



## RAHUL DISQUALIFIED AS MP; CONG. CALLS IT 'BLACK DAY' FOR DEMOCRACY



New setback: Congress leader Rahul Gandhi leaving the Parliament building on Friday after his disqualification. AP

*I am fighting for the voice of India. I am ready to pay any price, says Rahul; Congress accuses ruling party of trying to silence him and other Opposition leaders and announces nationwide agitation; BJP says the decision is legal*

A day after the Chief Judicial Magistrate's court in Surat convicted former Congress president Rahul Gandhi in a criminal defamation case over his Modi surname remark, the Lok Sabha Secretariat on Friday issued a notification to disqualify Mr. Gandhi as the Lok Sabha member from Wayanad.

Calling it a "black day" for Indian democracy, the Congress accused the ruling party of "strangling" democracy by trying to silence the voices of Mr. Gandhi and other Opposition leaders. It would fight the battle legally as well as politically, the party said and announced a nationwide agitation against the disqualification.

Mr. Gandhi, who had come to the Lok Sabha in the morning and attended a meeting of Congress MPs before the notification was issued, later tweeted, "I am fighting for the voice of India. I am ready to pay any price."

Stating that the Wayanad MP's disqualification from Lok Sabha was the natural outcome of the court order and emphasising that the law was equal for everyone, the BJP was quick to claim that Mr. Gandhi's 2019 comment about the Modi surname was an insult to Other Backward Classes (OBC).

At an election rally ahead of the 2019 Lok Sabha poll, Mr. Gandhi had said: "I have a question. Why do all of them — all of these thieves — have Modi Modi in their names? Nirav Modi, Lalit Modi, Narendra Modi. And if we search a bit more, many more Modis will come out."

While BJP president J.P. Nadda said that such remarks reflected the Congress leader's "pathetic and casteist mindset", Mr. Gandhi found support from Opposition leaders, including those who had earlier maintained a distance

from the Congress such as Mamata Banerjee of the Trinamool Congress, Akhilesh Yadav of the Samajwadi Party, K. Chandrasekhar Rao of the Bharat Rashtra Samithi and Arvind Kejriwal of the Aam Admi Party.

Countering the BJP's narrative of insulting OBCs, Congress president Mallikarjun Kharge said the ruling party had made all efforts to get Mr. Gandhi disqualified for speaking truth to power. "This was not a question of backward class. Lalit Modi and Nirav Modi are not of backward class. They are trying to build a perception that Rahul Gandhi spoke against backward class. Mr. Gandhi was putting forward the truth before the country so they were not liking it," Mr. Kharge said.

### Wayanad seat vacant

The Lok Sabha Secretariat notification announcing Mr. Gandhi's disqualification, issued by the Secretary General, said that it was effective from Thursday, the date of the Congress leader's conviction. "Consequent upon his conviction by the Court of Chief Judicial Magistrate, Surat... Rahul Gandhi, Member of Lok Sabha representing the Wayanad Parliamentary Constituency of Kerala stands disqualified from the membership of Lok Sabha from the date of his conviction i.e. 23 March, 2023," the notification said.

The Lok Sabha website also showed the Wayanad Lok Sabha seat as vacant along with two other seats, Jalandhar and Lakshadweep.

Mr. Gandhi was serving his fourth term in the Lok Sabha. First elected to the House in 2004 from Amethi, he represented that constituency for two more terms. In 2019, while he lost the Amethi seat to the BJP's Smriti Irani, he won from Wayanad in Kerala.

### Seeking stay order

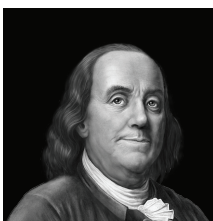
Unless the conviction is stayed by a higher court, Mr. Gandhi will be barred from contesting elections for the next eight years. Congress member in the Rajya Sabha and senior Supreme Court advocate Abhishek Singhvi, who is advising Mr. Gandhi, was hopeful of getting a stay.

Asked if that would also automatically restore Mr. Gandhi's LS membership, Mr. Singhvi said that in his opinion it should, but added that he did not expect the Narendra Modi government to be fair. He also said that the Congress would move the Supreme Court if the Election Commission announced a byelection to fill the Wayanad seat.

### Case chronology

Linking the court verdict to Mr. Gandhi's February 7 speech in Parliament about industrialist Gautam Adani's links with the BJP, Mr. Singhvi laid out the chronology of the case. "The complaint was filed on April 16, 2019 and the magistrate was one Mr. Dave. In June 2021, Mr. Rahul Gandhi appears in court to record his statement in person. In March 2022, the complainant [BJP MLA Purnesh Modi] files an application to summon Mr. Gandhi again. When that application is rejected, the complainant then rushes to the High Court and gets a stay of his own complaint."

The Congress leader then recounted how, after almost one year, on February 16, the complainant suddenly approached the High Court to vacate the stay, on the grounds that sufficient evidence had come on record. "The High Court vacates the stay, the man rushes back to the trial court and we get this order. Meanwhile, the magistrate is changed. We were not born yesterday," Mr. Singhvi added.



*I didn't fail the test,  
I just found Hundred ways to do it wrong.*

- BENJAMIN FRANKLIN

## CENTRE TO SET UP PANEL TO 'IMPROVE' NPS

Finance Minister Nirmala Sitharaman on Friday announced the constitution of a committee to propose changes to "improve" the National Pension System (NPS) for government employees in a way that balances their aspirations with fiscal prudence, while steering the Finance Bill's passage in the Lok Sabha.

The move assumes significance as five Opposition-ruled States have already moved staff hired post 2004 to the Old Pension Scheme (OPS) that guaranteed pension, while the BJP-Shiv Sena government in Maharashtra is thinking of exiting the NPS.

The Minister signalled that a new approach will be designed "for adoption by both Central and State governments".

"Representations have been received that the National Pension System for government employees needs to be improved. I propose to set up a

committee under the Finance Secretary [T.V. Somanathan] to look into this issue of pensions and evolve an approach which addresses the needs of the employees while maintaining fiscal prudence to protect the common citizens," Ms. Sitharaman said.

Earlier, when the Lok Sabha convened for the day, it was adjourned for an hour in less than a minute, as Opposition members started shouting slogans to demand a joint parliamentary committee (JPC) probe into the Adani Group. Speaker Om Birla then adjourned the House until noon.

When the proceedings resumed and after papers were laid on the table of the House, Rajendra Agarwal, who was presiding over the proceedings, asked the Finance Minister to move the Finance Bill for passage.

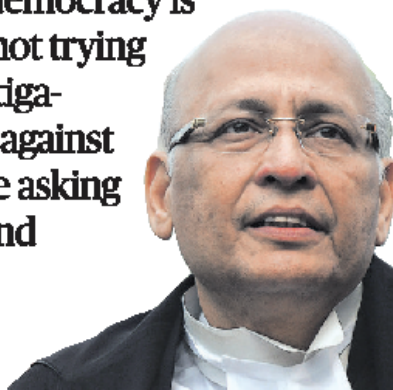
While the Opposition members were in the Well of the House with placards and were constantly sloganeering,

## 14 OPPOSITION PARTIES MOVE SC AGAINST MISUSE OF ED, CBI BY GOVT.



**They are saying democracy is in peril... We are not trying to affect the existing investigations, but 95% of cases are against Opposition leaders. We are asking for pre-arrest guidelines and post-arrest guidelines**

**A.M. SINGHVI**  
Senior advocate



The Supreme Court agreed on Friday to hear a joint petition filed by 14 political parties led by the Congress against the "arbitrary use" of Central agencies such as the Enforcement Directorate and the Central Bureau of Investigation by the Narendra Modi government to arrest and institute criminal proceedings against Opposition leaders who express their fundamental right to dissent or disagree with the government.

Making an urgent mention before Chief Justice of India D.Y. Chandrachud, senior advocate A.M. Singhvi drew attention to the "alarming rise in the use of coercive criminal processes against Opposition political leaders and other citizens".

Mr. Singhvi said the petition represented a united front, comprising 42% of the political spectrum and included parties like the DMK, RJD, BRS, Trinamool Congress, AAP, NCP, Shiv Sena (UBT), JMM, JD(U), CPI(M), CPI, Samajwadi Party and J&K National Conference.

They together represent 45.19% of the votes cast in the last Assembly elections, 42.5% of the votes cast in the 2019 Lok Sabha election and hold power in 11 States and Union Territories.

"They are saying democracy is in peril... We are not trying to affect the existing investigations, but 95% of cases are against Opposition leaders. We are asking for pre-arrest guidelines and post-arrest guidelines," Mr. Singhvi submitted.

The Chief Justice listed the case for hearing on April 5. The petitioners contended that "investigating agencies such as CBI and ED are being increasingly deployed in a selective and targeted manner with a view to completely

*Representing a united front, the parties tell the court that there is an alarming rise in the use of coercive criminal processes against Opposition political leaders and other citizens; Chief Justice Chandrachud lists case for hearing on April 5*

crush political dissent and upend the fundamental premises of a representative democracy". The petitioners said this was a "shocking and unconstitutional state of affairs".

### Tool of harassment

"A clear trend of using ED raids as a tool of harassment, with the action rate on raids that is complaints filed pursuant to raids reducing from 93% in 2005-2014, to 29% in 2014-2022. Only 23 convictions under the Prevention of Money Laundering Act, 2002 (PMLA) have been secured as of now, even as the number of cases registered by the ED under the PMLA have risen exponentially (from 209 in 2013-14 to 981 in 2020-21 and 1,180 in 2021-22)," they argued.

They said that, between 2004-14, of the 72 political leaders investigated by the CBI, 43 (under 60%) were from the Opposition of the time. Now, this same figure has risen to over 95%. The same pattern is reflected in the ED's investigations as well, with the proportion of Opposition leaders from the total number of politicians investigated rising from 54% (before 2014) to 95% (after 2014).

The petition has sought framing of guidelines governing the arrest, remand, and bail of persons in offences (which may or may not be punishable with imprisonment for above seven years) not involving serious bodily harm and thereby obviously excluding homicide, rape and terrorism. The petitioners suggested a "triple test" to be followed before ordering arrest and remand. These include factors like whether a person is a flight risk or whether there is a reasonable apprehension of the tampering of evidence or of the influencing/intimidation of witnesses.

### Bail as rule

They also proposed alternatives like interrogation at fixed hours or at most house arrest be used to meet the demands of investigation. They said courts should follow the principle of 'bail as rule, jail as exception', especially in cases where non-violent offences are alleged.

"Where special laws such as PMLA with stringent bail conditions are concerned, the petitioners seek that such bail provisions be harmonised with Article 21 of the Constitution. As such, therefore, where it appears that the trial is unlikely to complete within 6 months, the accused be released on bail even under the special laws," they said

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## 'INDIA FAILED TO CREATE POSITIVE IMPRESSION AMONG BUSINESSES MOVING AWAY FROM CHINA'

Despite resources, India has not been able to create a positive impression among businesses moving away from China, a parliamentary panel on commerce said in a report tabled in the Rajya Sabha on Friday.

The report stated that India has not been able to take advantage of the "China Plus One Strategy," through which multinationals shifted manufacturing and production away from China. It said that other Southeast Asian countries such as Vietnam, Thailand, Cambodia, and Malaysia have become bigger beneficiaries of the strategy.

The report said India's competitive position in the pharmaceutical sector is undermined by its high import dependence for bulk drugs or active pharmaceutical ingredients (APIs), especially from China.

The Ministry informed the committee that in fiscal year 2022-23, till November 30, the value of total import of APIs stood at ₹27,209 crore, out of which imports from China stood at ₹18,973 crore, nearly 70% of the total share.

The import increased despite the border row with China since mid-2020, when 20 Indian soldiers were killed in violent clashes with the Chinese soldiers in Ladakh's Galwan Valley.

The committee is headed by Congress leader Abhishek Manu Singhvi.

### PLI Schemes

The government submitted that certain steps such as Production Linked Incentive (PLI) schemes have the capability to make India a more attractive location for companies looking to diversify their supply chains away from China, adding that it is striving to simplify the compliances on businesses and to improve overall business environment in the country. It added that more than 3,500 provisions have been decriminalised by the Ministries and the States, and the Jan Vishwas Bill to amend 42 Central Acts has been introduced to enhance trust-based governance.

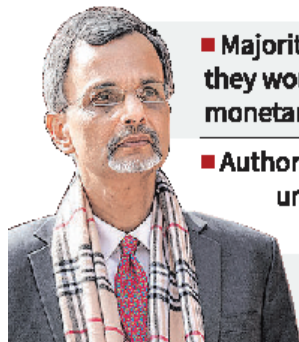
The committee recommended that rationalisation of direct taxes and indirect taxes must be done in sync with the international norms and laws to increase the competitiveness of domestic industries in the global markets. It also asked the government to pursue Free or Preferential Trade Agreements with countries that seek to invest in India under the 'China Plus One Strategy'.

The government informed that India has signed 13 Free Trade Agreements (FTAs) and six Preferential Trade Agreements (PTAs) so far, adding that FTA negotiations with the U.K, Canada and the European Union will be concluded in the "upcoming year".

## 'G20 SEES INFLATION AS STICKY, TO EXTEND POLICY TIGHTENING'

### Collective concern

**Most G20 countries see sticky inflation as the major concern and are focussed on restoration of price stability, says CEA**



■ Majority see inflation easing more slowly than they would like and are set on sticking with monetary tightening

■ Authorities see policy makers having situation under control, being prepared to respond to developments as warranted

■ U.S. Fed's latest comments signal more open mindedness on rate path: CEA

*Participants do not envisage current banking turmoil leading to a systemic crisis; prefer to tackle financial stability risks separately, do not view them as a constraint to rate increases: Nageswaran*

Most G20 countries see inflation as being sticky and easing more slowly than they would like and have reiterated they would remain on track with monetary tightening, said V. Anantha Nageswaran, India's Chief Economic Advisor and co-chair of the Second G20 Framework Working Group meeting.

Most member countries are also of the view that financial stability risks can be handled separately and need not constrain further interest rate increases if required, he said at a media interaction on Friday, the first day of the meeting.

On the current banking turmoil in the western world, Mr. Nageswaran said the prevailing sentiment expressed by members was that it need not lead to a systemic crisis and that policy makers have things under control and are responding to developments as warranted.

"On the Fed's statement that additional interest rate increases may be needed, I think people are focusing on the word 'may' instead of 'will', which suggests some dilution or open mindedness when compared to their commentary at the end of January," he said.

## CHILLING EFFECT

*Rahul Gandhi's conviction, jail term flag need to abolish criminal defamation*

The rigours of the law and the tribulations of politics have come together to bedevil Congress leader Rahul Gandhi. An election-time jibe he had made in 2019 — 'how come all of these thieves have Modi in their names?' — has been declared by a court in Surat to be defamatory. Mr. Gandhi has been sentenced to two years in prison, the maximum sentence for criminal defamation, and disqualified from his membership in the Lok Sabha. Both the conviction and sentence raise legal questions. Does the remark amount to defaming anyone in particular, or to people with the surname 'Modi' as a group? Case law indicates that the expression 'collection of persons' used in Section 499 of the IPC, with reference to those who can be defamed, has to be an identifiable class or group and that the particular member who initiates criminal proceedings for defamation must demonstrate personal harm or injury by the alleged defamatory statement. It is difficult to sustain the argument that all those with the surname, and not merely the three individuals including Prime Minister Narendra Modi who were referred to, can be aggrieved persons. Also, it is not clear if the complainant, BJP MLA Purnesh Modi, had shown that he was aggrieved by the alleged slur either personally or as a member of the 'Modi' group.

The maximum sentence is also troubling. Statutes prescribe maximum jail terms so that trial courts use their discretion to award punishments in propor-

tion to the gravity of the crime. It is questionable whether attacking an indeterminate set of people with a general remark will amount to defamation, and even if it did, whether it is so grave as to warrant the maximum sentence. The correctness of the judgment will be decided on appeal, but the political cost to Mr. Gandhi in the form of disqualification from the House and from electoral contest will have a lasting impact, unless he obtains a stay on the conviction rather than mere suspension of sentence. In a country that often frets over criminalisation of politics, corruption and hate speeches, it is ironic that criminal defamation should overwhelm the political career of a prominent leader. A modern democracy should not treat defamation as a criminal offence at all. It is a legacy of an era in which questioning authority was considered a grave crime. In contemporary times, criminal defamation mainly acts as a tool to suppress criticism of public servants and corporate misdeeds. In 2016, the Supreme Court upheld criminal defamation without adequate regard to the chilling effect it has on free speech, and to that, one must now add, political opposition and dissent. Opposition parties expressing dismay at the verdict against Mr. Gandhi should include abolishing criminal defamation in their agenda.

## NO CAUSE FOR ALARM

*But people of vulnerable groups must take all precautions against COVID-19*

More than three years after the pandemic began, newer variants, an uptick in cases, hospitalisations, and even deaths are being reported from across the world, though a far cry from the earlier alarming levels. After Kappa, Delta, BA.2.75, and BA.2.76, the latest variant (first detected in India) is the Omicron recombinant XBB.1.16. There has been a very small rise in cases in about a dozen States but no concomitant increase in hospitalisations even among vulnerable groups, suggesting that clinical severity in infected people might not be a concern. This variant accounts for over 30% of all sequenced genomes this month, and its proportion has been increasing, clearly marking the variant's spread and dominance in the community in the last couple of weeks. With daily fresh infections at a record low in India for months on end, testing and genome sequencing had dropped sharply; the weekly test positivity rate has been below 1%. Hence, the true picture of the variant's spread is not clear. It is against this backdrop that Prime Minister Narendra Modi directed officials to increase whole genome sequencing to help track the new variant and others that might emerge, so that the country is poised to act on time. With the pandemic far from over, the compulsion to continue genome sequencing cannot

be overemphasised, lest India flies blind into a pandemic storm.

With the majority of adults and even adolescents having taken their second dose at least a year ago, and with extremely small numbers opting for a booster, India is fully relying on hybrid immunity arising from vaccination and natural infection for extended protection. Fortunately, the estimated 95% of India's population above 12 years possessing hybrid immunity has been shielding people from serious COVID-19 disease even when a few Omicron variants caused a spike last year. In fact, reinfection with any of the variants that emerged after BA.2 might have increased immune protection. A small percentage of people getting reinfected periodically has potentially translated to varying levels of immunity at the population level, leaving only a subset of the susceptible population vulnerable. But with people, especially from the vulnerable groups, running the risk of suffering from long-COVID, it is prudent to follow basic precautions such as wearing a mask in closed space settings when newer variants emerge. Universal masking even in poorly ventilated places might not be a health priority at this point in time in India, but that should not stop individuals belonging to vulnerable groups from being proactive and guarded.

## WHY TIPU SULTAN MUST BE KILLED, AGAIN

Tipu Sultan was feared and envied not just during his reign (1782-99) by his fiercest enemies, the British, when he became the stuff of folklore in England. In the Passage to England, news of his fearless opposition inflated his strengths and exaggerated his vices. He and his island abode, 'Seringapatam', were assured a place in cartoons, skits, plays, children's games; as a design element on writing paper, cigarette cards, ship's figureheads, soup tureens; as metaphor in multiple art objects. Nineteenth century 'Tipu Mania' even ensured him a place in the English nursery, as a dreadful warning of what awaited the recalcitrant child. Well into the 1820s, British theatre audiences were promised that 'a whole stud of horses will appear!' alongside 'an array of zemindars!'

### A powerful hold on history and culture

The fascination with this figure did not end with his defeat and death on the battlefield on May 4, 1799. His death powered legend, art, theatre and song — this time not just in England but in his native land. Tipu's bravery is immortalised by Amar Chitra Katha and became the emblem of anti-colonialism in the Constitution; more controversial memories have been stoked by the troubling legacies of conversion in regions populated by his enemies.

Why did Tipu's death exert such a powerful hold on the imaginations of the conquering power, leading to a continuous restaging of his death? Even artists who had never set foot in India — Robert Ker Porter, David Wilkie, or Henry Singleton — portray the Last Siege of Seringapatam, the discovery of his body by General David Baird, and the melodramatic portrait of his family's grief. Such portrayals of his defeat and death, which circulated widely, served to reassure the people of England that the one obstacle to the growth of the British Empire in India had indeed been removed. In other words, the pictorial versions satisfied a very British need, asserting a badly dented British valour following decades of Mysore opposition to easy conquest.

The portrayal of his death in art also served other purposes: when David Wilkie was commissioned to paint his famous painting in 1843, it was to assure Baird, not Tipu, a place in British history, rescuing him from the shadows of that other hero of Seringapatam, Arthur Wellesley (later, Duke of Wellington). Finally, in commemorating his death, the British acknowledged Tipu as the worthy and heroic enemy that they defeated.

### Mixed afterlife

Tipu's afterlife in India has been more mixed. The British chose Mysore city, the erstwhile capital of a remembered dynasty, to prevent contamination from any memories of Tipu Sultan's defiance. Seringapatam was later revived as a pilgrimage site for British soldiers and tourists wishing to re-enact the British conquest.

In 19th century Mysore, Tipu was admired in lavanies not just for his firm stand against the British but for prohibiting 'arrack, toddy, ganja, and opium' as well as 'gambling or illicit relations'. The ballads memorialised Tipu's valour in other ways, recalling the mendacity of his known enemies, and his trusted

lieutenants, such as Mir Sadak. Haidar and Tipu subdued the pategars and terrified 'Hindusthan'. Their battle cries threatened the very gates of London ('Mysura shajaanana gharjane keli, London palugalu bedaroyithu'). The peasant insurgents of 1831 at Nagara remembered Tipu's reign as peaceful and prosperous.

Most 20th century versions, such as Amar Chitra Katha, tell us why Tipu was given the name 'Tiger of Mysore' but fail to engage with three decades of rich historical scholarship. Still, a healthy and creative attitude to representations of historical characters, in film, art, song, movies, posters, comic books thrived alongside rigorous historical research.

That is until recently, when the only story that can be told about Tipu in Karnataka is of his villainy, his opposition to Kannada and Hindus (and some Christians) alike. A new 'history war' broke out when Rangayana director Addanda Cariappa wrote and produced a play, Tipu Nija Kanasugalu (The Real Dreams of Tipu Sultan). In 15 scenes, Tipu Sultan is portrayed as a sly and cowardly imposter, whose only preoccupation was the conversion of 'Hindustan' into a Dar ul Islam. But Mr. Cariappa also introduced two men in the final scene, Uri Gowda and Nanje Gowda, who put an end to the coward as he fled Srirangapatna, thereby saving both Kannada and the Hindu faith from a disastrous fate. Intended as a riposte to Girish Karnad's Tipuvina Kanasagalu (The Dreams of Tipu Sultan), the bizarre creation could have sheltered under dramatic licence. But it positions itself as historical truth, enthusiastically endorsed in the foreword by none other than litterateur S.L. Byrappa. In a State desperately needing heroes, the glorification began of the two (Vokkaliga) chieftains who had 'liberated' Mysore.

Imaginative videos soon outpaced any timid enquiry about historical sources. A 2006 article written by a son of the soil of Mandya, H.K. Raje Gowda, had merely claimed that there was opposition to Haider and Tipu from the Gowdas of Mandya, while asserting their staunch defence of Hinduism. Raje Gowda's community history provides neither sources or footnotes. But neither has he adorned his heroes with the mantle of being the true assassins. However, an impatient Bharatiya Janata Party and its army ran away with this trophy; in their eagerness to produce heroism, they borrowed the images of known opponents of the East India Company during the great South Indian rebellion of 1800-01, the Marudu Pandiya brothers. The amplified invocation of Uri Gowda and Nanje Gowda (the former renamed as 'Huli' Gowda in Raje Gowda's own 2016 iteration) mimicked the colonial masters. It was intended to produce Vokkaliga heroes to serve the party in power in forthcoming electoral battles in Mandya and Hassan.

The historian might have asked: were they from among those adversely affected by Tipu's agrarian reforms as part of his military-fiscal regime?

### Historical 'evidence'

From all historical sources and image analysis, we know that Tipu's

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death during the Fourth Anglo Mysore War was unknown to the victors: was he in hiding or had he escaped altogether from the theatre of war? When his body was found hours later along with heaps of other bodies at the gateway, he was found to have fought, like a soldier, unto his last. General Baird's heroism was confined to 'discovering' the body before it was officially identified by the grieving family. Whoever had shot him neither recognised nor engaged him in conversation.

## A CHILLING REMARK AND THE 'PRICE TO PAY'

When India's Union Law Minister describes retired judges in a rather harsh manner, it is something that cannot be taken lightly. For the Minister to label retired judges who question "state policies" as being "anti-India" elements is not just a case of a flawed understanding of concepts but also a matter of grave concern for citizens.

The Minister's parting shot, based on the erroneous assumption that certain judges are working against India and "will have to pay the price", was not only intimidatory in its tone and tenor but also portends grave danger for the future. Involving retired judges in the issue was uncalled for. The Minister's statements are defamatory and raise larger issues that touch the core of our polity.

### A right to free speech

Judges who demit judicial office do not cease to be citizens of this country. They have not bartered away their fundamental rights for the pension they draw. They have a right to free speech and expression and a duty to speak up when they find the legislature, the executive or even the judiciary to be transgressing their limits.

The act of questioning the state is not a case of being "anti-national". It is a case of being a "concerned patriot". In turn, the response of the state has to be to either justify the measures it has adopted, or take the advice offered and course correct. Free speech must result in more speech and not in veiled sweeping statements.

The remarks made will not scare those who are bold and the courageous who will continue to speak their mind. But the "chilling effect" from the remarks made will be felt by the rest of the citizenry.

As a result, the marketplace for ideas will be thinly populated. There will be fewer symposia on issues of seminal importance as there could be a tendency from now on to play it safe (the Minister spoke about a seminar where judges and senior advocates were the participants and where the topic was on 'Accountability in Judges Appointment'; but, according to him, the discussion was about 'how the government was taking over the Indian judiciary'). There could be fear as no less a person than the Minister for Law and Justice has talked about having to "pay the price" if the line (that has embedded in it concepts of government and the nation as one), drawn by him, is breached. The deleterious effect of all this will be felt only by the nation. Actions of the state will be unchecked not because these acts are constitutional and valid, but for the reason that the mere act of questioning them will endanger the individual. He or she is held in terrorem, for they have 'been told' that they will have to "pay the price" if their conduct does not meet with the executive's

In the currently overheated State of Karnataka, the province of the historian has severely shrunk, yielding place to politicians and religious heads who now adjudicate historical truth. The promise of historical 'evidence' of the existence of such heroes, already substantiated in print, image and high decibel campaigns, further diminishes historical scholarship. Who knows that even archaeological or DNA proof will not be produced? But meanwhile, Tipu Sultan must die yet again at the hands of ever newer claimants to power.

approval.

### Indispensable freedoms

The powerful words of Justice Louis D. Brandeis that were uttered nearly a century ago, in *Whitney vs California* are apt: "Those who won our independence believed that the final end of the state was to make men free to develop their faculties; and that in its government the deliberative forces should prevail over the arbitrary. They valued liberty both as an end and as a means. They believed liberty to be the secret of happiness and courage to be the secret of liberty. They believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that without free speech and assembly discussion would be futile; that with them, discussion affords ordinarily adequate protection against the dissemination of noxious doctrine; that the greatest menace to freedom is an inert people; that public discussion is a political duty...."

Leading jurists have spoken about how the problem was not really about free speech, but freedom after the speech. The Minister's statement only reinforces that theory. If this is the plight of retired judges, one shudders to think what it would be like for the ordinary citizen, namely, 'the baker, the butcher and the candle stick maker'.

In her address to the Supreme Court of India in November 2022, the President of India, Droupadi Murmu, raised the issue of the plight of undertrials in the prisons of India, despite getting bail. The President narrated her experience of meeting undertrial prisoners when she was a Member of the Legislative Assembly in Odisha, and later as the Governor of Jharkhand. It was a speech that moved the Court, which directed jail authorities to submit the details of such prisoners to the State governments concerned which in turn were to forward the documents to the National Legal Services Authority within 15 days. Had the President kept quiet, for fear that she may have to "pay the price", things would never have moved.

### Looking ahead

It is reasonable to expect that the Prime Minister, a powerful orator and a vocal critic of many of the policies of the previous government, would certainly not want his government to be associated with such a chilling statement made by his Law Minister.

It will also be reasonable to hope and expect that the two high constitutional dignitaries will now discuss this issue and ensure that any further damage to India's constitutional ethos is mitigated. It is only then that the message will be clear: that in India, silence will never be coerced by law. Or by the Law Minister.

## GOVT. SCRAPS LONG-TERM TAX BENEFIT FOR DEBT FUNDS

The government has scrapped the long-term capital gains treatment (with indexation benefits) for income from debt mutual funds and other schemes that invest up to 35% in equity shares of domestic companies.

The returns from such funds will now be treated as short term capital gains. Currently, capital gains arising from transfer of mutual fund units, other than equity-oriented funds held for more than three years, are considered as long-term investments and taxed at 20% with indexation benefits.

"The amendment will treat gains from transfer of units of specified

mutual funds as short term and tax them at slab rates," said Tapati Ghose, partner at Deloitte India. "The proposed move seems to bring taxation of such mutual funds on par with bank deposits and will impact such investments made on or after April 1, 2023," she said.

Noting that these tax changes would also apply to categories such as gold funds, international funds and domestic fund of funds that have an equity exposure of up to 35%, V.K. Vijayakumar, chief investment strategist at Geojit

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## GOVT. RAISES SECURITIES TRANSACTION TAX ON DERIVATIVES

The Government has raised the Securities Transaction Tax (STT) on futures and options contracts in the stock market by 25% from April 1, 2023, a move that may push some traders to offshore markets and dent trading volumes on the bourses.

Options contracts will now attract 0.0625% STT, from 0.05% earlier, and futures contracts will attract a levy of 0.0125%, up from 0.01%, officials said after the Finance Bill was cleared by the Lok Sabha on Friday.

"While the proposed increase in STT will shore up revenues of the government to a certain extent, the main idea behind this could be to discourage

excessive trading in the futures and options (F&O) segment where a large number of retail traders end up losing money," Deepak Jasani, head of retail research at HDFC Securities, told The Hindu.

"An incidental effect of this could be shifting the F&O trades to other locations that do not attract such taxes for participants who have access to them," he added.

The measure will have the intended effect of curbing excessive F&O trades only in flat markets as when markets are volatile, traders will hope to offset the higher tax by higher payoffs, Mr. Jasani added.

## LOK SABHA APPROVES SETTING UP OF GST APPELLATE TRIBUNAL

Lok Sabha on Friday cleared changes in the Finance Bill to pave the way for setting up of an appellate tribunal for resolution of disputes under GST.

Currently, taxpayers are filing writ petitions before high courts in the absence of an appellate tribunal.

As per the amendments proposed in the Finance Bill 2023, which were passed by the Lok Sabha on Friday, benches of the GST Appellate Tribunal would be set up in every State while there will be a principal bench in Delhi which will hear appeals related to 'place of supply.'

Even after more than five years of implementation of the Goods and Services Tax, the appellate tribunal had not been set up. As a result, unresolved legal matters accumulated.

Nangia Andersen India's Tanushree Roy, Director- Indirect Tax, said the tribunals would lower burden on high courts, Supreme Court and provide taxpayers reprieve.



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