

Shed hypocrisy in fight against corruption

- V.K.Shunglu

Government has declared 'zero tolerance' of corruption. A word about what is possibly meant by 'zero tolerance' of corruption. As I understand, zero tolerance means appropriate, prompt and effective action by Government if it is convinced that wrong doing has taken place. However, successive Governments in office, since the emergence of this phrase in the late 1990s, have shown a remarkable tendency to follow the footprints of predecessor Governments - of taking no action - even in the face of most outrageous acts of corruption.

It is nobody's case that there can be zero corruption. All democratic Governments set up mechanisms to detect and deal with corruption. The instruments created, even in India, are comprehensive but they have become dysfunctional. They have the 'form' but no 'substance', whether it is the Central Vigilance Commission or the CBI. More often than not, these have become post-retirement sinecures for bureaucrats, for whom appointment to the post is an 'end' rather than the 'means'. Consequently, no sincere attempt has been made at any level to proceed against wrongdoers, let alone protect the few 'foolish' whistleblowers.

There is no better example of this phenomena than the noise made when the late Shri Shailendra Dubey met his unfortunate end. Every action since then has been contrary to the publicly declared intention. The guidelines issued by Central Vigilance Commission have remained a dead letter and it is no secret that the whistleblower's path has been the road to doom! There are several examples, Manoranjan Kumar (Kandla Port), Raj Kumar (Sports Authority of India) and A.Ghosh (Central Bank).

Government of India has recently circulated draft of **The Public Interest Disclosure (Protection of Informers) Bill -2009** to all State Governments for their comments. This Bill is likely to be introduced in the Parliament later this year. Surprisingly, it has not been placed in the public domain and no effort has been made to obtain the views of the civil society on an important issue.

Ostensibly, this Bill seeks to establish a mechanism to receive complaints /disclosure of alleged corruption or mis-use of office against any employee of the Central Government or any corporation established by or under any Central Act, Government Companies, Societies or local authorities owned or controlled by the Central Government and to inquire or cause to inquiry into such complaint or disclosure and to provide adequate safeguards against victimization of the person making

complaint or disclosure and matters connected therewith and incidental thereto.

While the passage of the Bill will be a welcome step since it seeks to provide legal validity and teeth to the resolution of the Central Government of 21st April, 2004 taken in compliance to the directives of the Supreme Court in writ petition (C) No. 539/2003 regarding the murder of Shri Satyendra Dubey and also provides legal powers to the Central Vigilance Commission (Sec.4, 5, 7), its title itself is most unfortunate. In the Indian context, the word 'informer' has a certain connotation related with the functioning of the Police Thanas and it is a not very flattering one. Quite often informers are paid by the Police Officers and there is very little protection, if any, for them and quite often they become hapless victims of mafia / criminals. On the other hand, the word 'whistle-blower' has a positive connotation especially in the fight against corruption and is internationally recognized and accepted. Those drafting the Bill could have been more sensitive! It would be appropriate to reword title of the Bill as **'The Public Interest Disclosure (Protection of Whistle-blowers) Bill, 2009.**

Furthermore, in Draft Section 4, it has been stipulated that 'The Competent Authority shall not investigate,

- i. Any disclosure which is made after the expiry of twelve months from the date on which the action complained against becomes known to the complainant;
- ii. Any disclosure involving an allegation, if the complaint is made after the expiry of five years from the date on which the action complained against is alleged to have taken place.

These provisions appear to be unnecessary as these will only lead to bureaucratic examination by *babus* in the CVC of whether or not the complainant had come to know of the disclosure within a period of twelve months or not and whether the date of commission of offence was within a period of five years or not. The periods mentioned - 'twelve months' and 'five years' in Sec.4(a) & (b) may be used by the bureaucracy to scuttle investigation on 'technical grounds' rather than 'merit of the case'. This perhaps reflects the typical bureaucratic mind-set where you miss the forest for the trees and instead of investigating cases of corruption, begin investigating the whistleblower himself! This will surely sound the death knell of any effective action against the corrupt and corruption. On the contrary, cases of corruption involving top public servants must be enquired on merit and it does not really make a difference whether the matter became known to the complainant within a period of 12 months or not.

It is time we shed the hypocrisy that has characterized the measures that have so far been taken by successive Governments in curbing corruption. Successive Governments, both at the Centre and in the States, have consistently shied away from addressing 'critical' questions especially if they happen to affect the cozy nexus that exists between the 'politician - bureaucrat - criminal'. Hence, whistleblowers continue to be at the receiving end. Let us hope the Government and the CVC wake up and take firm and effective action against the corrupt elements.

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