

COMMENT

## Change Won't Come Easy

As welcome as it was, the Supreme Court's February 17 ruling in connection with the Calcutta High Court order for CBI (Central Bureau of Investigation) probe into Chota Angaria carnage in which 11 Trinamul Congress activists were allegedly killed by CPM-goons on January 5, 2001, was not enough to many because the all-important verdict empowering high courts, much to the dismay of executives, came with a rider. The 5-member bench headed by Chief Justice K G Balachandran cautioned the high courts to use the extra-ordinary power "sparingly, cautiously and in exceptional situation". In other words the rider in effect prohibits any arbitrary demand for CBI enquiry from any quarter. And yet it has the potential to encourage civil liberties groups to have more agitational space in case of gross violation of human rights as high courts no longer need state government clearance for ordering CBI probe.

Quite expectedly Opposition parties in Bengal hailed the apex court's decision as they saw in it a huge blow to the legitimacy of the authoritarian marxist regime of Bengal. The marxists have made the matter worse over the years by ignoring societal pressure and imposing their dictatorial administrative 'justice' (or injustice) on an unwilling people. True, the Tapasi Malik rape and murder case, and the Rizwanur and Suchpur murder cases will get new impetus against the backdrop of the Supreme Court's judgement allowing courts to move freely in any case where the individual's fundamental rights have been infringed.

No doubt judicial activism of late, has added a new dimension to non-partisan human rights movement because of civil society's quick response to wrongs committed by the persons in authority. But raising the voice of justice is actually the beginning of the process, not the end. Also, advocating the cause of constitutional rights cannot advance any kind of human rights movement very far unless it is backed by sustained mass campaign.

The point at issue is whether CBI can really work with full authority and independence if the party in power at the centre and in states is the same. Right now the Ulema Council, a body of Muslim clerics, which came into being after a series of arrests being made of muslim youths belonging to Azamgarh of Uttar Pradesh, is agitating against Congress and more precisely against Rahul Gandhi's visit to Azamgarh, demanding a CBI probe into New Delhi's Batla House encounter in which two alleged Indian Mujahideen operatives Atif and Chhota Sajid were killed in September 2008. But the Congress Party is in no mood to concede the demand of the clerics. It is quite likely that the Council may now approach the High Court to get its demand fulfilled.

Judiciary at different levels has issued dozens of pro-people judgements over the years exhibiting judicial independence and democratic spirit as enshrined in the constitution. But the real problem lies in implementation of court orders. And given the state of governance as it is today in most Indian states, proper implementation of any judgement is time consuming, if not elusive. What is needed is to develop a mass movement that might force government to move

beyond partisan politics. Then any change seeking to change the status quo is a positive development but then real change won't come that easy. □□□