Adarsh Kumar Goel
Judge
Supreme Court of India

6, Moti Lal Nehru Marg,
New Delhi-110011
Tel. No.: 23792255

CONFIDENTIAL

January 12, 2018

Dear Chief Justice,

This has reference to your letter No. CC/Apptt/CJ/2018/2416 dated 11th January, 2018 seeking my views on the proposal to appoint Mr. Justice Surya Kant, Judge, Punjab & Haryana High Court as Chief Justice of Himachal Pradesh High Court.

I have noted that the Collegium also considered the name of Mr. Justice A.K. Mittal, who is senior to Mr. Justice Surya Kant in the same High Court and having considered all relevant factors, the Collegium considered Mr. Justice Surya Kant more suitable than Mr. Justice A.K. Mittal.

I am in respectful disagreement with the proposal. My opinion was sought last year by the then Chief Justice of India on complaints of corruption against Mr. Justice Surya Kant. I had given my opinion dated 11th March, 2017 *inter-alia* suggesting obtaining of independent valuation reports of the properties acquired by the Judge mentioned therein. I had also given opinion about other complaints relating to corruption and casteism (A copy of the opinion is annexed for ready reference). I have no feedback about the outcome of the same. As per my assessment, Justice Surya Kant is not suitable for appointment as Chief Justice till thorough enquiry is conducted, as I have already opined.

I had received letter dated 10th April, 2017 from the then Chief Justice of India seeking my opinion about the proposal to appoint Justice A.K. Mittal as Chief Justice of Delhi High Court. I gave my opinion. The then Chief Justice of India, being from the same parent High Court, was more conversant with the comparative merit and suitability of both the Judges. Some members of the Collegium were part of the earlier Collegium also. I, therefore, do not concur with the view that on consideration of all relevant factors, Mr. Justice Surya Kant is more suitable.

With warm regards,

Yours sincerely,

[Adarsh Kumar Goel]

Encl: As above

Hon'ble Shri Dipak Misra,
Chief Justice of India

Justice Suryakant
Bar Hig High Court

Confidential

1. I have perused the complaint. The complainant, *inte alia*, alleges illegal nexus of the Judge with some corrup persons and receiving bribes for managing bail orders in NDP cases in violation of Section 37 of the NDPS Act. It is furthe alleged that Dr. Shiv Kant Sharma, brother of the Judge an some other persons named in the complaint are acting as touts Reference has also been made to certain bail orders passed i violation of law.

2. While a part of the complaint relates to merits judicial orders, the complaint of receiving bribe and nexus wi the persons mentioned in the complaint involves serio misconduct. Eight bail orders referred to in the complai (annexed), *prima facie,* appear to be unusual and not sound law. It may be very difficult to verify allegation of corruptio directly. However, certain circumstances including acquisitio of assets by the Judge, after elevation, can be certainly look into.

3. From the record available, it appears that the Judge has acquired certain properties after elevation. Complaints have been received about under-valuation of the property so acquired. Some of the complaints were sent to the Chief Justice of the High Court for his comments and, thereafter, the complaints were filed[1]. However, no verification has so far been done from any independent source/expert valuers.

4. In order to examine the veracity of the allegation of corruption in the present complaint, it may be necessary to forthwith obtain independent valuation reports of properties acquired by the Judge and particularly the following:

i) Property acquired by the Judge being House No. B-267A, G.K-I, New Delhi, [described at Page No. 44 (mentioned at backside) of file No. 284] belonging to

[1] Letter dated 3rd September, 2013 of Chief Justice of India; Complaint dated 24th August, 2012 by one Satish Kumar Jain; reply of the Chief Justice dated 25th Setpember, 2013 and letter of the Chief Justice of India dated 4th October, 2013.

Princess Diya of Jaipur, Director of Simple Real Estate. B-15 Maharani Bagh, New Delhi, purchased vide sale deed dated 20th September, 2010. The value mentioned in the sale deed is Rs.1.5 crores. (Page Nos. 35 to 53 backside of pages of file No. 284)

ii) Valuation of House No.1125, Sector-18, Chandigarh [described at Page No. 54 (backside) of file No. 284], purchased by the Judge vide sale deed dated 15th April, 2011 for ostensible value of Rs.1.45 crores. Agreement dated 9th March, 2011 [Page Nos.121 to 123 (backside) of file No.284 – Flag'A'] signed by same witness shows the value to be Rs.3.08 crores. In both the documents Mr. Sanjeev Sharma is a common witness (Pp 57 and 123).

iii) Other properties acquired after elevation i.e. 1.1.(c), 1.3.(a) and 1.3.(b) as per the Statement of

Assets and Liabilities declared by the Judge available on the website.

If the valuation reports depict higher valuation, then the comments of the Chief Justice of the High Court may become necessary. Posting of the Judge may also be then considered.

5. I have also seen the complaint of Shri Pradip Bhandari, Advocate dated 19th August, 2013 [Page Nos. 388 to 391 (backside) of Vol. 2 of File No. 36 - White Flag 'C'] alleging proximity of his estranged wife Mrs. Anu Bhandari and one Ms. Meenu Sharma, who is office bearer of PIO Society with the Judge. Documents show that the Judge shares the same address in Ohio, USA as of Ms. Meenu Sharma [Page No. 388 (backside) of the complaint]. There is also his photograph launching the website of the Society [Page Nos. 371 & 372 (backside) of File No. 36 Vol. 2] and a receipt (Page No. 382) issued by the Chandigarh Judicial Academy for accommodation charges showing that she has stayed in the Judicial Academy as

guest of the Judge. This complaint may also need to be sent to the Chief Justice for his comment.

The other complaint relates to corruption and casteism [Page Nos. 393 to 399 (backside) of File No. 36 Vol. 2] in selection of subordinate Judicial Officers. A decision may be taken whether the said complaint needs to be referred to the Chief Justice for his comments.

The aforementioned advice is submitted for placing it before Hon'ble the Chief Justice of India.

[Adarsh Kumar Goel]
Judge
Supreme Court of India
11th March, 2017

The Secretary General