

Miseries of Whistleblowers

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A task which should have been performed by the Central Vigilance Commission has to be accomplished by the Department of Personnel and Training: according to the Public Interest Disclosure and Protection of Informer (PIDPI) resolution, the CVC is to issue directions to the government for the protection of whistleblower from victimisation and for providing security to him. But in the case of the General Manager of Central Bank of India, Mr Abhijit Ghosh, the CVC was found on the wrong foot. Had the DoPT not taken the initiative probably Mr Ghosh would have eventually retired from the bank services forfeiting all his financial stakes. Mr Ghosh was suspended 18 months back for his fault that he had used the Whistleblowers Resolution to expose the chairman-cum-managing director of the bank. Mr Ghosh had approached the CVC but it did not act on his complaint.

What was most shocking and disgusting was that the identity of Mr Ghosh was disclosed to the bank authorities only after he filed the complaint with the CVC, which was in sharp contrast to the Supreme Court directive. In 2005, after the murder of Satyendra Dubey, who had blown the whistle on corruption in NHAI, the Supreme Court had directed that the Union government should enact an Act or put in place an administrative mechanism for entertaining complaints of whistle blowers and also protect them from victimisation. In fact at that stage, the CVC had promised to keep the identity of the complainant secret. But it is a sad commentary on the functioning of the CVC that it utterly failed to keep the identity of Mr Ghosh secret.

The CVC is perceived as a key institutional bulwark against corruption, but the ground reality is it has failed to fulfill its constitutional task. The CVC has also acquired the power to supervise the functioning of the CBI. In 1997, the Supreme Court directed that the CBI should be freed from government control and the CVC will have superintendence over the functioning of the CBI and it will also be granted statutory status so as to make it independent of the government. But the CBI retracing steps in the matter of DA case against Mr Lalu Prasad is a telling example of the CVC not exercising its authority over the organisation. The CVC also did not intervene effectively in the legal proceedings of the killing of Satyendra Dubey. It was Dubey's killing which made the government to empower the CVC at the directive of the Supreme Court.

The number of whistleblower complaints received by the CVC has been quite huge; in 2006 - 338, in 2007 - 328 and in 2008 - 276. But most of the cases are yet to be thoroughly investigated and disposed off. The CVC has also been functioning like any other government department. Sometime back the senior Supreme Court lawyer Mr Prashant Bhusan had pointed out that despite repeated written complaints being made to the CVC and requesting the CVC to exercise its supervisory jurisdiction over the CBI to get it to investigate those cases, the CVC has failed to exercise its jurisdiction vested by the CVC Act. It is unfortunate the CVC does not protect whistleblowers from victimisation on the basis that taking departmental action against employees is the prerogative of the department. Time has come for the government to have a law to protect whistleblowers. Already countries like the UK, USA and Norway have laws to protect whistleblowers. The government should not appoint former bureaucrats as the vigilance commissioners as most of them have not been able to outgrow their bureaucratic servility to their political masters.