National Interest: With Pride

M.G.Devasahayam

Write up on the ‘communal twist’ in the PIL filed in the Supreme Court by seven ‘prominent citizens’ (National Interest: With prejudice–IE April 28) is far from the truth and is unfortunate. I being one of the petitioners owe an explanation as to the facts to put the record straight.

In this context some paragraphs from the Writ Petition have been quoted. These passages are mere narrations of events that were neither rebutted by the Government through any counter-affidavit nor during ‘preliminary’ arguments by the Attorney General or Solicitor General in the Supreme Court. Nowhere in the entire petition there is any ‘communal twist’ except mentioning some names in connection with the events narrated. Petitioner’s counsel did not even raise this issue during her arguments.

Tweaking the words “orders from above” the article insinuates that ‘above’ meant Prime Minister Manmohan Singh and he is portrayed as communal. Nothing can be more absurd. My acquaintance with Dr. Mamohan Singh dates back to mid-seventies, when I was Administrator of Chandigarh and I know him rather well to even remotely suggest that he is communal! By the way is the Prime Minister the only person ‘above’ Defence Minister A.K.Antony?

One wonders as to why ‘Op Bluestar’, that had no relationship with the issues raised in the PIL, has been given such a long narration. Nevertheless, this being a sensitive matter I would share some of my own information and those obtained from sources that were part of the operation. The fact is that Operation Bluestar was neither led by the then Major General Brar nor Lt. Gen Dyal. The ‘strike force’ was a bizarre *‘kitchadi’* comprising of two infantry Battalions (26 MADRAS and 10 GUARDS) under a nominated Brigade Commander (DV Rao) of the Madras Regiment. There were no Sikh troops in this strike force..

In total contravention of Army’s operational ethics, these battalions were taken out of their command set up and put under Brigadier Rao as an *ad hoc* arrangement. Major General Brar’s role was just that 10 GUARDS was part of 9 Inf Div of which he was GOC. What is worse, Lt. General Sundarji as Army Commander, Western Command took direct control of the operation by-passing the Jallundur based 11th Corps commanded by Lt. Gen Gowri Shankar. Such blatant cannibalization of fighting forces and General Officer’s keenness to please Prime Minister Indira Gandhi led to utter chaos and unacceptably huge carnage and extensive damage to the sacred Amritsar Golden Temple.

Be that as it may, let us see the core reasons that prompted the petitioners to knock at the door of the Supreme Court. To start with it was Defence Ministry’s manipulations to cut short the tenure of General VK Singh and the premature announcement of Lt. Gen. Bikram Singh as the next Army Chief without finally resolving the DoB issue of the former.

Documents in the MS Branch prove that Selection Boards for promotion of VK Singh to the select ranks of Brigadier (Sept 1996) Major General (25 Oct 2001 and 18/19 Sept 2003) and Lieutenant General (30 Sept 2005) reflect his DoB as 10 May 1951. But ignoring all these the issue was raked up by former COAS General JJ Singh with an ulterior motive to cut short the present Army Chief’s tenure.

In its order dated 10 February 2012 Supreme Court had neither endorsed the entry in the UPSC application form (10 May 1950), nor upheld the so called ‘commitment’ given by VK Singh regarding his DoB. Also, contrary to wide publicity, Court had taken no position on the general’s DoB and left it to the ‘Union of India’ to recognise one of the two DoBs (1950 or 1951). It had also allowed the government to withdraw the operative part (merits) of its December 30, 2011, order in which it had rejected Gen VK Singh’s statutory complaint seeking recognition of 1951 as his year of birth. With the merit part withdrawn, original statutory complaint stands revived. MoD since then had not passed any legally speaking order recognizing the actual DoB of General VK Singh before announcing his successor.

Next issue was JJ Singh’s plan to eliminate others from amongst Lt. Gen. Bikram’s contemporaries from the race. The main target was Brig. Ravi Arora, Gold Medalist, senior in IC number but younger in age to Bikram Singh. This has been explained in detail in the PIL.

More important grounds were the grave allegations pending against the Army Chief designate. One is his alleged involvement in the fake-encounter death of a 70 year old man, and thereafter branding him as a terrorist to achieve personal advantages, and this matter pending in a Writ Petition in the Jammu & Kashmir High Court seeking a Commission of Inquiry. The second case related to events in the Congo Republic when in 2007-08 the then Major General Bikram Singh was the Eastern Division Commander of the UN peacekeeping force. Indian troops under his command had been accused of mass sexual abuse. 68 cases, including the siring of illicit children, had been reported, and the matter is being investigated by a Court of Inquiry at Meerut.

When PJ Thomas was appointed as Central Vigilance Commissioner, and the Centre for Public Litigation challenged it, a Division Bench of the Supreme Court comprising Chief Justice SH Kapadia and Justices KS Radhakrishnan and Swatanter Kumar declared CVC as India’s “integrity institution” and not only struck down the appointment but had castigated the government for its lack of respect for institutional integrity. Thomas had just one corruption case against him for which an application to seek his prosecution was pending.

Primary responsibility of the Indian Army is to preserve national interests and safeguard sovereignty, territorial integrity and unity of India against any external threat by deterrence or by waging war. In the event our Army is as important an ‘integrity institution’ as the Central Vigilance Commission if not more.

The petitioners therefore contended that as there were two serious cases pending against Lt Gen. Bikram Singh, it will not be prudent to appoint him as the next COAS. Drawing a parallel with the PJ Thomas case, where the Supreme Court had overturned his appointment on the grounds that at the time of approval by the ACC an application was pending to prosecute the officer, the plea in the PIL was for applying the same yardstick in the matter of the appointment of next COAS. Individuals and names mentioned in the PIL were only incidental.

Petitioners had hoped that the Apex Court will reiterate the well-reasoned verdict of its own larger bench and uphold the institutional integrity of the Army that is being ravaged by a well entrenched coterie. Instead our petition was summarily disposed off with these crisp words:

“We have carefully gone through the averments made in the Writ Petition, the materials placed on record by the petitioners and the original file concerning appointment of the next Chief of Army Staff. We do not find any justifiable ground to invoke our jurisdiction under Article 32 of the Constitution of India.

Writ Petition is, accordingly, dismissed. However, it is clarified that dismissal of Writ Petition shall not affect the legal proceeding or matter pending in the court or any other forum.”

The dismissal is based on a clearance report given by Intelligence Bureau. One wonders whether IB has jurisdiction to give such clearance on matters pending before a High Court and a Court of Inquiry, particularly so when the Supreme Court has allowed these proceedings to continue. It is in this context that the perilous implication of the Court order needs to be understood. These twin ‘Swords of Damocles’ hanging over the head of the Army Chief severely compromises the institutional integrity of the Army. Is this what our valiant Army deserves? All that the petitioners wanted to do was to avoid such horrid embarrassment and restore the integrity of the institution. For this ‘communal’ charges are being hurled at us.

As to this ‘communal mudslinging’ it will be pertinent to point out that four out of the seven petitioners-Admiral Ramdas, Mr. Gopalaswamy, Mr. Sam Rajappa and myself-are from Tamil Nadu and have nothing to do with the communal conundrums of North India. And so the mud will not stick. We have done what we have to do with pride and without any prejudice.