M.P. Singh – In Memoriam

Moiz Tundawala

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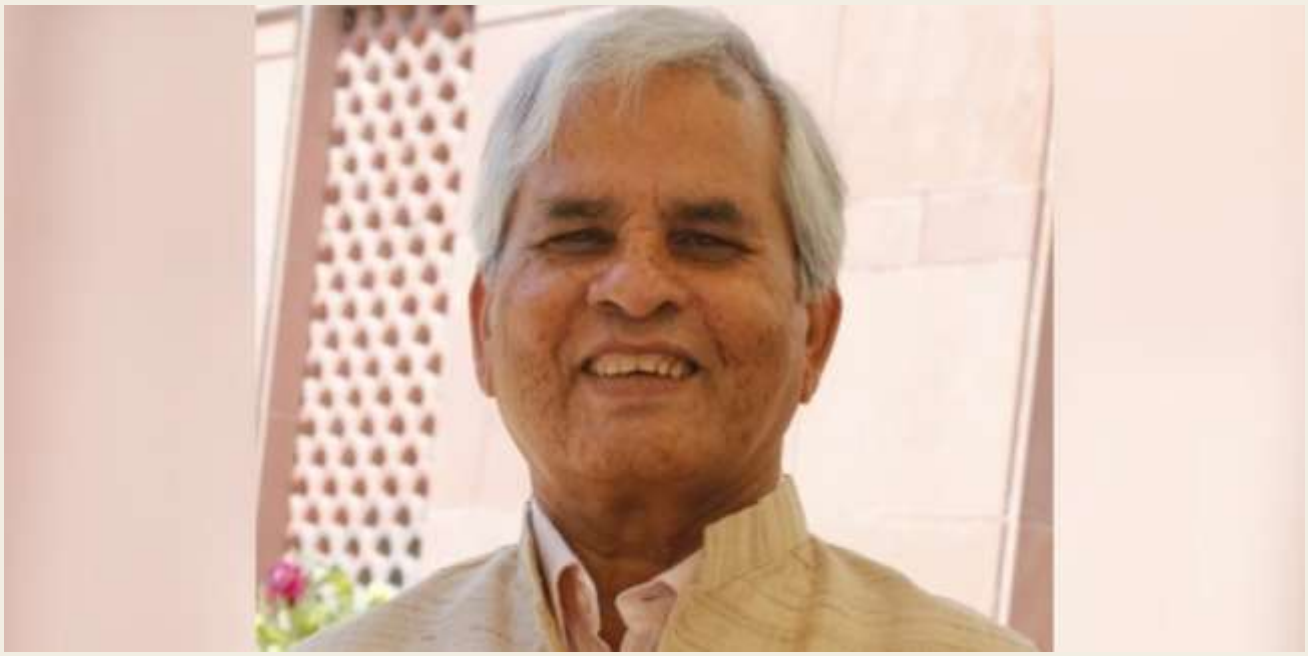

Mahendra Pal Singh. Photo: Facebook/NUJS Weekend Lecture Series.

Mahendra Pal Singh, one of India's preeminent public law scholars and a pioneering figure in legal education, passed away on Saturday (March 7) in his village of Jitholi near Meerut, Uttar Pradesh. Spanning vast areas of constitutional, administrative, and comparative law, his scholarship was widely admired for its intellectual clarity and the profound commitment to social justice that animated it.

Educated at Agra, Lucknow, and Columbia, he went on to hold teaching and research positions at institutions across India, Germany, China, Hong Kong, Japan, and Singapore in a long and distinguished career. An inspiring teacher and mentor to generations of students, Singh was also an accomplished administrator, first as Head and Dean of the Delhi Law Faculty and later, most notably, as vice chancellor of the West Bengal National University of Juridical Sciences ((NUJS), Kolkata.

I was privileged to study with Singh at NUJS in the late 2000s. Despite the demands of his office as vice chancellor, he taught us two courses on Indian constitutional law and comparative public law. It was in his classroom that I first understood that legal education extended beyond the black letter of the law and the doctrinal parsing of cases.

The study of law, he insisted, was empty unless grounded in the social and political context that gave it meaning in the lives of ordinary people. Drawing on insights from history, sociology, political theory, and current affairs, he invited us to confront the uneasy relationship between the law as laid down in books and the law as practised in action.

Long before I could grasp the nuances of his scholarly contribution, I was struck by Singh's absolute fidelity to the cause of social justice in my early encounters with him in our constitutional law class. On one occasion, a student argued vehemently that the reservation of seats in higher educational institutions for the lower castes was anti-meritocratic and discriminatory against upper-caste students.

To my surprise, Singh – otherwise unfailingly warm and affectionate – lost his patience. He responded that there was no general right to higher education under Indian law. On the contrary, the lower castes had a greater claim to it, as affirmative action was a fundamental right under the Constitution.

As a student with a visual disability, I had secured admission to NUJS the previous year, having benefited from the reservations policy. Although I understood why affirmative action was a necessity for Indian society, the ideology of meritocracy was so pervasive that I often doubted whether I fully belonged at the law school.

Singh's response that day left a lasting impact, and I was eventually able to internalise that I had an even stronger claim to my place there than my able-bodied peers. In an academic world that remains hostile and alienating to the very people it professes to care about, he was truly exceptional in offering genuine equality, with a principled partiality in favour of those on the margins of society.

Singh had an abiding faith in the founding values of the Indian Constitution. This was reflected across his academic work and especially in his successive editions of V.N. Shukla's comprehensive textbook on the Constitution of India, which remains the most popular and accessible introduction to the subject for students and practitioners alike.

Yet he was no constitutional fetishist. Intellectually shaped by P.K. Tripathi on the one hand and Dietrich Conrad on the other, he combined a commitment to parliamentary supremacy in the project of social transformation with a principled acceptance of judicial limits under the basic structure doctrine. He regarded the early constitutional amendments in the Nehru

years as furthering the goal of social revolution, while viewing the changes made by Indira Gandhi as anti-democratic and thus rightly struck down by the Supreme Court.

Through this reconciliation, he moved beyond the familiar Anglo-American binary of court-centred legal constitutionalism and legislature-oriented political constitutionalism, shedding fresh light on Indian constitutional practice without rendering it the monopoly of any single organ of government.

Through extended research stints at Heidelberg, Singh cultivated a deep engagement with the continental legal tradition. In a one-of-a-kind monograph – perhaps his most original contribution – he examined the architecture of German administrative law from the perspective of an Indian jurist steeped in the British common law tradition.

If the common law historically developed in the interstices of procedure, the continental tradition concerned itself with substantive principles of legality in both a formal and material sense. Although the two legal families had followed divergent pathways, he demonstrated how they were gradually converging on a shared understanding of public administration governed by law. He even learnt German for the project, and the book was later translated into Chinese.

Though not formally trained in the humanities, Singh's intuitions on pressing social questions were often more advanced than the academic consensus of the time. This was most strikingly revealed in his bold support for the recommendations of the Mandal Commission on reservations in public employment for the Other Backward Classes in the early 1990s.

At a time when liberal and postcolonial theory had not yet come to terms with the philosophical and political justifications for affirmative action, he developed a novel argument – one he would reiterate in my class fifteen years later – that the reservations policy was not merely an exception to the right to equality, but was itself enshrined as a fundamental right in the constitution. Despite affirmative action, however, law schools remained elitist, urban, upper-class bastions. Against this backdrop, he drew students from their privileged backgrounds into academic work that was relevant to society at large.

While he was himself a progressive liberal, Singh prioritised social welfare over more individualistic concerns of personal autonomy in the private sphere. Although this stance would resonate later with global critiques of the human rights movement, highlighting its complicity with economic neoliberalism and its neglect of material redistribution, he found himself in a difficult spot in the immediate Indian context. Invoking the bread-versus-freedom divide, he controversially argued against the 2009 Delhi high court judgment decriminalising homosexuality.

The constitutional recognition of same-sex relations had a 'low priority' for him in a country where millions continued to face more pressing concerns of life and death. Yet rather than reflecting a conservative unease with homosexuality, his argument was grounded in an extension of his long-standing scepticism towards strong forms of substantive judicial review in the project of social transformation, where he believed parliament should reign supreme. Still, this was one rare instance where his legal formalism got the better of his social judgment.

At NUJS, we enjoyed the freedom to engage with Singh on homosexuality and every other contentious subject without inhibition or fear of the Vice Chancellor's authority. His door famously remained open to all visitors, and there was rarely any need for a prior appointment. Singh assumed many distinguished offices throughout his life, yet he never had a taste for power and wore his authority lightly. He dignified every office he occupied with his grace, charm, and gentle humour.

In his years as vice chancellor, Singh aspired to emulate V.K.R.V. Rao, the formidable founder of the Delhi School of Economics. What he admired most in Rao was his 'fearlessness for good persons', which led him to recruit scholars to DSE whose work he knew would attract more attention than his own. NUJS already benefited from Kolkata's traditional pedigree as a centre of social scientific and humanistic research. Singh supplemented this with an ambition to assemble the best legal minds from around the world.

We had the privilege of learning from several young and dynamic academics who moved to NUJS after completing their graduate studies at leading global institutions, and who taught us courses ranging from constitutional theory and analytical jurisprudence to intellectual property and world trade law. These scholars have since become recognised authorities in their respective fields and have gone on to assume leadership roles at other institutions.

Yet all of them remain immensely grateful to Singh for backing their talent early in their careers and making them part of the NUJS story when it was, for a brief but special moment, at the forefront of higher education in India.

Beyond these public and professional distinctions, what remains most remarkable about Singh is that he did not even consider academia his primary calling. His life's work was the single-handed creation of a unique school for the people of Jitholi. Inspired by Tagore's Santiniketan experiment, he invited a German architect friend to design the school in the midst of nature. The school has distinct circular-shaped classrooms with bricks arranged to allow natural air and light throughout the year without the need for electricity.

Even as he became a globally renowned academic, Singh was clear that he would return to his village in the final years of his life. True to this deeply held desire, he passed away in the village he loved, near the school he had so caringly nurtured. For those of us who were blessed to know him closely, and the countless others whose lives he touched, Singh's passing is an irreparable loss. He leaves behind a rich corpus of work and a singular example of a truly virtuous life in these troubled times. Farewell, Sir.

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