

# No extradition of NRIs in kidnap cases

**NEW DELHI:** One has heard this too often. An NRI father or mother accusing the other partner of kidnapping their children back to India in breach of a foreign decree and cocking a snook at the consequent Red Corner Notice issued by Interpol.

Is not the CBI, the Interpol partner in India, obliged to act upon such a Red Corner Notice (RCN), arrest the offending parent and extradite him/her to the foreign country to face trial there?

No, says the Supreme Court which would appear as a virtual thumbs up for the parent who slips out of the foreign country with the child and lands in familiar shores where the litigation takes years before being finally adjudicated.

Reversing the Bombay high court's arrest order on the basis of an Interpol RCN issued against one B J Lakhani who allegedly came to India from US with his daughter despite a restrain order from a Clayton County Magistrate Court in Georgia, a Bench comprising Justices S B Sinha and M K Sharma on Friday said an Interpol RCN could not be a ground for arrest. In absence of an extradition request from the US or a foreign country, there could be no arrest merely on the basis of an Interpol RCN, the Bench said accepting a clear stand from the ministry of external affairs (MEA).

The chances of extradition of the kidnapping parent is slimmer even when the foreign country places such a request as the SC recorded the MEA's stand that "kidnapping in case of matrimonial dispute per se is not considered to be an extraditable offence". Thus, the aggrieved parent has to come to India to pursue her remedies before the judiciary.

Coming to Lakhani's rescue, MEA said, "Even violation of an order passed by the court of competent jurisdiction in US being punishable for six months only,

India's Supreme Court has said the CBI, the Interpol partner in India, is not obliged to act upon any a Red Corner Notice against an NRI in case of a child custody fight and is under no obligation to arrest the offending person and extradite him/her to the foreign country to face trial there.



Lakhani could not be extradited for commission of the said offence."

MEA said that on receipt of an RCN, it was not the practice to arrest the person immediately but only to trace him. "The consideration of the question of arrest and extradition would be within framework of domestic law including Indian Extradition Act and the Extradition Treaty with the requesting country," it said.

Lakhani had married H Thakker on April 6, 2002 at Mumbai. After marriage, they moved to California where their daughter was born in April 2003. Alleging matrimonial harassment, Thakker moved courts in USA and sought divorce. During pendency of the proceedings, the family court at Massachusetts passed an order of temporary custody of the child, restrain and abuse prevention order in her favour.

In April 2006, Lakhani allegedly forged Thakker's consent to take the daughter back to India. After

he left, she complained to the police alleging abduction and an arrest warrant was issued. The trial court also passed a decree of divorce and custody of the child in her favour in May 2006. She moved a family court in Mumbai in May 2007, which allowed her custody of the child. Lakhani appealed in the HC which stayed the trial court order.

Meanwhile, the Atlanta city police and American court issued warrant of arrest against Lakhani, which was transmitted through Interpol to the Indian government. Lakhani moved Bombay HC challenging the legality of the arrest warrant and sought stay of the RCN. The HC refused to tinker with RCN. Lakhani then appealed against HC order in SC.

After deciding that RCN could not be a ground for arrest, SC left the adjudication of the dispute between the husband and wife over custody of their daughter to Bombay HC, where the appeal is pending.

# Govt brings Bill to hold judges accountable, then runs away

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NEW DELHI

Indian judiciary in the past few years went into an activism groove and pressed for many measures to bring probity in public life. Such moves were hailed by many sections of the society. Now when there were demands from many sections of the civil society that the judges should also declare their assets just as anyone fighting the Assembly or Parliament elections does, there was suddenly a lot of resistance from the judiciary.

A Bill that the government brought before the parliament divided the benches on the issue and most of the Opposition closed ranks to force the withdrawal of the Judges (Declaration of Assets and Liabilities) Bill, 2009 in the Rajya Sabha. It is quite clear that the government failed to assess the hostility to the legislation. Many in the establishment were actually thinking they will be hailed for the law.

Even though no previous government had attempted legislation on judicial accountability,

the politicians this time wanted that the judges must not be seen as a superior variety of public servants. Many openly said that there must not be any discrimination between judges and the common people, and after strong opposition, and lacking numbers, the government quickly withdrew the Judges Bill.

Had it been put to vote as suggested by the Opposition, it would have been defeated at the introductory stage itself, causing huge embarrassment to the government.

So far, the Chief Justice and other top judicial brass has said their view was that the judges assets can be disclosed in house. That is, the judges of the Supreme Court can disclose the assets to the Chief Justice, and the same way the high court judges can disclose these to Chief Justice of the high courts, but letting these out in the public can trigger avoidable hostility from disgruntled litigants. That argument is something the political class and many sections of the civil society are refusing to buy.



# 66 girls flee school after caste taunts by teachers

**PARALAKHEMUNDI:** Sixty-six girls ran away from a government-run residential school for SC/ST girls in Orissa's Gajapati district after three teachers allegedly subjected them to casteist taunts.

One of the girls said on condition of anonymity that the three teachers would keep telling them that they "belonged to lower castes, but were still enjoying so many benefits". She alleged that they were subjected to "unbearable torture and trauma" and would be made fun of and reminded of their "low-caste background", even over trifling matters. "It's very very cruel. For long, we

tolerated the trauma, hoping things will improve someday. But nothing happened," the girl narrated. "Worse, they imposed a dress code on us and ordered a particular diet. For the past three weeks, Class X students haven't got eggs in meals." The aggrieved students trekked 25 km to reach Nuagarh to voice their problems before the BDO, but in vain — the office was closed for the day. The girls then met zilla parishad member, Labin Raita, and samiti member, Dalima Dalbehera. "They were hungry, so we arranged food for them before letting them go home," said Labin.

# UP govt hits out against scam accused

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Three IAS and 16 officers of Uttar Pradesh government have been suspended for their alleged involvement in allocation of plots in Noida for construction of five star hotels.

The suspension was ordered by Chief Minister Mayawati, who also directed that FIRs be lodged against them and legal proceedings initiated. The scam took place during the regime of Mulayam Singh Yadav in 2006 which caused a loss of Rs 4,721.14 crore to the state



exchequer.

While instance of corruption in UP has often been astonishingly high as in some other states like Bihar, the suspensions and dismissals have also often had an aspect of vendetta and successive regimes have been acting against officials perceived close to each other.

In the latest case, the Noida Authority had allotted 14 plots to hotels at the rate of Rs 7,400 per square meter much lower than the market rate which was Rs 1.69 lakh per sq mt causing loss of Rs 4,721.14 crore to the state exchequer.

# Glasnost is RSS' new stunt but will it help?

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NEW DELHI

For a long time, the RSS functioned as a secretive society, and rarely bothered to clarify many widely held allegations. Now, increasingly under attack by wide sections of the liberal media, the saffron parent body has grown wiser and plans to use the media to counter propaganda against it. It has asked top leaders to double up as spokespersons. Thus, Madan Das Devi, Shrikant Joshi, Madhubhai Kulkarni, Manmohan Vaidya, Bajrang Lal Gupta, besides Ram Madhav, were asked to establish a dialogue with the media.

But the new phase is hardly any sign of a glasnost and is instead a new stunt of Mohan Bhagwat, who took over as the new sarsanghchalak (organisational



head) in May this year. The RSS may want this to be seen as a case of evolving with the changing times but the truth is that the hate

spewing outfit wants merely to dodge the criticism through some clever spinmastering rather than shed its spots.