

## SC judge under attack from health activists

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NEW DELHI: Two years ago, Justice Markandeya Katju of the Supreme Court had withdrawn from hearing a patent dispute vitally concerning pharmaceutical majors. Justice Dalveer Bhandari, the head of the bench that has since been dealing with the case, is now under attack, this time from health activists.

Though he did not himself give any reason for it, Katju's recusal in 2009 from the appeal filed by [Novartis](#) was then widely attributed to an article written by him in a legal journal conceding, much to the embarrassment of multinational companies, that "many of the medical drugs available in the market are too costly for the poor people in India" and that "ways and means should therefore be thought out for making these drugs available to the masses at affordable prices".

In what seems virtually a reversal of the situation, the health activists demanded on Monday, on the eve of the next hearing of the case, that the government should seek Justice Bhandari's recusal as he had participated in at least two international conferences for judges organized by the US-based Intellectual Property Owners Association (IPOA), whose members include Novartis, among a host of pharmaceutical and IT giants.

The stated purpose of those conferences attended by Justice Bhandari in 2009 ( Washington) and this year ( [Brussels](#)) was to help "intellectual property (IP) law attorneys and other interested parties" get an opportunity to interact with judges from around the world. In the 2009 conference, Justice Bhandari presented a paper arguing that pharmaceutical MNCs should "educate people regarding the importance of the protection of IP rights" and they should "make all efforts to ensure that all countries are persuaded to enact proper laws".

Alleging that "several statements in the paper could be held to be in conflict with the intent and letter of the Indian Patent Act", health activists wrote to three ministers stating that the government should take up the matter of recusal with Hon'ble Justice Bhandari "to avoid any room for questions to be raised once the judgment is given in light of the already expressed opinions on IP".

The letter however added that given the manner in which those conferences were "disguised as educational events, it is highly likely that judges attending these meetings are unaware that these are not neutral venues offering balanced views and discussions on IP". The activists also clarified that "this is not a matter of

transparency as Hon'ble Justice Bhandari's Supreme Court web page and the Supreme Court Annual Reports do note his participation at these conferences. Nor are we in any way suggesting that this is a matter of corruption."

The signatories to the letter are Amit Sengupta (Delhi Science Forum), B Ekbal (former vice chancellor of Kerala University), M R Santhosh (Centre for Trade and Development), Prabir Purkayastha (Knowledge Commons) and lawyer K M Gopakumar.

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