

**FULL COURT REFERENCE TO BE HELD ON 16<sup>TH</sup> JULY,  
2015 AT 3.00 P.M. ON THE SAD DEMISE OF LATE SHRI  
Y.K. SABHARWAL, FORMER CHIEF JUSTICE OF INDIA**

**JUSTICE G. ROHINI  
CHIEF JUSTICE**

My esteemed brother and sister Judges,

Shri Justice A.B. Saharya;

Shri Justice S.S. Chadha;

Shri Justice S.K.Mahajan;

Shri Sanjay Jain, Additional Solicitor General of India;

Shri K.K. Manan, Chairman, Bar Council of Delhi;

Shri Rajeev Khosla, President, Delhi High Court Bar Association;

Shri Abhijat, Hony. Secretary, Delhi High Court Bar Association;

Shri Raman Duggal, Standing Counsel (Civil), Govt. of NCT of Delhi;

Shri Rahul Mehra, Standing Counsel (Criminal), Govt. of NCT of Delhi;

Other Standing Counsels of the Central and State Government;

Executive Members of the Delhi High Court Bar Association;

Office Bearers of other District Bar Associations,

Senior Advocates,

Members of the Bar,

Family members of Justice Y.K. Sabharwal;

Ladies and Gentlemen.

1. We have assembled here this afternoon, with a profound sense of grief and sorrow, to pay homage to Justice Yogesh Kumar Sabharwal, an illustrious Chief Justice of India, who breathed his last on 3<sup>rd</sup> July, 2015.
2. Born on 14<sup>th</sup> January, 1942, Justice Sabharwal was a man who had a humble beginning. After graduating from Hindu College in the year 1961, Justice Sabrawal obtained LL.B degree from Faculty of Law, Delhi University in the year 1964 and in the same year enrolled himself as an Advocate in the High Court of Delhi.
3. At the very young age of 22 years, Justice Sabhrawal started his career in the legal profession facing the challenges with determination and courage and gradually excelled in civil and Constitutional cases. He was also Advocate for Indian Railway from 1969 to 1981; Advocate for Delhi Administration from 1973 to 1977; Additional Standing Counsel for Delhi Administration from 1980 to 1981; and Central Government Standing Counsel from 1980 to 1986.

Justice Sabharwal was admired and respected by the Bar and he held the positions of Secretary and later President of the Delhi High Court Bar Association for several years. He was also the Member of the Bar Council of India representing Delhi for about four years from 1969 to 1973.

4. Hard-work, sincerity, sound knowledge of law and the legal acumen possessed by Justice Sabharwal enabled him to develop a large practice and acquired a position of eminence at the Bar. Masterly presentation of cases with eloquence paid the price and he was elevated as an Additional Judge of the Delhi High Court on 17th November, 1986 and became permanent Judge on 29th April 1987.

5. As a Judge of High Court of Delhi, he delivered various important judgements dealing with constitutional matters, criminal law and many important matters of public interest litigation, such as cancellation of petrol pump licences granted under the discretionary quota of Ministers, medical scam, environmental laws and unauthorised constructions, particularly a highly politically sensitive Jharkhand Mukti Morcha bribery case. During his tenure as Judge of this Court, he was the Chairman of the COFEPOSA board and the Honorary Secretary of International Law Association. He was also the Acting Chief Justice of Delhi High Court from 18.01.1999 to 02.02.1999.
  
6. Justice Sabharwal was appointed as Chief Justice of Bombay High Court on 3rd February 1999 and continued as such for about a year. As Chief Justice of Bombay High Court, he delivered various important judgments pertaining to matters in respect of education, environments, unauthorised constructions and encroachments.

7. He was elevated as a Judge of Supreme Court of India on 28th January, 2000, the day the Supreme Court of India was celebrating its Golden Jubilee. He also served as Chairman, Supreme Court Legal Services Committee and was also the Executive Chairman of National Legal Services Authority.
  
8. After a successful tenure of 5 years as puisne Judge, Justice Sabharwal occupied the exalted office of Chief Justice of India at the age of 63. He was sworn in as 36th Chief Justice of India by the then President Dr.A.P.J. Abdul Kalam on 01.11.2005. He assumed the high office at a time when an intense debate was on over the existence of death penalty in the Penal Code in wake of the suggestion of the President of India that a humanitarian approach should be considered while dealing with the mercy petitions of the condemned prisoners. Justice Sabharwal had taken a different view of the issue than his predecessor in office who strongly supported retention of death penalty in the Penal Code.

Favouring abolition of death penalty, Justice Sabharwal expressed that he was not against the capital sentence in rarest of rare cases, but personally he wanted the capital punishment to be erased from the Penal Code. As a judge of the Supreme Court, Justice Sabharwal delivered several important judgments dealing with constitutional matters including the famous verdict in **Rameshwar Prasad & Ors. v. UOI & Anr., (2005) 7 SCC 625**, popularly known as Bihar Assembly case.

9. While on the Bench of Supreme Court of India, he also handled several important public interest litigations relating to forest and environmental issues including diminishing tiger population from Sariska National Park which ultimately required the intervention of the Prime Minister at Government level. He also headed a Bench monitoring the ambitious river inter linking project.

10. Courageous, fearless and candid, Justice Sabharwal was uncompromising, firm and unbending when it came to upholding the Rule of Law and independence of judiciary. His firmness and disregard of all considerations except his principles and convictions were reflected on many occasions during his tenure as Judge of this Court and also the Apex Court.
11. Justice Sabharwal belonged to that creed of men who having donned the judicial mantle, maintained highest standards in their judicial career.
12. By the sheer power of his logical reasoning, careful analysis and clarity of thought, Justice Sabharwal rendered several landmark judgments dealing with the interpretation of Constitution.
13. Justice Sabharwal was among the key shapers of the design of Indian democracy.

The effortless example of his judicial virtues can be seen from the immaculate observations made by him on behalf the Nine Judges bench in the famous case of **I R Coelho v State of TN (2007)**. While rendering the unanimous opinion of the Full Bench of the Supreme Court, Justice Sabrawal explained the 'doctrine of basic structure' as a wall built around by the framers of the Constitution around certain parts of fundamental rights, which have to remain forever, limiting ability of majority to intrude upon them.

14. In **Raja Ram Pal case, (2007) 3 SCC 184**, delivered just two days before his retirement, Justice Sabharwal, heading a five-judge Bench had upheld the Parliament's decision to expel those MPs linked to the cash-for-vote scam.
15. He has left an enduring legacy in the form of his judgments. Throughout his career as a Judge, he displayed enormous grasping power and keen intellect coupled with sharp memory and humane courtesy.



Deep legal understanding and comprehensive erudition were spread all over the judgments delivered by him. He not only possessed profound knowledge of law but had a deep practical sense of life.

16. Hardworking and painstaking, Justice Sabharwal was a highly capable Judge who was equal in almost all the branches of law. He never hesitated in taking an unpopular decision if his conscience so dictated. Invincible independence, originality of thought, a firm belief in ideas and 'uniqueness in expressions' were the hallmark of his personality as a Judge. He maintained the highest standard of judicial conduct and behavior. Justice Sabharwal throughout his career remained calm and composed and never lost his cool even to the unjustified provocation. Use of harsh words was unknown to him. Justice Sabharwal was not only an incredible judge but also a good human being. He maintained highest standards in his professional as well as personal life. He was symbol of courtesy and culture insider as well as outside the Court.

17. As a judge, he had great respect for Constitutional institutions. But that did not deter him from asserting that howsoever high the institution, its decisions would always be subject to the scrutiny of the Supreme Court, especially if those decisions smack of violation of the fundamental rights of the citizen. Justice Sabharwal had vision. He understood that the architecture of a progressive, modern India could only be built on the foundations of a sound criminal justice system. He was a popular judge amongst the Bar and the Bench. He had great convictions and had faith in his own ideas.

18. Modest, simple and unassuming Justice Sabharawal would forever be remembered for his eminence and excellence profoundly reflected in his judgments. Justice Sabharwal was a role model for all lawyers and Judges. The memory of his excellent work, his commitment to cause of justice, preservation of rule of law and his active endeavor to faithfully administer justice shall always guide us all.

19. Justice Sabharwal who left for heavenly abode on 3<sup>rd</sup> July, 2015 is survived by his two sons Mr. Chetan Sabharwal and Mr. Nitin Sabharwal.
20. On the demise of Justice Sabharwal, we have lost a stalwart, a legal luminary, a man who has left no parallel. His death, undoubtedly, is a great loss to us all and in particular to his family.
21. With most affectionate homage of respect and admiration, I on behalf of my Brother and Sister Judges and on my behalf extend heartfelt condolences to the members of the bereaved family and pray to the Almighty to give them strength to bear the irretrievable loss. May the Almighty bestow peace upon the departed soul.