



VIGEYE VANI

Quarterly Newsletter
Central Vigilance Commission
July- September 2017

MY VISION - CORRUPTION FREE INDIA





Release of Vigilance Manual-2017

By



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Hon'ble Minister of State (PP)
at
North Block, New Delhi



Dr. Jitendra Singh, Hon'ble MoS (PP) addressing the gathering on 07.09.2017

From the Editor's Desk



Sonali Singh
Chief Editor

The Commission has decided that Vigilance Awareness Week (VAW) will be observed between 30th Oct and 4th Nov 2017 with a focus on the theme of "My Vision-Corruption Free India". The purpose of this Week is not only to create greater awareness about the menace of corruption but also to make every Indian citizen realise that corruption is not inevitable, and that each of us have to play our role in fighting corruption. The theme identified by the Commission for this year, is an affirmative declaration of the belief that building a corruption free India is the responsibility of each one of us.

The VAW will commence with the Integrity Pledge; a notable change from previous years is that the earlier Pledge, being taken by public servants, has now been replaced by the Integrity Pledge. A whole gamut of activities involving different stakeholders and members of society, are planned during this period. The anti corruption initiatives of the Commission are of critical significance for zero tolerance towards corruption. We are motivated by The Honourable Vice President of India graciously consenting to be the Chief Guest at the Inaugural Ceremony for the Vigilance Awareness Week on 30th Oct 2017.

That Sardar Vallabhbhai Patel's birth anniversary falls on 31 Oct and this is the reason that VAW is observed during this period, is known to all of us. Sardar Patel exemplified an ethical approach in his life, behaviour and dealings; personal rectitude and austerity were part of his being. It is these qualities that we must seek to imbibe and strive to emulate in our work and in our lives.

Let us all come together as active participants in the activities and initiatives that mark the observance of VAW. Let us also remain committed to our resolve to fight corruption and achieve our vision of a corruption free India.

The EB is thankful to those who have contributed articles for this issue and we invite our readers to share their views, experiences and feedback. The EB also would like to place on record its appreciation for the contribution of Sh Keshav Rao and Sh. Sanjay Agarwal former members of the Board who have reverted to their cadres on completion of tenure.



Law of Corruption Dynamics



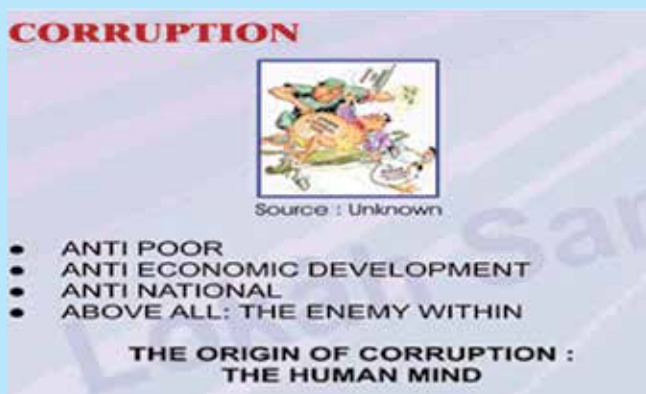
A K GHILDIYAL
CVO, National Seeds Corp.

Introduction

It is always a cause that produces the effect. It is absence of 'heat' that produces 'cold'. Likewise, the absence of what leads to corruption and the absence of corruption leads to what, is the pivotal issue. When it comes to corruption, it is the result of some causes. At the same time, corruption is the cause in itself for some effects. Undoubtedly, most of the problems that human being encounter today are the effect of the cause, which is corruption. The dynamics of corruption has a greater bearing on the well being of human kind.

The Law of corruption dynamics deals with four sets of variables namely:

- (i) Corruption
- (ii) Governance
- (iii) Values
- (iv) Systems



(i) Corruption

The World Bank defined corruption as the use of public office for private gain. How

the world has taken the issue of corruption so seriously is evident from the fact that the United Nation has made the UN Convention against Corruption in 2003 and many countries have become part of this Convention. This is the fall out of the realization that corruption has proven to be:

- (i) Anti poor
- (ii) Anti economic development
- (iii) Anti national

Therefore, corruption, which is unethical and immoral, has been recognized above all as the 'enemy within'. It injures others, the society, the country and the whole world. The mind, the seat of all vanities, is the origin of corruption. The inner instruments (antahkarana) in man changes his behavioural pattern. There are four inner instruments (antahkarana), namely,

- (i) The mind that thinks or imagines;
- (ii) The intellect that discriminates and decides;
- (iii) The ego that mistakes itself to be the self, doing and enjoying things;
- (iv) The memory that recollects past experiences.

This Antahkarana, and the five senses (organs of hearing, touch, seeing, tasting & smell) along with their cause, constitute what is called the subtle body. Ultimately, this subtle body is responsible for every human act.

(ii) GOVERNANCE

Good governance is perceived globally as the antidote for corruption. Basically, the following elements determine the effectiveness of governance:

1. Rule of Law
2. Probity in public life
3. Individual's potential
4. Values
5. Productivity
6. Systems



Good Governance is possible only when these elements are at their best. These elements are again the human efforts, which vary with time, place and causation. They all fall under the two categories namely Values and Systems. Therefore, good Governance, which is related with Corruption do has relationship with the Values and Systems, which determine it.

(iii) VALUES

There are two sets of values:

- (i) Individual's sense of Values
- (ii) Socially accepted norms

Supreme one-ness is the rationale of all ethics and morality. The fundamental theme of ethics and morality is "Do not hurt others; love everyone as your own self, because the whole universe is one'. Broadly, values can be looked at from the individual's point of view and from

the society's point of view. The following factors determine them:

(1) Individual's sense of Value

- (i) Integrity
 - Intellectual integrity
 - Moral integrity
 - Financial integrity
- (ii) Honesty & Truthfulness
 - Individual Character
 - Family Background
 - Education
 - Self Confidence to hold character

(2) Societal Value

- From Individuality to Collectivity

It is this set of values that make the inner instruments (antahkarana) to behave in a particular manner and thus becomes the crucial factor for the human behaviour and human acts.

Systems

The human being, as a result of his continuous quest for goodness, evolved various systems from time to time in every sphere of life using these inner instruments (antahkarana). The system thus evolved construed of the following:

1. Rules
2. Regulations and
3. Procedures

The man sees things, which are found to be decidedly not acceptable and rejects them and ultimately gets an answer to 'how ought to live'. This inquisitive quest and his ability to find a solution, perhaps, is the reason for the success of human kind for its continuous

existence in the universe. The problem comes when the human desires are unreasonable and abnormal. Then he resorts to evil doing and corruption is one of the effects to this cause.

Systems have been evolved in every sphere for Governance. The world has recognized the need for Good Governance particularly in the context of globalization and growing menace of corruption. The anti-corruption measures across the globe including the UN Convention Against Corruption are towards achieving this goal.

The Law Of Corruption Dynamics

With these determining factors of corruption, the Law of Corruption Dynamics is derived as follows:

- (i) The most corrupt countries or societies are the ones having poor governance. And the countries or societies with good governance are least corrupt. Let us denote degree of good Governance as 'G' and the degree of Corruption as 'C'. Then, both Governance (G) and Corruption (C) are inversely proportional to each other. That is, when 'G' increases, 'C' decreases and vice-versa;

i.e. $G \propto 1 / C$ equation (i)

- (ii) More the degree of Corruption (C), more will be the anti-corruption measures.

Let us denote the need of anti-corruption measure required as 'A'. Thus 'C' is directly proportional to 'A';

i.e. $C \propto A$ equation (ii)

- (iii) Substituting equation (ii) in (i), we get

$G \propto 1 / A$equation (iii)

This means, more the degree of Governance, less will be the need for anti-corruption measures and vice versa

- (iv) However, scientifically, in order to equate the equation (ii), it requires balancing factors. The balancing factors are Values and Systems. Let us denote Values as 'V'; and Systems as 'S'. A good society is the one, which has the best of Values as its base. That is the reason why the level of corruption varies between countries and societies.

The System evolved is only to supplement the Values to make it a well-governed society. Therefore, it is the unlimited degree of Values combined with Value based Systems that balance the above equation. And thus, the Law of Corruption dynamics becomes

$G = V_n (V+S) / C$

OR

$G = V_n (V+S) / A$

(G – Governance, V – Values, S – Systems, C – Level of Corruption

A – Requirement of Anti Corruption measures)

Conclusion

According to this Law, the only way to minimize corruption is by increasing the degree of 'V' manifold. It is the value-based system that is going to work for the fight against corruption. Even when the degree of 'S' is zero (i.e. the absence of Systems), with highest degree of 'V', corruption can be minimized, if not totally removed.

Ultimately, this law aims towards realizing the vision:

"LokâhSamastâhSukhino Bhavantu"

- For the happiness of all mankind.



Integrated Fuel Management System (IFMS) at Lakhapur OCP of Mahanadi Coalfields Limited



Munwar Khursheed
CVO, MCL

Mahanadi Coalfields Limited (MCL) is a subsidiary of Coal India Limited with its headquarters at Sambalpur, Odisha. The company has deployed huge quantity of Heavy-Earth-Moving Machinery (HEMM) in order to carry out the task of excavating and transporting large quantity of coal and overburden. In the year 2016-17 the company has achieved 139.2 MT of coal production and 123 Mcum of overburden removal for which the HEMMs played a vital role. These HEMMs run on High-speed Diesel (HSD) Oil and consume a voluminous amount of HSD on daily basis. The HSD consumed by various HEMMs in the year 2016-17 is about 43.96 Million litres and the cost of this HSD is about Rs. 264.87 Million.

In order to monitor this huge quantity of HSD and curb every possibility of any HSD pilferage, an Integrated Fuel Management system (IFMS) is installed in Lakhapur Opencast Project of Mahanadi Coalfields Limited. This project aims at delivering real-time based services with no human intervention.

Working Principle of Integrated Fuel Management system (IFMS):

The Integrated Fuel Management System works on the principle of Radio-Frequency Identification (RFID) wherein electromagnetic waves are used to identify and authenticate Tags attached to any object. These Tags or Labels are passive radio frequency based devices, having a unique Tag ID and are attached to the object to be identified. These Tags are coupled with a two-way Radio Transmitter-Receiver (RF reader) that sends the radio signals to these

Tags and interprets its response. Each tag in the IFMS is attached to an authentic HEMM and the details of that authentic HEMM along with the tag ID is securely saved in a software which is programmed to integrate the working of IFMS and its various features. This software is stored in a server located in a close proximity control room at the Project.

Fuel Decantation Procedure at Fuel Depot:

When a fuel delivery tanker reaches the diesel dispensing depot to decant the fuel, a master RF tag or proximity tag is used to unlock the fuel inlet of the underground fuel tank. This master tag is brought in to close proximity of the control unit installed near the fuel dispenser unit. This control unit has an RF reader that enables it to read it and interpret it. This data as received from the RF tag is sent to the control room server and if the details of the data received from the RF reader match with the data stored in the server, the fuel inlet gets unlocked.

The fuel inlet pipe of the underground tank is coupled with a Flowmeter which records the quantity of fuel decanted into the underground fuel tank of the diesel dispensing unit. After the transaction is complete, this Flowmeter sends the data to the control unit from where the data is sent wirelessly to the server at control room.

Fuel Dispensing From the Fuel Depot:

When any RF Tag enabled HEMM reaches the fuel depot for fuel refilling, the fuel dispensing nozzle is carried near the fuel tank inlet of the HEMM. This fuel tank inlet of every HEMM is

equipped with a RF tag and the fuel dispensing nozzle has a RF reader installed inside it. This RF reader reads the RF tag and sends the same data to the central server. The central server compares this data with its database and if the data is matched, the dispensing is authorised. In case of any mismatch, the dispensing nozzle will remain locked and will not dispense any fuel. This process enables the dispensing of fuel to only the authentic HEMMs and other machines.

Important features of IFMS:

- (i) **Decantation Management System:** A calibrated fuel flowmeter is attached at the inlet of each underground fuel tank for recording the fuel received at the underground tank and data transmission.
- (ii) **Automatic Tank Gauge System:** A tank Gauge is installed in each underground fuel tank located at the depot. This device gives the information regarding tank capacity, tank temperature, available capacity, water content and tank leakage.
- (iii) **RFID based vehicle recognition and fuel dispensing:**

Each authorised vehicle is fitted with RFID tag at the fuel inlet and an RFID reader is fitted in the dispensing nozzle. This module enables the system to identify and dispense fuel to the authorised vehicles only.
- (iv) **Inventory Management System:**

This module allows recording of all the incoming and outgoing fuel transactions from the underground fuel tank as well as from the mobile bowser. This data is sent through GPRS/ wireless network to the server where it is recorded into the inventory management portal. All these transactions are recorded in the system on real time basis.
- (v) **Mobile Bowser refueling system:**

A mobile bowser is used to carry the fuel to refuel the HEMMs at field. This mobile

bowser is equipped with a stand alone fuel management system which records the quantity of fuel dispensed from the bowser and transmits the data to the server through GPRS.

- (vi) **Anti-theft Management system:**

This device is installed in the Fuel tank of all the authorised HEMMs. It records the pattern of fuel consumption by these HEMMs. In case of abrupt change in the quantity of fuel in fuel tank of the HEMMs, the device detects the same and initiates a system based SMS to the authorised persons intimating about the theft of fuel.

- (vii) **GPS based surveillance and monitoring:**

The path traversed by the diesel bowser is tracked on real time basis and recorded in the server through GPRS.

- (viii) **CCTV surveillance of the Fuel Depot:**

A CCTV surveillance system is installed all along the periphery of the fuel depot.

Advantages of IFMS:

- (i) Dispensing fuel to only authorised HEMMs and Vehicles thereby preventing pilferage of fuel.
- (ii) Elimination of manual data entry in inventory management; hence no human error.
- (iii) Monitoring of fuelling data from any remote location, preventing fuel theft in field.
- (iv) Automatic accounting of equipment wise fuel dispensed and used.
- (v) Effective monitoring of fuel efficiency of HEMMs and vehicles.
- (vi) Live tracking of mobile bowser.
- (vii) 100% transparency in fuelling process.



Addressing Supply Side of Corruption - Global Perspective



Dr. Ved Prakash
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Pallav
SM (F)-Vig. NHPC, Ltd.

The end of license raj and ushering in of liberalisation aimed to bring about greater transparency and ease of doing business. However, a monstrous practice of Corporate Corruption having humongous proportions and ever new tentacles emerged as an unwanted by product of liberalisation. The last twenty five years have seen a plethora of cases involving misappropriation of public funds and absolute misuse of sovereign authority and powers with scant regard to the established principles of probity in official working by government officials and functionaries.

Historical incidents of corrupt practices and modern theories of regulation of economic behaviour might evoke a sense of fascination. However, there can be no doubt that in modern business and commerce, corruption has a devastating and crippling effect. In the last decade the country has witnessed some of the worst ever scandals relating to public procurement resulting in unprecedented judicial orders including cancellation of procurement contracts and closure of shell companies among others.

In the wake of numerous scams being unearthed in the country, the enforcement agencies have become increasingly proactive in terms of monitoring compliance under relevant anti-corruption and bribery laws and taking action against violations thereof. However the laws which govern the actions to be taken against corruption are the Indian Penal Code, 1860 (IPC) and The Prevention of Corruption Act, 1988 (PC Act). The Central Vigilance Commission (CVC) is the nodal statutory body that supervises investigation of corruption in central government departments, government

companies and among public servants. It is the Central Bureau of Investigation (CBI) that investigates the corruption cases under the PC Act. The CVC can refer cases to the Chief Vigilance Officer of the relevant government department for investigation. A Special Fraud Investigation Office has also been set up under the Ministry of Corporate Affairs. Significantly, if a matter is handled by the SFIO, no other agency is entitled to proceed with a parallel investigation.

Internationally also, many countries have promulgated laws for prevention of corruption. The Organisation for Economic Co-operation and Development (OECD) has an OECD Anti-Bribery Convention, officially called Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. This is a Convention aimed at reducing corruption in developing countries by encouraging sanctions against bribery in International business transactions carried out by companies based in the Convention member countries. India is one of the many non-member economies who have a working relationship with OECD. The OECD has been co-operating with India since 1995. However, India is not a signatory to OECD Anti-Bribery Convention. India has a commitment under the United Nations Convention Against Corruption (UNCAC).

The United States of America has a Foreign Corrupt Practices Act of 1977, a law known primarily for two of its main provisions, one that addresses accounting transparency requirements under Securities Exchange Act and another concerning bribery of foreign officials. This Act seeks to make it illegal for

companies and supervisors to influence foreign officials with any personal payments or rewards. Similarly the United Kingdom (UK) has The Bribery Act 2010. This Act deals only with bribery, not other forms of white collar crimes like fraud, theft, books and record offences or competition law.

In the Indian context, the laws that deal with white collar offences other than corruption, besides IPC and PC Act are The Whistle Blower's Protection Act 2011, The Lokpal and Lokayuktas Act 2013, The Foreign Contribution (Regulations) Act 2010, The Prevention of Money Laundering Act 2010 and The Companies Act 2013 (in so far as fraud is concerned). However there is no specific law which deals with bribe giving.

The Prevention of Corruption Act (PC Act) 1988 was enacted to consolidate all laws relating to offences by public servants, though PC Act prosecuted and criminalised only bribe-taking and not bribe-giving. In fact Section 24 – Statement by bribe giver not to subject him to prosecution – of PC Act provides immunity to the bribe-giver. The clause 24 reads as *“Notwithstanding anything contained in any law for the time being in force, a statement made by a person in any proceeding against a public servant for an offence under sections 7 to 11 or under section 13 or section 15, that he offered or agreed to offer any gratification (other than legal remuneration) or any valuable thing to the public servant, shall not subject such person to a prosecution under section 12.”*

Interestingly PC Act does not define the expressions 'bribe', 'corruption' or 'corrupt practices', though section 8 uses the word 'corrupt'. The phrase used in PC Act is illegal gratification (ref. section 7 to 11). Instances of prosecuting bribe givers under PC Act are very limited and unless a bribe giver can be shown as a co-conspirator, giving bribe in itself, has not been subjected to prosecution.

The FCPA of the US has three principles. As per the Nationality Principle, the Act applies to any person who has a certain degree of connection

to the United States and engages in foreign corrupt practices. It also applies to any act by US businesses, foreign corporations trading securities in the US, American nationals, citizens and residents acting in furtherance of a foreign corrupt practice whether or not they are physically present in the US. As per the Protective Principle, the Act covers the deeds of foreign, natural and legal persons if they are in the US at the time of the corrupt conduct. Stretching the scope further, the Territorial Principle empowers the Act to govern not only payments to foreign officials, candidates and parties, but any other recipient if part of the bribe is ultimately attributable to a foreign official, candidate, or party. These payments are not restricted to monetary forms and may include anything of value. The anti-bribery provisions of the FCPA make it unlawful for a US person and certain foreign issuers of securities, to make a payment to a foreign official for the purpose of obtaining or retaining business for or with, or directing business to, any person.

The Anti-bribery policy of UK provides that it is illegal to offer, promise, give, request, agree, receive or accept bribes. It is quite clear then that internationally the issue of bribe giving or bribe-taking is being dealt with head-on rather than camouflaging it. In the Indian context the laws are in place to check the same rot which is not being accepted or defined in the very same laws in such clear terms.

Another interesting feature about corporate corruption is facilitation payments, also referred to as grease payments. The primary distinction between bribery and facilitation payment being that the latter are made to an official to expedite his performance of the routine duties he is already bound to perform. Such payments to foreign official may be legal under FCPA if the payments are permitted under the written laws of the host country. Pertinently, this exception focuses on the purpose of payment rather than on its value.

The Bribery Act 2010 of UK, however, does not make any such exception. It considers that

facilitation payments are payments to induce officials to perform routine functions they are otherwise obligated to perform. Hence such payments are considered to be bribes. The PC Act (Section 8 and 9) also does not allow such payments, though the same are not specifically defined in the Act.

As mentioned earlier, PC Act focuses on bribe-taking and not bribe-giving, that too by a public servant. The Act defines public servant in a wide and expansive manner. The Public duty is defined as *“a duty in the discharge of which the State, the public or the community at large has an interest.”* The significance of this definition is that persons who are remunerated by Government for public duties or otherwise perform public duties may also be public servants for PC Act. However, Section 7 to 11 and Section 13 (1) (d) are subject matter of considerable litigation. So much so that it has been argued and agreed that mere possession and recovery of currency notes from a person under investigation without proof of demand would not establish an offence under section 7 and 13 (1) (d) of PCA. The Supreme Court has held that in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a public servant to obtain any valuable thing or pecuniary advantage cannot be held to have been proved.

As mentioned earlier, Section 24 of PC Act provides immunity to the bribe giver and provides that the statement given by the bribe giver shall not subject him to any prosecution. The immunity provided to bribe givers has been considered a major flaw in PC Act and also considered to be inconsistent with international standards in particular UNCAC to which India is a signatory.

If compared to the related laws prevalent in the US or UK or even member countries following OECD Anti-Bribe Convention, the Prevention of Corruption Act does not compare favourably in respect of standards of prosecution, guidelines or completeness. An Amendment Bill to PC

Act which provides for supply side prosecution has been introduced in the Upper House of Parliament in 2013 after India ratified the UNCAC. The Amendment Bill has sought to adapt certain provisions of UK Bribery Act 2010 and has also incorporated provisions to criminalise bribe-giving and prosecution of companies for offences under PC Act. The significant amendments being proposed include prosecuting private persons as well for offences, providing time limit for completing trials, attachment of tainted property and prosecuting the act of offering a bribe. The bill is presently under legislation.

The fact that prosecuting private persons as well for offences and prosecuting the act of offering a bribe are two of the key provisions of Prevention of Corruption (Amendment) Bill, reinforces the belief of a section of society that demand for bribes may drastically come down if there wasn't any supply from private parties. Arguably, once legislated, it would bring about unprecedented transparency in corporate dealings and greater respect for law, provided harsher punishments are introduced and meted out for such offences.



“Whatever you do will be insignificant, but it is very important that you do it.”

– Mahatma Gandhi

“Corruption-Free India”: My Vision



Ch. Srinivasa Rao
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Corruption is said to be as old as civilization itself. It is an outcome of individual and familial greed for being ahead of others in acquiring materialistic pleasures beyond one's own means. Corruption has both 'passive' as well as 'active' facets – passive corruption denotes expecting and accepting gratification in cash or kind without demand; and the active corruption is quoting a rate for discharging an official function. Corruption can be contained only through spreading awareness among public about their rights and responsibilities through departmental domains, making its activities transparent, publishing its manuals, brochures, codification of procedures, processes for settlement of claims, grievance mechanism, Right to Information, etc. and finally, activating law-enforcing Govt. agencies.

Prevention of Corruption Act, 1988 describes 'corruption' basically in terms of "taking gratification other than legal remuneration in respect of an Official act". Corruption can also be defined as nepotism, patronage and a variety of acts of omission/commission which may or may not involve direct or immediate financial considerations.

The Act also discusses other offences like related misconduct such as taking gratification in order to influence a public servant in the exercise of his/her official duties, acceptance of gifts by public servants and possession of wealth disproportionate to one's known sources of income.

The word 'gratification' need not be restricted to pecuniary terms or to anything that can be estimated in terms of money. The offence consists of accepting or obtaining or attempting to obtain any such gratification "as a motive

or reward for doing or forbearing to do any Official act, in the exercise of one's Official functions, or favour or disfavour or service or disservice to any person".

'Chaanakya' postulated in his treatise "Arthashastra" way back in 1st millennium, the following situations which may lead to 'Corruption':

- Scarcity of goods and services
- Complicated rules and procedures
- Lack of transparency
- Legal cushions
- Tribalism
- Family ties

The term "Public Servant" is not amply defined. Yet, as per Prevention of Corruption Act, 1988, a Public servant is:

- Any person in service or pay of Govt. or remunerated by fees or commission for the performance of any public duty by the Govt.
- Any person in the service of pay of a Local Authority, a Corporation established by or under a Central, Provincial or State Act, or a Govt. Company as defined in Section 617 of the Company's Act, 1956.

Influencing Factors

The following social factors are responsible for making the Govt. servant greedy:

- i) Caste and nepotism become the basis for distribution of patronage.
- ii) The common national financial interest is another cementing factor. When the politics is based on caste and the voter

takes decisions at the emotional level, corruption is probably considered more tolerable.

- iii) One of the social roots of corruption in India can be traced to our Indian culture of 'tolerance'.
- iv) Extreme attachment of people to their families. A person in office feels that he should earn enough not only for himself in his lifetime but also for his children, and even grand children.
- v) Power is never demonstrated in a society unless it is misused. A vicious cycle of corruption is launched where a society tolerates amassing of wealth.
- vi) Consumerism and desire for an ostentatious life style tempts many to make money by hook or by crook.
- vii) Even social practices promote corruption. Dowry system is definitely one of the social roots of corruption in our country.
- viii) Corruption is not only taken for granted but the capacity for making as much money as possible from one's position is welcomed. Small measures like social boycott or ostracism of corrupt person, if inculcated can also go a long way in creating an appropriate psychological atmosphere for promoting a culture of integrity.

Types of vigilance

In order to contain corruption, every sizeable organization should have an appropriate level of vigilance set up. The Vigilance activity is broadly categorized into the following five types:

Predictive vigilance

Foreseeing an activity prejudicial to the interest of the organisation, suggesting in advance, corrective measures to be taken by the management against acts of misconduct, corruption, lapses which may occur in the wake of modification of rules, regulations, technology, circumstances, etc.

Detective vigilance

Detective vigilance encompasses: Effective use of complaints, various reports such as audit reports, press reports and reports from Govt. agencies, detection of corrupt practices, better surveillance of public contact points and close watch on officers of doubtful integrity etc.

Corrective vigilance

Corrective vigilance requires adopting an effective vigilance network consisting of analysis of results of detective vigilance, finding solutions to stop recurrence and activate alarm signals, transparency in procedures and decision-making, "Whistle-blowing" arrangements, prepare case study and educate employees etc.

Punitive Vigilance

Punitive vigilance demands stern measures such as investigation and collection of evidence and speedy departmental inquiry, swift and deterrent action against the real culprits, wide publicity of punishment meted out to the corrupt officials that will make others think twice before indulging in such activity etc.

Preventive vigilance

The philosophy of prevention portrays deterrence by punitive action. Swift detection of aberrations, speedy investigation into the role of employees responsible and imposition of appropriate penalty is quite necessary. The activities like identifying complexities in the procedures, sensitive areas and corrupt officials/practices, reducing/eliminating multiplicity of decision-making levels, analysis of rules and regulations of the organisation, review of annual property returns, ensuring rotation of officials in sensitive positions and regular/surprise checks and inspections etc. will promote preventive vigilance.

Other preventive measures

- A clear distinction should be made between "secret" and freely available information to the public,
- Bona fide complainants should be protected from harassment or victimization,

- Investigation can be initiated on receipt of complaint from an authentic source or a reference from a superior office or a Govt. department,
- Only those whose integrity is above board should be appointed to high administrative posts.

Citizen-centric movement

Through Citizen Charter and other means in public domain, the common man should be enlightened about his rights and also the responsibilities. They should be encouraged to refuse to pay bribes and expose those who demand bribes because turning a blind eye to corruption is worse than corruption itself. If their work is not done in the normal course then one should complain to the appropriate authority. Media being the most powerful weapon in exposing corruption, common man may approach the media whenever he does not get reaction from top officials. If an official is found guilty, the legal expenses incurred to prove him guilty should be deducted from him besides imposing an appropriate penalty. If you are part of the system ensure transparency by giving wide publicity to the Citizens' Charter of your Department which should include the Complaint Mechanism and also initiate action for speedy disposal of cases etc.

Spreading Awareness

Changing mind-set

Changing the mind-set of public servants in general and corrupt officials in particular is very necessary to fight corruption. Ethics should form part of the education system and children in schools should be mobilized to create a social climate for making corruption unacceptable and casting a social stigma on those who are corrupt.

Sensitizing public

One method by which one can tackle the problem of corruption is by sensitizing the people at large about the evil effects of corruption and how corruption comes in the way of fulfilling the genuine demands of the public like drinking water, better roads, better

power-supply, etc. One method by which sensitivity to corruption could be spread is to undertake specific studies linking people's problems and how corruption comes in the way of the problems being resolved.

Simplification of rules

Availing the services of Investigating Agencies by using CVC, CBI and other Anti-Corruption Agencies is also another very effective way to curb corruption. The local addresses, the Websites, etc. are easily available to the general public also. Public should be aware of the activities of such anti-corruption agencies. Citizen can also take part for forming Vigilance Councils, Citizen's Charter, Intellectual Forums, etc.

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7. "Public Participation in Promoting Integrity and Eradicating Corruption", *"HARMONY"*, Dec. 2016, Vol. XXIII (261), Ch. Srinivasa Rao, Founder-Editor, *"HARMONY"*, Formerly COA (Dy. Secretary), CSIR-NGRI, Hyderabad
8. "Vigilance Book", brought by the Central Bureau of Investigation, New Delhi



The Shadow over the one time Settlements of Bad Loans in Banks



Devendra Sharma
CVO, Bank of India

The menace of the NPA which had been lurking for the past decade and a half, has been aggravated for many reasons namely

- lack of sincerity amongst borrowers to repay, who gets loan after the loan waivers;
- a surge in infrastructure financing during the Indian growth era of new millennium;
- the economic down turn (post Lehman crisis);
- earlier derivative bubble burst;
- period of rampant ever greening of large loans via corporate loans and
- related camouflaging in the era post September 2008 for keeping up the bright picture of comfort in Indian banking system.

In the aftermath of aforesaid events, finally, all hell broke loose when during 2014 the Regulator passed strictures for cleansing of the balance sheets and AQR (Asset Quality Review) made it mandatory for all PSBs to declare the true and fair picture of the delinquencies in the stressed assets. This entailed huge additional provisions as many cases of hidden NPA surfaced. The profitability of banks took a nose dive, bourses and investors were abuzz with the topics surrounding NPA. Banks were under tremendous pressure which forced them to react and employ many ways for NPA resolution. One of the ways amongst many that were resorted to, was to reach **One Time Settlement** with the defaulting borrowers i.e. enter into a negotiated compromise settlement.

Arriving at an ideal compromise settlement in money matters is like a tight rope walking exercise and always remains open to scrutiny. On top of it , there are no clear cut guidelines from the Regulator for arriving at an OTS so it rests with the respective Bank's wisdom. The last indicative guidelines from Reserve Bank of India were for loans in SME sector for loans up to Rs.10 Crore issued in 2005. So the Bank's resorted to devising their own policies in this regard both for retail loans as well as loans to corporate sector, it is evident that there is no uniformity across the board in all banks. Thus, this situation makes the decisions questionable, leaving a lot of scope for scrutiny of the process undertaken and genuineness of the deals done.

It is understandable that a successful negotiation requires compromise from both sides. Both parties must gain something, and both parties must lose something. You must be prepared to give something up to which you believe you are entitled. You cannot expect to defeat your opponent or "win" a negotiation by either the power of your negotiating skills or the compelling force of your logic. This is not to say that good negotiating ability is irrelevant. In most cases, a range of possible outcomes exist. A skilled negotiator often can achieve a settlement near the top of the range. However, akin to street level negotiations, in most of the cases both sides after completing the deal always feel that it could have been better.

In cases of compromises done in courts of law, a judge is permitted to participate in negotiation as long as he or she acts as a catalyst, encouraging settlement but not taking sides. If the judge becomes too actively involved, he or

she may become biased against a party who is reluctant to settle, disqualifying the judge from presiding further. Maybe, this is the reason that Regulator has shied away in finalising or participating in such compromise procedure.

The major considerations in a compromise settlement are the levels of vulnerability on either side. Particularly in case of Banks the matters considered during arriving at the decision of settlement are:

- The available legal means
- Quality and quantity of available enforceable securities
- The period elapsed since the default
- Reasons of default (in case of malafide, fraud, diversion with siphoning of money, wilful default, etc. the compromise settlements are not usually done)
- Genuine earning capability, business failure due various reasons
- Opportunity Cost

On part of the borrowers as well as guarantors, a compromise settlement is mostly to get out of the loan contract and avoid legal hassles either to make a fresh start or just to clean up the record. However, in many cases it is found that they want to take advantage of the vulnerability in the legal systems or enforcement of securities and in turn make profit out of the deal by paying much less than what is due to be paid by them. As the negotiated settlement is a contract, controlled by the law of contracts, it obliterates the earlier obligation bound through earlier contract. However, cannons of law provide that if the agreement was procured through fraud or duress, is based on a mutual mistake, or lacks consideration, it may be void. Therefore, if either party lies about the facts, misrepresents the law, or otherwise deliberately deceives the counter party in order to gain a bargaining advantage, the agreement reached is voidable.

Ethical Considerations

Several ethical questions arise constantly in negotiated settlements:

- Must negotiations be conducted in good faith, without deception or trickery?
- May the parties resort to cleverness and benign deception in order to reach a fair and just result?
- May the parties take advantage of weaknesses and mistakes by his or her opponent and accept an unjust settlement?
- May a party "bluff" during the negotiation game?

The answers to these basic ethical questions are far from clear.

Some people argue that negotiations must be conducted with truthfulness and candour, and that a banker ethically must seek only just resolutions.

As a thumb rule, "A banker while indulging in a negotiated compromise settlement should determine his conduct by acting in a manner that promotes public confidence in the integrity of the banking system and the banking profession."

The ethical prohibitions against making deliberate misrepresentations during negotiation are clear. Professional Conduct prohibits either of the counter parties (banker or borrower) from knowingly making a false statement of law or fact at any time. The rule provides no exception permitting false statements during negotiation. It covers not only false statements about the facts of the case but also false and misleading statements made to facilitate reaching a favourable agreement. Nevertheless, this is probably the most frequently violated ethical rule. In extreme cases even passive deception may be unethical. If you conceal facts that you know would cause your opponent to break off negotiations completely, and permit a settlement to be

based on material false assumptions, you may have acted unethically.

A bank cannot negotiate a compromise successfully unless it understands it. Bank must be fully familiar with the facts, the controlling law, and the persons who are involved in it. Bank should have completed their interviews, discovery, and research into the applicable substantive, procedural, and evidentiary facts, so that it can analyze the strengths and weaknesses of its own case and its opponent's. Bank must know the arguments that it would make about why bank is entitled to a verdict and exactly what damages are reasonably recoverable. In other words, bank must be ready for fair scrutiny.

Analyzing and understanding the case involves something other than creating arguments that might be possible if one can stretch the law or the facts. It cannot be done from an emotional perspective from which one attempts only to create plausible arguments favouring himself. One must first analyze the whole case objectively, as any regulator or overseeing agency/authority would see it later. Bank must be able to recognize where their case is strong, where it is weak, and what kind of a ruling it is likely to get from a questioning authority later.

The first step in negotiation planning is to set your bargaining range. The bank first needs to estimate the range of likely results if the case went for a later scrutiny. What is the best realistically probable outcome and what is the worst likely result? At this stage, it can safely ignore the remote possibility that an irrational overseeing authority would question something improbable. To set bargaining range, you need to establish the upper and lower limits. The upper limit obviously is your best case scenario. Setting the lower limit is a more difficult process. In consultation within organisation departmentally or by any internal empowered screening committee so authorised to deliberate, a bank must set a point at which it would rather take chances

during negotiation than accept a settlement offer. To establish a realistic bargaining limit, bank must predict the likelihood of receiving a favourable amount and the probable amount of such a compromise, and the extra cost in keeping the issue pending. Here it is important to do a detailed cost benefit analysis of the offered amount, the factors of consideration mainly are the time factor through alternate means and probability of the success of the alternate route. For the banks it is important to rationally evaluate the valuations of the security and also the enforcement of these securities.

Bargaining is not finished after the exchange of first offers; it has only begun. The negotiation will consist of a series of offers and counteroffers, arguments and posturing, as both parties cautiously make concessions that correspond to their uncertainties about potential weaknesses in their cases. Each uncertainty or weakness in a case presents an apparent risk; the amount of the concession depends upon the size of the apparent risk. Bank must rationally analyse and should determine in advance how much it will concede on each issue and how much compensation it will demand. It also has to be borne in mind that prearranged concession plan cannot be inflexible. As both parties may learn new information during the negotiation. If it becomes apparent that borrower has identified a weakness that bank had not considered, it may have to concede more than it had planned.

Formulating a concession pattern requires that bank make decisions about the size of the concessions it will make and the reasons for which it will compromise. Regulators stress the importance of advance planning about the precise concession points a bank will use. Remember that bank's agenda represents negotiations within negotiations. If bank is relenting and making concessions while borrower is stubborn or adamant, then bank can be seen as engaging in appeasement, not cooperative negotiation.

Other questionable aspects of negotiated compromise settlements are that when several banks are involved and as a mode of resolution only one or a few banks resort to this style of resolution. The time taken at arriving at a compromise will also be an essential factor to see if any favour or favouritism has been accorded. It will also be seen that compromise may have been done to get the exposure out of the books thus out of sight to cover the tracks of any wrong doing in the sanction and disbursal of the loan.

It can be seen from above discussion that the

aspect of OTS in banks, particularly in large value loan defaulters, is a tedious job and certainly will be under a lot of questioning at various times in current times and also later in retrospect. Hence, every decision is to be backed by verifiable facts and all the analysis done to arrive at the decision should be recorded and archived to withstand the test of the scrutiny at a later date. All decisions must be backed by proper screening process and the workflow of events must be well defined and strictly as per the laid down policy duly approved by the board.



Source: cartoonstock.com

Knowledge – An Antidote for Fear of Accountability



Sri Arun Kumar Verma
CVO, United Bank of India

(For a banker Lending is karma. Lending without sincerity and knowledge is suicidal in simpler terms)

Banking industry in India has evolved enormously over a period of time and so has multiplied challenges confronted by banks. New generation private sector banks have started operations on a strong technology platform and have built strong teams of skilled manpower not only to face challenges but also to pre-empt and fore-see threats and successfully converts them into opportunities. The public sector banks on the other hand which are the largest stake holders in the industry despite making spectacular achievements on the technology front as well as tremendous growth in volumes & varieties of business have not been able to project effectively on manpower front. The Industry's failure to enrich and update its workforce through proper training & education has remained the prime roadblock leading to multifarious problems for the public sector banks.

The present day challenges faced by banks like deteriorating asset quality, mounting NPAs, shrinking top lines and dwindling bottom lines have almost paused lending by the banks. With over 35% of employees with less than 3 years of banking experience, the challenges have become fiercer in nationalised banks. Bankers have to realise that lending is their karma. Having chosen banking as career, the bank officers cannot escape from taking timely decisions on lending and related aspects. Efficient dispensation, monitoring & management of the loans and advances portfolio need very large contingent of experienced, skilled, trained and dedicated workforce supported and equipped with well defined policies, systems, procedures and clearly defined roles and responsibilities. Above all, confidence of the work force and

guidance by management with clear vision and fore-sight play very vital roles in the success of a bank. Confidence comes primarily from training, knowledge, experience and is supplemented with piety of mind.

Gaining knowledge by experience alone that has all along been hallmark of public sector banks must be supplemented by the determined efforts by the bank to empower the work force through extensive trainings and timely exposure to various facades of banking activities. This shall also help remove the fear psychosis of accountability that is haunting bankers and need immediate redressal by all the stake holders.

To dribble through this difficult terrain a few handy tips and suggestions are listed below which can help bank officials in different capacities to discharge their respective duties with confidence, sincerity and without fear:

For Top Management:

A. ON HRD ISSUES:

1. Top managements must realise and ensure proper arrangements to train and equip their workforces adequately. Talent pools should be developed and put in place in the fields wherever expertise is needed in the bank. Industry's best practices of HRD adopted by peers/competitors must be adopted. HR policy may be re drafted with clear vision on training and skill development with long term vision.
2. Annual performance reports should be subjected to serious exercise and not made a mere annual formality.

3. Before posting an officer as In-charge of a branch, thorough examination of the individual's competence should be done. A minimum experience with an exposure to credit dispensation and monitoring coupled with little bit of leadership abilities must be ensured as pre-requisite.
4. A realistic connect of first level controlling offices with branches and branch functionaries must be developed through a well drafted system and policy, wherein every branch has an overseeing executive in the Controlling Office. This executive should be responsible for hand holding & overall development of the branches allotted. The executives' performance can be judged on the basis of performance of the cluster he/she oversees. This will not only train the leaders in the making but will simultaneously develop field functionaries at the initial stages.
5. Similarly every regional office has to be owned by a General Manager in Head Office on the above lines.

B. On Operational Matters:

1. An effective, strong and efficient Inspection and audit department with adequate manpower must be put in place to help training field functionaries and also save the bank from financial leakages & losses.
2. Controlling offices should review all and sundry returns, statements and MIS of the branches/ offices under their control. There must be well drafted system for MIS review and monitoring. This mechanism will ensure better controls and result in business growth.
3. Compliance should be corporate culture in the banks and this concept must be a way of day to day working at all levels of functioning.
4. As a matter of principle, the management should practice concept of 'No oral or telephonic orders' and field functionaries must be assured that no oral or telephonic instructions will flow from seniors. In case some urgent instructions have to be given telephonically, the same must be confirmed in writing immediately. In the present era of

technology while every individual is having high-end mobile phone, any instruction/ order can be confirmed by email instantly.

C. On Credit Matters:

1. Borrower selection, Credit appraisal, Disbursement & Post disbursement follow-up are the most important functions of a bank. Hence due sensitisation has to be created among all ranks of officers through various training programmes and repeated educative circulars/memos.
2. Sanction terms must be clearly spelt out and transparently conveyed. Sanctioning authorities must ensure that terms and conditions are stipulated with due application of mind to obviate chances of permitting deviations later on. Needless to state that such deviations are prone to attract vigilance angle if not clearly justified & spelt out.
3. Sanctioning authority/ies must insist on valuation and legal scrutiny of prime and collateral securities stipulated and also ensure availability of important documents before according sanction. Issue of conditional, vague and ambiguous sanctions must be avoided so that the junior officers in branches are not pressurised or tempted to overlook the condition(s) and commit serious mistakes.
4. As far as possible sanctioning authority (HO representative in case of board level cases) should make it a point to make surprise visits to the units before and after permitting loan facility to reduce possibility of frauds.
5. It is imperative on part of management to evolve a mechanism through which process of empanelling, monitoring performance of external service providers such as valuers, advocates, chartered accountants and lender's engineers is reviewed periodically and strengthened on a continuous basis.
6. The reports of the external service providers may not be blindly accepted. Some system of validation and acceptance of such reports must be put in place.
7. Every officer has to clearly understand committee approach in delegation

of powers scheme. Every committee member must understand his/her role in the committee and sign in that capacity mentioning the role under their name and signatures after exercising due diligence on the related subject matter. In case of disagreement, dissent must be recorded / got recorded. Minimum required quorum must always be ensured in committee decision. Chairman of committee must be made responsible for the overall decision and members are assisting him as subject matter experts. Deliberations of the committee meeting must be recorded in detail by the convenor and signed by all members. The dissenting note, even if in minority must be given due weightage and over-ruled with cogent reasons.

For Field Functionaries:

All employees at all levels of hierarchy must follow the below-noted Do's and Don'ts carefully:

1. To read bank and RBI circulars and keep themselves updated and abreast on latest developments in the bank per-se and industry in general.
2. Not to do any transaction unless convinced of logics. May it be posting a ledger entry, passing or approving the entry, posting or passing a cheque, signing a document as applicant or witness or as recommending or permitting authority etc. Try to understand the logic and get convinced before you act. Because most of the actions and transactions are irreversible. This is truer in the banking parlance.
3. To know and understand Delegation of Powers scheme of respective bank/ organisation completely. In banks this is very complex subject. Sanctioning authority/ies has/have to know their powers. Mere recommendation of the lower officer cannot form a valid ground for sanction.
4. To insist for written instructions from the competent authority in case of credit related and financial decisions. As far as possible neither give oral instructions nor implement oral instructions in haste. If inevitable, to send written note/ information advice detailing full facts and seeking confirmation from permitting authority for having permitted telephonically without any loss of time.
5. Disbursing branch/ officer to ensure compliance of all terms and conditions stipulated by sanctioning authority in verbatim. Any deviation must be supported by prior written consent of the sanctioning authority.
6. Not to accept blindly and follow the reports of service providers / third party entities. Such reports must be carefully gone through and understood before accepting.
7. To be transparent. Circumstances and factors weighed & considered while taking decisions on a particular moment to be recorded in black and white as far as possible.
8. To make compliance a habit while discharging duties. Compliances may not generally block the growth prospects.
9. To always bear in mind that each word of recommendation made and sanction accorded speaks very clearly of the intentions behind it. So to ensure that decisions are purely on merits, in good faith and never under pressure guided by self interest or with ulterior motive.
10. Last but not the least, to exercise extra care and caution while taking over accounts from other banks/ financial institutions.

Finally it will not be out of subject to mention here that every decision taken with due diligence, in right earnest, in larger interest of the organisation, its business growth, with no ill or ulterior motive, within the policy guidelines is always a right decision. Confidence to stamp a matter as 'just and right' comes from the pious inner voice coupled with knowledge. A decision taken with such clarity & understanding will always stand test of time and no authority should ever fear taking such well intentioned decisions.



Doctrine Of Promissory Estoppel



Mukesh Saxena
Technical Examiner, CVC

Contracts are made to ensure reliability and effectiveness between the parties doing business. A contract is an agreement giving rise to obligations which are enforced or recognized by law. The obligation and rights of the parties, entered into an agreement, are laid down explicitly in a contract. This is to ensure that the parties are aware of their duties and responsibilities in an agreement. There are three essential pre-requisites for a contract to be valid, these are – offer, acceptance and consideration.

As per Indian Contract Act, consideration is a price to be paid for fulfillment of a promise. An agreement without any consideration is not binding and could be revoked any time. The law also does not consider favorably an exchange of promise without any return to another.

On the contrary, 'Doctrine of Promissory Estoppel' considers a promise to be enforceable by law, even if it is made without a formal consideration. According to the doctrine an injured party can recover damages if those damages were the result of a promise made by the promisor and the promise was significant enough to move the promisee to act on it. As such, doctrine of Promissory Estoppel is applicable even if there is no consideration / contract involved between the parties subject to the presence of following elements –

- i) Promisor made a promise significant enough to cause the promisee to act on it;
- ii) Promisee relied upon the promise;
- iii) Promisee suffered a significant detriment; and

- iv) Relief can come in the form of promisor fulfilling the promise.

Nevertheless, Promissory Estoppel is only a defense which can be used to defend claims. It cannot be used to create claims. The doctrine helps in making a promise binding even without consideration and provides valuable shield against undue retrospective claims.

Case Study:

In a case of construction of a highway project, the work got delayed due to default on the part of both the parties of the contract. One party kept increasing / modifying scope of work under the project while the other failed to achieve the desired progress. As a result, it was mutually decided to extend the contract period with the written agreed terms that neither of them shall raise any dispute (by way of levying penalty/ raising claims) subsequently on account of such extension. However, after the work was completed in extended period, one of the party (contractor) raised dispute and invoked arbitration claiming compensation which was ruled as a Promissory Estoppel case.

Consideration is an established legal contractual concept while Promissory Estoppel is an evolving concept. Nonetheless Promissory Estoppel serves as a shield against injustice; Consideration remains a cardinal necessity of the formation of a contract.



Change of Partner Firm in JV: Post Tender -Award



SP Gautam
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Introduction:

Earlier many PSUs were awarding their work to another PSU on nomination basis and then that PSU was sub-contracting this work to another private contractor on nomination basis. This is called Back-to-Back award on nomination basis. Such Back-to-back awards were banned as per Commission's circular 06-03-02-CTE-34 dated 20.10.2003. This was to avoid a situation where a contract is awarded to a PSU on nomination basis and that is passed on to a private contractor, back-to-back, thus sacrificing the transparency in the process. However during one recent intensive examination, conducted by CTEO, Back-to-Back award has been observed but with different modus-operandi. Same has been discussed in this case study:

- a) A processing plant is to be set up, by a PSU say M/s MN, near Chennai.
- b) Estimate is prepared on the basis of quotations received from two firms, say, X & Y.
- c) A DSITC (Design, Supply, Installation, Testing and Commissioning) tender is floated on the basis of estimate prepared.
- d) Three bids are received by the due date.
- e) One firm i.e. Y doesn't quote in the actual tender floated.
- f) A subsidiary of M/s MN, quotes in the tender, in JV with another firm-Z.
- g) The work is awarded to this JV of subsidiary and firm-Z, with subsidiary firm as leader of the JV.
- h) After issue of LOA, subsidiary firm informs to M/s MN that firm-Z is refusing to work with them because of certain reasons and so they want the change in partner firm. The firm now they want as their partner is firm-Y which had given the quotation only

for estimate purpose but didn't participate in actual tendering. The request goes to the M/s MN and they approve the change. The change order goes to Board only for noting purpose and not for approval.

- i) The work to the tune of about 70% of the total tender cost is done by firm-Y.

Conclusion:

- a) Firm has only provided quotation for estimate purpose and not participated in original tender. Even then they are given back door entry and they are allowed to work even when the original partner in JV has denied supporting for the work.
- b) Ideally, when the original firm had withdrawn from the partnership with subsidiary, then the award to this JV should have been discharged and in that case tender should have been re-invited. However this was not done and change in partnership firm was allowed.
- c) The point to be noted here is that the JV was awarded the project on the basis of credentials of both subsidiary firm and firm-Z. However later on, while allowing the change in partnership firm, this issue of credentials was not deliberated though firm-Y was also working in the same field.

Ideal course of action:

- a) Not allowing the change in partnership firm,
- b) Getting B.G. equally from both partner in JV and forfeiting the B.G. of withdrawing firm,
- c) Resorting to re-tendering once the firm-Z has withdrawn from the JV.



From the Coordination (Policy) Wing, CVC

Supreme Court ordered retendering of bulk supply of Polio Drugs due to violation of CVC guidelines regarding tenders

1. The Hon'ble Supreme Court of India had directed floating of fresh tender for supply of Drugs vide Judgment dated 27th July, 2017 in Civil Appeal No(s). 98366 of 2017 titled *M/s. Haffkine Bio-Pharmaceutical Corporation Ltd., Vs. M/s. Nirlac Chemicals & Ors.* clubbed with other Civil Appeals. Hon'ble Supreme Court while disposing of three Civil Appeals Nos. 9836 of 2017; 9839 of 2017; and 9875 of 2017 through a common judgment dated 27.07.2017, held that the entire tendering process for supply of drugs was vitiated due to violation of the CVC guidelines.
2. In the afore-mentioned judgment one of the issues raised was regarding irregularity in tendering process due to violation of the CVC guidelines. In short, the facts are that *M/s. Haffkine Bio-Pharmaceutical Corporation Ltd. (Government of Maharashtra Undertaking)* issued a tender notice on 20.01.2016, for supply of bulk drugs to manufacture polio vaccines. *M/s. Nirlac Chemicals* and *M/s. Bionet Asia Co. Ltd.* participated in the bid. According to *Nirlac*, the tender of *Bionet* was not opened in their presence. Thus the main ground raised was that CVC guidelines had been violated in as much as the tender of *Bionet* was not opened in the presence of the representatives of *Nirlac* who were present.
3. Hon'ble Apex Court had referred to the CVC guidelines and observed that the tender must be opened in the presence of the bidders or representatives of the bidders who are present at the time when the bid is opened. It was inter-alia held that "Even before us no record could be produced to show that the bid of *Bionet* was opened in the presence of the representative of *Nirlac*. In this view of the matter, we are clearly of the opinion that the entire tender opening process is vitiated since the CVC guidelines have not been followed... According to us, the violation of CVC guidelines is itself sufficient to vitiate the entire tender process."
4. In order to arrive at a conclusion that the entire tender opening process is vitiated, the Hon'ble Court has referred to the CVC guidelines and in specific the CTE(O)'s guidelines of 2002 titled as "Common irregularities/lapses observed in award and execution of electrical, mechanical and other allied contracts and guidelines for improvement thereof". The Court has quoted an extract i.e. 'Topic -12 – Opening of Tenders' from the above stated CTE(O)'s guidelines of 2002 to hold that the tender floated for supply of drugs is vitiated due to violation of the guidelines issued by the CVC. Accordingly, the Supreme Court had directed floating of fresh tender for supply of drugs for manufacture of polio vaccines.



Important Activities in the Commission

- ❖ Shri K.V. Chowdary, Central Vigilance Commissioner, Shri Rajiv, Vigilance Commissioner and Dr. T.M. Bhasin, Vigilance Commissioner participated in Sixth Anniversary celebration function organized by Vigilance Study Circle, Mumbai on 27th July, 2017.



- ❖ Shri K.V. Chowdary, Central Vigilance Commissioner as a Chief Guest, presided over an 'Inaugural Ethitalk' organized by State Bank of India at Mumbai on 28/07/2017.



- ❖ Shri K.V. Chowdary, Central Vigilance Commissioner inaugurated workshop for Regional Vigilance Officers, Inquiring Authorities & Presenting Officers organized by Indian Overseas Bank at Chennai on 28.08.2017. The objective of workshop was to upskill the concerned officers on Preventive Vigilance Tools and discuss on measures for effective Vigilance Administration.



- ❖ A delegation from Indonesia Corruption Eradication Commission (KPK) visited the Central Vigilance Commission on 14.09.2017. The main purpose of the visit was to discuss potential of cooperation between KPK and CVC, among others on exchange of information, investigation, capacity building and best practices.

Delegates from Indonesia in interaction with officers of the Commission



- ❖ The Commission convened Annual Zonal/Sectoral Review Meeting with the Chief Vigilance Officers of different sectors. During the meeting, Commission emphasized various aspects of vigilance administration, the need to bring greater transparency and accountability in the functioning and for undertaking systemic improvements, leveraging of technology through e-procurement etc. The Commission also underscored the need for updation of Manuals, sensitization of officials by conducting training programmes, effecting rotational transfer of officials, as well as expeditious finalization of departmental proceedings. Special emphasis was placed on SOPs for appointment of below board level employees in PSUs/PSBs and the analysis of audit reports by the CVOs. Further, matters pertaining to pendency of complaints/cases, delay in processing of vigilance cases and cases pertaining to sanction of prosecution were also reviewed by the Commission in the review meeting.
- ❖ The Commission convened Annual Sectoral Review Meetings as per details given below:

Sr. No.	Name of Sector	Venue	Date
1	Petroleum	Mumbai	27.07.2017
2	Banking (West)	Mumbai	28.07.2017
3	Power & Fertilizer	CVC, New Delhi	03.08.2017
4	Coal	CVC, New Delhi	04.08.2017
5	Railway	CVC, New Delhi	18.08.2017
6	Financial	CVC, New Delhi	07.09.2017
7	Banking (North & East) and Insurance	CVC, New Delhi	08.09.2017
8	Post, Aviation & Transport	CVC, New Delhi	14.09.2017
9	Other Ministries/Departments	CVC, New Delhi	15.09.2017

Review of Petroleum Sector on 27.07.2017



Review of Banking Sector (West) on 28.07.2017



Review of Power and Fertilizer Sector on 03.08.2017



Review of Coal Sector on 04.08.2017



Review of Railway Sector on 18.08.2017



Review of Financial Sector on 07.09.2017



Review of Banking and Insurance Sector on 08.09.2017



Review of Post, Aviation and Transport Sector on 14.09.2017



Review of other Ministries/Departments (MHA, DoPT, DAE, DOS, MoEF, DST, MEA, MNRE etc.) on 15.09.2017



❖ The training programmes organized by the Commission in this quarter are as under:

Sr. No.	Training Programme	Duration
1	Advanced Training in Vigilance Investigation at Sardar Vallabhbhai Patel National Police Academy at Hyderabad	21.08.2017 to 23.08.2017
2	Vigilance related training programme at GFSU, Gandhinagar, Gujarat	28.08.2017 to 01.09.2017
3	Induction Training Course for newly appointed CVOs at ISTM, Delhi	11.09.2017 to 22.09.2017



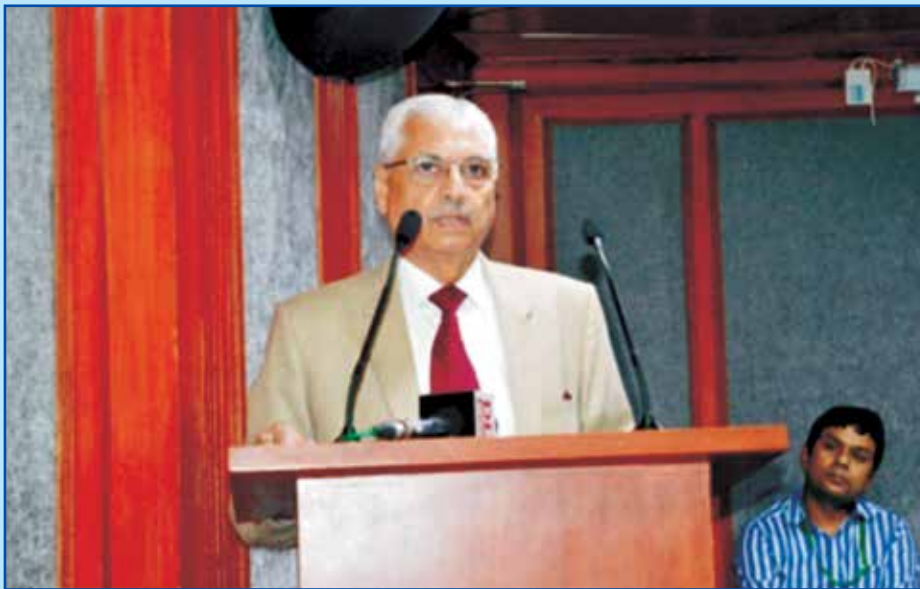


- ❖ In this quarter the Commission invited following eminent persons to deliver lectures and interact with audience under its Knowledge Management Programme. These were webcast live by NIC to a wider audience worldwide. These lectures can be accessed at the Commission's website www.cvc.gov.in

Eminent Speaker	Topic	Date
Sh. Shiv Khera	"Winners don't do different things, they do things differently".	31.07.2017
Justice Permod Kohli, Chairman, Central Administrative Tribunal	"Scope of Judicial Scrutiny in Departmental Proceedings and Principles of Natural Justice".	24.08.2017
Justice M. M. Kumar, President, NCLT	"Rule of Law: Achievements and Its Trivialization".	21.09.2017



Shri Shiv Khera delivering the lecture on 31.07.2017



Justice Permod Kohli addressing the gathering on 24.08.2017



Justice M. M. Kumar addressing the gathering on 21.09.2017

केन्द्रीय सतर्कता आयोग में हिंदी सप्ताह (१४ सितम्बर से २० सितम्बर, २०१७) मनाया गया। इस अवसर पर हिन्दी निबंध, वाद-विवाद एवं स्वरचित काव्य-पाठ प्रतियोगिताओं का आयोजन किया गया।



हिंदी सप्ताह समापन समारोह



प्रतियोगिता निर्णायक मंडल



प्रतिभागी गण



श्री अनिर्बन बिस्वास, प्रथम पुरस्कार, निबंध प्रतियोगिता (अन्य भाषा भाषी क्षेत्र)



श्रीमती नीतू अरोड़ा, प्रथम पुरस्कार, स्वरचित काव्य-पाठ प्रतियोगिता



श्री रोहित श्रीवास्तव, प्रथम पुरस्कार, निबंध प्रतियोगिता (हिन्दी भाषी क्षेत्र)



श्री मनीष राज, प्रथम पुरस्कार, वाद-विवाद प्रतियोगिता



श्री आशुतोष तिवारी, द्वितीय पुरस्कार, स्वरचित काव्य-पाठ प्रतियोगिता



श्री समीर, द्वितीय पुरस्कार, वाद-विवाद प्रतियोगिता



श्री मनीष राज, द्वितीय पुरस्कार, निबंध प्रतियोगिता

Farewell Corner



Shri Salim Haque, Additional Secretary, CVC was relieved from the Commission on 31.07.2017 after completion of tenure.



Shri Anand Kumar Singh, Director, CVC was relieved from the Commission on 18.07.2017 after completion of tenure.



Shri Sanjay Agarwal, Director, CVC was relieved from the Commission on 21.07.2017 after completion of tenure.



Shri L V R Prasad, Advisor (Banking), CVC was relieved from the Commission on 01.08.2017 after completion of tenure.



Shri Dal Chand, Officer on Special Duty, CVC superannuated from the Commission on 31.07.2017.

We wish them all the best

Welcome Corner



Smt. Archana Varma joined as Additional Secretary, Central Vigilance Commission on 01.09.2017.



Shri D P Naik, joined as Advisor (Banking), Central Vigilance Commission on 07.08.2017.

We wish them all the best

IMPORTANT CIRCULARS ISSUED BY COMMISSION

1. CIRCULAR No. 07/07/2017 dated 20th July 2017

Sub: Vigilance Awareness Week-Integrity Pledge-Regarding

Note: For details, please refer to the Commission's website www.cvc.gov.in

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Disclaimer: The views expressed in the articles etc. are those of the authors and do not necessarily reflect the policy or position of the Commission. In order to ensure brevity and readability, some articles may be abridged.



Release of VIGILANCE MANUAL-2017 by Dr. Jitendra Singh, Hon'ble MoS (PP) on 07.09.2017

Note- VIGILANCE MANUAL-2017 is available on the Commission's website www.cvc.nic.in.



Delegates from Indonesia visited the Commission on 14.09.2017

Have You Taken Integrity Pledge ? PARTICIPATE IN THE FIGHT AGAINST CORRUPTION



The banner features the CVC logo at the top center, flanked by the Government of India emblem on the left and the CVC logo on the right. Below the logo, the text reads: 'केन्द्रीय सतर्कता आयोग / CENTRAL VIGILANCE COMMISSION' and 'दृगानुभवादी को प्रोत्साहन देने तथा भ्रष्टाचार उन्मूलन में जन सहभागिता / PUBLIC PARTICIPATION IN PROMOTING INTEGRITY AND ERADICATING CORRUPTION'. The main heading is 'सत्यनिष्ठा प्रतिज्ञा / INTEGRITY PLEDGE'. It offers two options: 'एक नागरिक के रूप में / AS A CITIZEN' and 'एक संगठन के रूप में / AS AN ORGANIZATION', separated by 'OR'. Below this, it states 'प्रतिज्ञा तीन आसान चरणों में लें / TAKE PLEDGE IN THREE EASY STEPS'. A flowchart shows three steps: 'सुनिश्चित विवरण दर्ज करें / ENTER BASIC DETAILS', 'प्रतिज्ञा का चयन करें / SELECT PLEDGE LANGUAGE', and 'पढ़ें और प्रतिज्ञा लें / READ AND TAKE PLEDGE'. At the bottom, it says 'यदि प्रतिज्ञा पहले ही ले चुके हैं तो कर्मानुपालन का प्रमाण-पत्र डाउनलोड करें। / If already taken Pledge, Get the Certificate of Commitment'. Below this, there are two options: 'असाधारण अपने ई-मेल/मोबाइल पर भेजें | Send certificate to your Email/Mobile' and 'डाउनलोड करें / Download Certificate'. At the bottom, it shows statistics: '1,785,190 नागरिक / Citizens' and '33,245 संगठन / Organization'. The footer includes the CVC logo and the text: '© Content developed, created and maintained by the Central Vigilance Commission. Pledge platform is designed, developed and hosted by National Information Security Centre, Ministry of Electronics & Information Technology, Government of India.'

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