



## **Fighting Corrupt Nexus of Politicians-Civil Servants in a Democracy: Case Study of India**

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### **Background**

India became a free country, after years of British Colonial Rule, on 15<sup>th</sup> August 1947. After independence, India adopted a constitution on 26<sup>th</sup> January 1950, after lengthy deliberation in the constituent assembly, having representation from all the communities and religion and consisting of some of the greatest intellectual minds of the time who had also played a very active role in the peaceful and non-violent freedom struggle against the Britishers. The Indian constitution is the largest constitution of the world and it has elaborate provisions on each and every subject of polity and governance including fundamental rights, directive principles for the government, separation of powers between Judiciary, Legislature And Executive, distribution of resources between Center and Provisional Governments, division of subjects under jurisdiction of Center and Provincial Governments etc. Even after more than 65 years, the constitution is working successfully and has stood the taste of times. The constitution adopted by the country was a federal one in which major issues concerning the life of citizens including land, law and order, health and education were put into exclusive jurisdiction of State Government while the subject of defense, foreign affairs, railway and tele-communication were put into union list. However, at the same time in view of the historical realities, certain unitary features were also adopted into the constitution, giving control of the union over the states (provincial governments).

The feature of 'All India Services' is one such feature of the constitution. Under the Indian system of polity, there are three kinds of services – a) Provincial services, officers of which serve only under the concerned State Governments, b) Central Services, officers of which serve only under the Central government for e.g. Indian Foreign Service, Indian Revenue Service, Indian Railway Traffic Service etc. c) All India Service, consisting of Indian Administrative Service (IAS), Indian Police Service (IPS) and Indian Forest Service (IFS), which are recruited by Central Government to serve in both Central and State Governments and occupy all the strategic positions in both the governments. Their final control and disciplinary power rests with Central government. The concept of All India Services is a unique one to the India. The founding fathers of the constitution had great faith in these services as expressed by Sardar Patel, the first Union Home Minister in Constituent Assembly

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\* Deputy Director of AIIM, India, Honorable Speaker in The 4th International Conference on Magsaysay Awardees: Good Governance and Transformative Leadership in Asia, 31 May 2016. Resource person of PDA.



***“The Union will go- you will not have a united India. If you have not a good all-India service which has the independence to speak out its mind, which has a sense of security that you will stand by your work and that after all there is the Parliament, of which we can be proud where the rights and privileges are secure..... This Constitution is meant to be worked by a ring of Service which will keep the country intact.”***

India has a system of permanent civil services. Under Indian constitution there is a separate chapter on matter of ‘Services’. The constitution provides proper safe guards to check arbitrary/mala fide sacking of civil servants and has laid down certain mandatory conditions involving principles of natural justice to be followed in such cases. In case of All India Services, the officers are recruited by Central government through Union Public Service Commission and State Governments have very limited powers regarding disciplinary matters of these officers including suspension and imposition of departmental penalties. Even in these limited matters, Central government has complete powers to overrule the State Governments.

In Indian system, the secretariat of various ministries of the Central Government is run by officers belonging to Central Services and All India Services, on a deputation basis where any officer belonging to any service can be posted in any department for a fixed period of deputation which is maximum upto 5 years. In case of All India Service officer, they are eligible for such central deputation after completion of 9 years of service in their respective state cadre allocated to them. Under various constitution provisions and statutes governing the disciplinary matters of officers, elaborate procedures for initiation of departmental penalty and serving of departmental chargesheets has been provided. The cardinal principle is that delinquent official should be given proper opportunity to explain his version and only the officers in the rank of or superior to the appointing authority can impose departmental punishments. There are two kinds of departmental penalties- a) minor penalty, which includes Censure, stoppage of increments and recovery of losses caused to the government and b) Major penalty, which includes removal/dismission/ compulsory retirement from service and demotion. The process regarding imposition of major penalty is much more elaborate, involving appointment of an enquiry officer of appropriate rank and proceedings are analogous to the court proceedings. Similarly in case of transfers also, fixed minimum tenures of two years have been notified in most of the State Cadres and Central Services. Further there is a detailed system of writing of Annual Performance Appraisal Reports (APAR) in which efforts have been made to make it as objective as possible and based upon the delivery of target by concerned officers.

However even after such an elaborate system of permanent civil services, wherein they have not only been provided security of tenure but also very strong safe guards against arbitrary removal from the service, corruption in the public services has become a rampant issue, particularly in past few decades. A powerful nexus of corrupt bureaucrats and politicians has emerged over the years, which has robbed financial and natural resources of the country with almost perfect impunity. It is because of this corruption that despite being a resource rich country in terms of water resources, soil,



mineral, bio-diversity and having the largest youth population of the world, the country has a very pathetic situation when it comes to the basic human development indicators like sanitation, drinking water, health services and access to the education. There have been many efforts to control and check the rising menace of the corruption, which includes bringing a very effective yet simple and user friendly transparency Act (Right To Information, Act, 2005) and intervention of judiciary through the instrument of Public Interest Litigation(PIL). The RTI act is a universal act and the entire government, under central and State Government, are covered under it. There is a statutory time limit of 30 days to provide the information failing which penalties may be imposed upon the concerned Public Information officers and in extreme cases disciplinary proceedings may also be recommended against them. Under this Act, there is a mandatory clause of self-disclosure of information related to the budgetary allocation, and functioning of the concerned government organization. This Act has given a sense of empowerment and also a sense of participation to the general citizen in Government affairs. Similarly, public interest litigation has also emerged as a powerful instrument to check and punish the corrupt. Under the constitution, the judiciary has been given vast powers and it is perhaps one of the most powerful judiciary in the world. The High Courts at the level of provinces and Supreme Court which is the highest court of the land have been given powers of writ jurisdiction, which also includes Writ of Mandamus under which courts have power to give directions to the government to perform their statutory duties. The instrument of PIL has its genesis in the decade of eighties when the Supreme Court took cognizance of a petition sent through post card. In later years, many landmark judgments were passed by the Supreme Court and the concerned high courts on the issue of corruption, environment protection, human rights, status of prisoners, food security, criminalization of politics etc. At present all the major corruption cases including 2G scam and Coal scam, are being investigated under monitoring of Supreme Court.

Regarding anti-corruption mechanism, at the level of State Government, cases are registered and investigated by State Vigilance Bureaus. At the level of Central Government, this function is performed by Central Bureau of Investigation (CBI), which is supervised by Central Vigilance Commission (CVC). CBI can take over the investigation of cases related to the State Government only with their consent or with orders of High Court/Supreme Court. In every Ministry/Department/Autonomous organization of the Central Government there is a post of Chief Vigilance Officer which works under supervision of CVC in matters of corruption involving government employees. The CVO is nodal co-ordinating authority for disciplinary proceedings against them and on the basis of his preliminary report, CBI initiates detailed criminal investigation.



## **A. Issues in Environment Sector Encountered During Tenure in State Forest Department (August 2005-June 2012)**

### **1. Case of Saraswati Wildlife Sanctuary, Kurukshetra**

During the very first posting, as Divisional Forest Officer, of Kurukshetra district (October 2006-May 2007), this case was encountered. This was the largest protected area of the state spread over thousands of acres and home to rare species of flora and fauna, including Hogdeers. In year 2007, the State Government of Haryana, which was state cadre allocated to me, decided to build a canal, a substantive portion of which was supposed to pass through this sanctuary. This project was simply a political stunt as there was no provision for source of water into the said canal, which was under litigation between three neighboring states in Supreme Court. Further this canal had potential of change of natural drainage system of the local area which resulted in heavy floods in coming years. Even then on political consideration and to benefit influential contractors, this project was given a go ahead under the blessings of Chief Minister of the state which is the highest functionary of the State Government. Because of the blanket political support the contractor of the irrigation department, wreaked havoc in the wildlife sanctuary area, falling thousands of green trees, causing habitat destruction and indulging in poaching of rare species of Hogdeers. I tried to stop this destruction and criminal cases against the contractors under the provisions of Wildlife Protection Act, 1972 was registered. However, the State Government became annoyed with me because of these actions and immediately after this, I was shunted to a remote station called Fatehabad, in June 2007. The issue even did not leave me at this new place of posting and in July 2007 I was served a proper official warning by the State Government for this so called 'defiance' in stopping the work of project. After my removal from the scene, the matter was taken up by an NGO called Wildlife Trust of India, based on media reports on my removal. A case was filed by them before Central Empowered Committee (CEC) constituted by Hon'ble Supreme Court to monitor the cases of violation of forest and wildlife acts and the related orders of Supreme Court. The CEC passed final orders in July 2008 in which it found the State Government guilty of various violations and ordered them to deposit an amount of rupees one crore as compensation for the destruction caused in the wildlife sanctuary to be used for the conservation work inside the sanctuary. The State Government complied with these orders and after this judgment, the State Government did not dare to repeat the same illegality in any other protected area of the state.

### **2. Case of corruption in Fatehabad, Herbal Park.**

The State Government had made a very ambitious scheme for popularization of Herbal trees and plants through establishment of herbal parks in every district of the state on Government Lands. However, in case of fatehabad district, the work of development of herbal park which involved expenditure of crores of rupees of public exchequer was deliberately undertaken on a barren and difficult land belonging to a very influential and political powerful leader of ruling party of the state, who later on



became independent legislature, supporting minority government from outside and was made chief preliminary secretary of forest department also. Thus this case was a direct example of creating private assets with public funds as all the assets including civil structures and plantation being developed on the said private land, would have naturally belonged to the owner of the land. When I stopped this illegal work and reported the entire matter to the head quarter, I received threatening calls and finally even head quarter, after formally recording the annoyance of forest minister, directed me to immediately continue this work. Later on, I was even placed under suspension in August 2007 for so called insubordination in both these cases. After my suspension this issue was taken up by another NGO called Ekta Parishad which filed a PIL before Supreme Court in year 2008 from where it was referred to the CEC. In this case also, fearing adverse judicial orders, State Government had to declare this private land as a protected forest area under section 38 of India Forest Act, 1927 and had to transfer its management to the state forest department in February 2009.

### **3. Jhajjar Plantation Scam**

The state of Haryana has one of the lowest green covers in the country and so there are number of afforestation projects going on in the state with funding from multi-lateral agencies like Japanese International Co-operation Agency (JICA), European Union, World Bank and also with the funds from Central government. Because of depleting green cover, the table of ground water has fallen to dangerous levels in most parts of the state and having direct impact on the agriculture, which is the main profession of the people of the state. Apart from this, the green cover is also very important for the state to prevent its desertification, from western side. In Jhajjar district, in year 2009, when I joined, a large scale project, for afforestation and poverty alleviation through formation of self-help groups of women, was being under taken, with funds from JICA. After joining, in January 2009, when I made a Ricci survey of the entire area, I found that most of the plantation was only on paper and even the seed capital money deposited into the accounts of women forming self-help group, was siphoned away with connivance of the field staff and village committee. Since the entire field staff of the district was involved in this scam, hence it was extremely difficult to initiate action and under these circumstances I persuaded the authorities at the head quarter to form checking teams comprising of senior officers from neighboring districts. These checking teams carried out comprehensive checking for 2-3 months which finally substantiated my initial reports regarding massive corruption. On the basis of these reports, around 40 field officials were placed under suspension and departmental charge sheets were issued to them, which was one of the largest such action in the history of the state and was carried out in spite of intense political pressure as the son of the then state chief minister was contesting parliamentary election at that time and the said area fell within his constituency and so there was enormous political pressure. However I was able to continue at that place because of election code of conduct of parliament being in force and therefore I had to work on a war footing to ensure that all the field checking and paper work is completed in any case by May 2009, the time by which this code of conduct was effective. After lifting of the code of conduct, the chief minister of the state himself



ordered to transfer me to another district. However by that time all the departmental chargesheets were served and therefore subsequently large amounts were recovered from the salary of delinquent officials after conclusion of disciplinary proceedings.

#### **4. Subsequent harassment and intervention of Central Government, Supreme Court and President of India.**

a. Because of my anti-corruption actions hitting the nexus of powerful politicians and bureaucrats including my senior officers, I was transferred twelve times in five years 2005 to 2010 and was even put without any work for many times. The maximum tenure enjoyed by me was of seven months in Kurukshetra district. I was also placed under suspension in August 2007 for my so called 'insubordination' in stopping illegal destruction of Saraswati Wildlife Sanctuary and illegal expenditure of public funds in creating a private herbal park at Fatehabad District. On the same issues I was also served a major penalty departmental chargesheet in September 2007, which if succeeded, could have resulted in my dismissal from the service which was my only source of livelihood. Again in year 2013 I was served a second major penalty departmental chargesheet, trying to implicate me in the same jhajjar plantation scam which was exposed by me only. The departmental chargesheets are a very favorite instrument in the hand of politicians to break the morale of honest officers as during the pendency of departmental chargesheets, all the career prospects of the officer, including promotion, deputation, foreign assignments, etc. are denied which is a very frightening scenario for any career bureaucrat. Besides this, the State Government also tried to downgrade my grading in Annual Performance Appraisal Report which if succeeded could have prevented my subsequent promotions, again a very damaging possibility.

b. Apart from the above actions, I was subjected to numerous false criminal cases. First of such case was got registered in Fatehabad District in December 2007 on the charges of theft of a petty ornamental tree. The incident was shown to take place in February 2007 while I had taken over the charge of Fatehabad District in June 2007 and hence the Police was forced to file the cancellation report, however, no action was taken against the persons responsible for registration of this FIR, under political pressure. Before that, a false vigilance case was got registered in May 2007 on the basis of complaint of an influential hotelier, whose encroachment on forest land was removed under my orders. In this case also vigilance authorities had to file closure report in my favor and State had to prosecute the encroacher. The most dangerous case was registered against me in December 2009 on the very serious charges of abetment to suicide under section 306 of IPC, which is a cognizable and non-bailable offence, when dead body of one of the forest range officers suspended in multi crore jhajjar plantation scam was found at his residence. Initially his father,



complained to the police this as a case of murder by his girlfriend but police acting under the political pressure of the then Chief Minister, registered it as case of abetment to suicide and inserted my name as one of the main accused though my name was nowhere in the complaint filed before the police. I had to suffer this case for six years during which five special investigation team (SIT) were formed and I was harassed to the hilt but no evidence was found against me. Even the high court of the state was misled by these elements into ordering the formation of sixth SIT in February 2015 without hearing my side. However after my submission were put on record the high court recalled its earlier order. Besides these cases, some other false cases/complaints and even a criminal defamation case was lodged against me in year 2012, however all these cases were dismissed by Courts subsequently finding no merit. Even then these cases resulted in tremendous mental harassment and wastage of time and resources, just to defend myself.

c. After these harassments, went beyond a limit I submitted an extra ordinary Memorial to the Central Government which constituted a two member enquiry committee to investigate the matter in September 2010. The committee gave its exhaustive report in December 2010 wherein it found all my allegations true and severely indicted the then State Chief Minister, State Forest Minister, and senior politicians and bureaucrats in the case. The committee recommended comprehensive criminal investigation against them by Central Bureau of Investigation(CBI). However the State Government did not agree for the CBI investigation and hence I had to move a direct writ petition before the Supreme Court in November 2012. The Supreme Court admits direct Writ petition in only rarest of rare cases but it admitted the said case in view of the gravity and substance of the case and issued notices to Central government, CBI and State Government. The Central government and CBI supported CBI investigation before the court but the State Government because of involvement of senior politicians and bureaucrats of the State, opposed CBI investigation. Now the matter is listed for final decision.

d. In my case, a record number of four orders were passed by President of India, against the illegal orders of State Government in my service matters, which is a record in case of any officer, in the history of independent India. The first Presidential order was passed in January 2008, quashing the suspension order, second Presidential order was passed in January 2011, quashing the departmental chargesheet issued by the State Government and similarly the third Presidential order was passed in October 2013, quashing the second departmental chargesheet issued by the State Government and fourth Presidential order was passed in January 2014 through which my annual grading of appraisal report was restored back to the Outstanding after this was brought down to zero by the highest authorities of the State Government. Apart from these



record number of Presidential interventions, even Prime Minister officer sought report of the case from time to time.

e. Because of the continuous and unending harassments from all sides in the State Government, I decided to join deputation under Central government and applied for the same in year 2011. After an elaborate process, I was selected to work as Deputy Secretary and Chief Vigilance Officer in Ministry of Health and Family Welfare, in Central Government, in May 2012. However the annoyance of the State Government was such that it even refused to relieve me for the central deputation assignment. Once again in an extra ordinary order, overruling the State Government, the Central Government ordered my direct relieving. All these developments, including the above mentioned four Presidential orders took place when the same party was ruling in both Central and State Government and therefore this episode reflects resilience of Indian Democracy also. Finally with the intervention of the Central government I was able to join in June 2012 as Deputy Secretary and CVO in All India Institute of Medical Sciences(AIIMS), New Delhi, under the central ministry of Health and Family Welfare.

f. Throughout this anti-corruption campaign, I got tremendous support from general public, lots of media coverage, support from some very genuine NGOs and even the matter was repeatedly raised in the state assembly by the opposition parties. During all these struggle, frequent use of RTI Act was resorted by me and it was only through the documents, correspondences and the file noting received under RTI Act that I was able to prove my case effectively before the courts and the Central Government. However my reputation of anti-corruption, proved to be my biggest weakness when I applied for the central deputation as no ministry was agreeing for my placement and it was only after the support of some well-meaning senior officers that I could get posting in Central Health Ministry.

#### **B. Issues in Health Sector, Encountered During Tenure as Chief Vigilance Officer in AIIMS, New Delhi (June 2012-July 2014)**

The All India Institute of Medical Sciences (AIIMS) is the most premiere medical institute of the country, which is visited by around 10,000 patients on a daily basis. It is an autonomous body established under a parliamentary statute and its budget is of thousands of crores of rupees and besides that its heavy extension work is going on in bordering state of Haryana involving seven thousand crore rupees civil works including largest cancer center of the country.

Because of my earlier reputation in anti-corruption work, the Department related Parliamentary Committee attached with Central Ministry of Health and Family Welfare, and having representations from all the major political parties, had taken a



written commitment from the then Union Health Secretary to make me CVO of the institute, to check rampant corruption there involving senior institute officials and doctors.

The very first case I encountered was, a very difficult one having connections with highest level political functionaries. A private chemist shop was allowed to be operated into institute premises, whose owner was an ex-legislature belonging to ruling party and was infact selling dubious medicines into institute premises, to the poor patients visiting the place and one such consignment worth crores of rupees was caught by Delhi police but main accused were let off under political pressure. When I received a number of complaints regarding ill effects of the medicines sold from this shop, I issued notices to them and the result was that, my premature transfer proposal was sent by the ministry to Civil Services Board(CSB). However, CSB headed by cabinet secretary, did not approve the said proposal and instead sought explanation from health ministry for sending this premature transfer proposal when tenure was fixed for four years. When parliamentary committee came to know of this development, it also issued notice regarding apparent breach of privilege to the senior most functionaries of the ministry. All this prevented my removal for the time being.

In next two years, I successfully concluded action in a number of corruption cases, against senior institute officials, the details of which are as below:

Name	Case
VineetChaudhary, IAS, 1982 Batch Himachal Cadre then DD(A), AIIMS and now Additional Chief Secretary, Himachal Pradesh.	Case registered by CBI on 09.01.2014 for illegal extension of Superintending Engineer Mr. B.S Anand to supervise 3750 crore rupees expansion project and for other financial irregularities in Engineering works; major penalty proceedings got approved by then Union Health Minister on the basis of investigation done by Applicant, for various corruption cases including appointment of consultants, in engineering works, misuse of official vehicle at the rate of 150 km per day consistently for a period of two years and treatment of pet dog at Cancer Center.
Sh. ShaileshYadav, IPS, 1993 Batch, Tamil Nadu Cadre, now Police Commissioner Trichi and then DD(A), AIIMS	Multi crore scam in giving tender to a favourite private security agency on the basis of forged documents; CBI case registered in September, 2013 and Major Penalty proceedings of ShaileshYadav got approved in May, 2014.



All India Medicos (Private Chemist Shop) opened into the institute premises	As per documents sent by Delhi Police and Ministry of Home Affairs, it was owned by Mr.Ashok Ahuja, Ex. MLA and having very influential political links; used to sell dubious medicines and a consignment of crores of rupees of spurious medicines, also seized by Delhi Police in April, 2013; the shop got evicted and performance guarantee of Rs. 52 Lac forfeited on account of various violations.
Mr. B.S Anand Superintending Engineer	Got terminated in March, 2013; had very strong political nexus and was given extensions in blatant violations of AIIMS Act to supervise 3750 crore rupees expansion project by the then Union Health Minister, despite his basic degree being of ITI and that too in the area of air conditioning and refrigeration.
Mr. Raju Singh, Chief Medical Officer	Departmental Chargesheet for major penalty proceedings issued for forceful deployment and harassment of an institute employee, for domestic work; regular inquiry concluded in February, 2013 and the matter is to be put up before Governing Body for final approval.
Mr. V.P. Gupta, Ex Registrar	His encroachment of government accommodation was evicted forcefully in February, 2014 and major penalty proceedings at last stage for massive corruption in academic section.
Mr. R.C Anand, Ex. Medical Superintendent	Entire pension and gratuity forfeited on corruption charges.
Mr. Rajiv Lochan, Deputy Chief Security Officer	Suspended and CBI case registered for financial irregularities in tendering to a private security agency on the basis of forged documents.
Mr. Attar Singh, Chief Administrative Officer	Major penalty proceedings initiated for favouritism in recruitment-post retirement benefits withheld.
Mr. C.S Bal, HoD Nuclear Medicine	Penalty imposed for unauthorized foreign visit to France and Turkey without any intimation to the institute.
Sh. S.S. Bhadauria, Store Officer, CN Centre	Penalty of compulsory retirement and deduction of 50% in pension for a period of 5 years imposed in a case of financial irregularity related to purchase of store items detected during a CBI raid.



Sh. S.P. Vashisht, Sanitation officer	Penalty of compulsory retirement imposed in a case of financial irregularity related to purchase of store items detected during a CBI raid.
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In none of these cases, any of the accused officials could get any relief from any court of law. Apart from the cases of corruption, the action included cases of unauthorized absence, insubordination and sexual harassment. In some of the appropriate cases, even summary proceedings were successfully applied. During this period around twenty cases were referred to CBI and central vigilance commission (CVC) for criminal investigation. However a very powerful section of politicians and bureaucrats was annoyed with all these anti-corruption actions which choked their source of illegal income. During this two year tenure, apart from large number of successful actions in individual corruption cases a number of systematic changes were also introduced to streamline purchase processes, to check misuse of fake proprietary certificates, problem of absenteeism etc. A new free generic medical shop was got opened into institute premises, to be operated by a Public Sector Unit. A transparent system for the payment of wages and other benefits to the thousands of contractual employees of the institute was successfully implemented where salary slips were issued to each of them having complete break up of all the entitlements with proper system of monitoring.

Because of enmity of these powerful vested interest, I had to be removed by the ministry in August 2014 from the post of the CVO of the institute. There was large scale hue and cry in the media on this removal and even Prime Minister of India had to seek report on this issue. Around 250 faculty members wrote to the Prime Minister for bringing me back as CVO apart from Student Union and Employees Union.

The subsequent period was very troublesome and in many ways a repeat of what I had to face in state of Haryana. This can be understood from the fact that between February 2015 to February 2016 I had to approach the service tribunal around six times on various issues ranging from promotion, appraisal reports, work allocation and deputation proposals. Meanwhile after getting a landslide majority in elections of Delhi Assembly in February 2015, the new Chief Minister Mr. Arvind Kejriwal, who is also a recipient of Magsaysay Award, sought my services as officer on special duty (OSD), however even that request did not find favor with concerned authorities and even after the repeated interventions of tribunal the matter is still pending. In almost all the cases, pending before the tribunal, decision came in my favor, and because of their intervention I got promotion last year and also my State Cadre was changed from Haryana to Uttara hand after the Tribunal quashed the orders of Appointment Committee of Cabinet (ACC) head by Prime Minister against me.

Regarding the corruption cases initiated during my tenure and still pending, a PIL was filed by one of the most reputed advocates of the country Sh. Prashant Bhushan, on which notices were issued by Delhi High Court to Central Government, CBI, CVC, AIIMS and Union Health Minister in his personal capacity.



### **References**

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