIAL BACKGROUNDS-

In the context of his political background, on two occasions he acted temporarily as Governor of Gujarat (7 December 1967 to 25 December 1967 and 17 March 1973 to 3 April 1973).

In the context of his social background, Bhagwati's real self came to the fore in his deep empathy for the poor and the underprivileged. It came to be reflected in the tools and techniques of justice delivery such as providing free legal aid to under-trial prisoners. He was clear in his mind that a Judge needs to be guided by his own "Social Philosophy." He saw this as essential for the role of a Judge in a traumatically changing society such as India. It is this concern that, in the post-emergency period, led him to gravitate towards unshackling access to Justice for the benefit of the large mass of the Indian humanity.

LANDMARK JUDGMENTS

Habeas Corpus Case Controversy-

A controversial judgment of Bhagwati was in the ADM Jabalpur v Shivkant Shukla case (popularly referred to as the ADM Jabalpur case or the habeas corpus case) where he decreed that during the Emergency of 1975 to 1977, a person's right to not be unlawfully detained (i.e. Habeas Corpus) can be suspended. This Judgment received a lot of criticism since it reduced the importance attached to Fundamental Rights under the Indian Constitution. Going against the previous decision of High Courts, the bench which included Bhagwati concluded in favour of the then Indira Gandhi Government while only Justice Hans Raj Khanna was opposed to it. Bhagwati openly praised Indira Gandhi during the Emergency period, later criticized her when the Janata Party-led government was formed, and again backed Gandhi when she got re-elected to form government in 1980.

Maneka Gandhi v Union of India-

Maneka Gandhi was requested, through an official letter from the Regional Passport Officer, Delhi on 2 July 1977 to return her passport within seven days "in public interest" under section 10(3) of The Passports Act (1967). Gandhi, who had been issued an Indian passport

on 1 June 1976, in return asked the office to state reason in accordance with section 10(5) to which the office replied that "in the interest of the general public" the Government had decided to not furnish any such statement further. Under Article 21 of the Indian Constitution, which deals with the Right to Freedom, Gandhi filed a writ petition in which Bhagwati and Justice V. R. Krishna Iyer ruled in favour of Gandhi.

Minerva Mills Case-

Justice Bhagwati was the only dissenting judge in the Minerva Mills case as well in 1980. He upheld the 42nd Constitutional Amendment during the Emergency, which was struck by the majority. In this case, the majority was of the view that the power of the Parliament to amend the Constitution was limited by the Constitution itself.

CONTROVERSY

ADM Jabalpur case is a landmark decision of the Supreme Court of India pertaining to Habeas corpus. This controversial judgment of P.N. Bhagwati was decreed during the Emergency of 1975 to 1977, and a person's right to not be unlawfully detained (i.e. habeas corpus) can be suspended. This judgment received a lot of criticism since it reduced the importance attached to Fundamental Rights under the Indian Constitution. Going against the previous decision of High Courts, the bench which included P. N. Bhagwati concluded in favour of the then Indira Gandhi government while only Justice Hans Raj Khanna was opposed to it. Bhagwati openly praised Indira Gandhi during the Emergency period, later criticized her when the Janata Party-led government was formed, and again backed Gandhi when she got re-elected to form government in 1980. Bhagwati was criticized for these change of stands, favoring the ruling government, which were deemed to have been taken to better his career prospects. Bhagwati later in 2011 agreed with the popular opinion that this judgment was short-sighted and "apologized".

FAMOUS QUOTES

"Judges should be of stern, stuff and tough fiber, unbending before power economic or political, and they must uphold core principle of the rule of law which says, 'Be you ever so high, the law is above you.'"

SYNOPSIS

1. In 2007 Justice Bhagwati was awarded the Padma Vibhushan in public affairs, which is India's second-highest civilian award.
2. In 1982, Justice Bhagwati was also elected a fellow of the American Academy of Arts and Sciences.
3. He was a member of the United Nations Human Rights Committee from 1995 to 2009.
4. He was also chairman of the committee from 2001-to 03. In 2006, he also served as a member of the Committee of Experts of the International Labour Organization for over 27 years.
5. Justice PN Bhagwati is known as the Father of PILs (Public Interest Litigation). Justice Bhagwati was the messiah of civil liberties in the Indian context. He came up with the concept of Public Interest Litigation (PIL), which enabled non-affected parties to come to the court on behalf of the down-trodden.
6. Justice PN Bhagwati Award was conferred upon Chief Justice of the High Court of Jammu & Kashmir, Justice Gita Mittal. The award was given at the Capital Foundation National Awards by Governor of Andhra Pradesh BB Harichandan and, Former Judge, Supreme Court, Justice AK Patnaik in New Delhi.