

Role of Supreme Court in curbing Corruption in India

Abstract

The Constitution of India provides the autonomous and special position to the judiciary. The makers of the constitution purposefully had done this arrangement to safeguard the interest of citizens as well as the state. The post globalization period has pervaded the rapid growth of corruption in every walk of life in our country. Now it is reached to alarming proportion. The main organs of the state the legislature and executive failed to check the alarming growth of corruption as they are one way or the other involved in it. The alarming rate of corruption is resulting to a great stride of burden on upon social, economic and political development. To fight the corruption in our country the Parliament has enacted Prevention of Corruption Act in way back in 1988 and various administrative mechanisms but they have failed to achieve their aims and objectives.

Fighting corruption has become a key development issue in our country. The public spirited persons, organizations and civil society waging heroic and unrelenting endeavours for controlling the corruption but due to various factors they have not fully able to succeed. When they are not succeeding with their endeavours they have approaching the judiciary for curbing this menace. In recent years the judiciary particularly the apex country of the land has become very active in unearthing various scams which involved thousands of crores of public money. The intervention and monitoring of judiciary in curbing the corruption is still at infancy stage.

The scholar in this paper discusses the causes and reasons for growth of corruption, the involvement of judiciary particularly the Supreme Court in unearthing and controlling corruption in our country and also ways and means to completely eradicate the menace from our country.

Keywords: Constitution, Corruption, Scams, Civil Society, Eradication, Combating, Integrity, Judo

“Corruption is worse than prostitution. The latter must endangers morals of an individual, the former invariably endangers the morals of the entire country”¹

Introduction

The Constitution of India provides the autonomous and special position to the judiciary. The makers of the constitution purposefully had done this arrangement to safeguard the interest of citizens as well as the state. Since the Constitution came into existence in 1950 the Indian judiciary is maintaining its sacrosanct position without any kind of deviations. Because of the timely intervention of the judiciary the democratic polity is surviving in our country.

The word corruption is first time used by Aristotle² and later by Cicero who added the terms bribe and abandonment of good habits. According to Morris,³ corruption is described as the illegitimate use of public power to benefit a private interest. The menace of corruption is pervaded India in every walk of life. Transparency International reports about 40% of Indians had firsthand experience of paying bribes or using a contact to get a job done in public office⁴. In 2012 India has ranked 94th out of 176 countries in Transparency International's Corruption Perceptions Index, tied with Benin, Colombia, Djibouti, Greece, Moldova, Mongolia, and Senegal etc. It reflects sorry state of affairs.

Historical Perspectives of Corruption in India

The historical perspectives of corruption in our country can be dates back to colonial era in 17th century. The British parliament during that time numerous times discussed the corrupt practices of East India Company. Many officials of the Company were arrested for their involvement of corruption charges.

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Soon after independence India was embarked upon the socialist pattern of economic system till 1990s. The Indian economy was marked by extensive regulations, protectionism and public ownership, these sort of arrangement lead to growth of corruption and slow growth rate. In 1960s, C. Raja Gopala Chari strongly suggested that Licence Raj is causing and leading to growth of corruption. The corruption is lead to high level when the consumerism is being entered into the Indian market in mid 1980s. It has seen rapid strides in the post globalization period. Now it is reached to alarming proportions.

Factors responsible for growth of corruption

It is tendency of any human being to have comforts and luxuries as a result to get it they themselves involved in all unscrupulous activities. The decrease of moral and spiritual values in the society, the pay structures of the government employees are not par with market prices, the laws which are dealing with corruption related issues are not stringent and properly implemented, the citizens are not fully conscious of their rights and duties and less inclination of them to betterment of society, the entry of unscrupulous persons in the polity, high prevalence of castism in our country.

The main organs of the state the legislature and executive failed to check the alarming growth of corruption as they are one way or the other involved in it. The alarming rate of corruption is resulting to a great stride of burden on upon social, economic and political development. To fight the corruption in our country the Parliament has enacted numerous enactment like Indian Penal Code 1860, the Prevention of Corruption Act in way back in 1988, the Prohibition of Money Laundering Act in 2002, the Benami Transaction (Prohibition) Act 1988, and the Right to Information Act in 2005.

Corruption was present at all levels of government. The central government to combat the corruption in the government agencies has constituted the Central Vigilance Commission in February, 1964 on the recommendations of the Committee on Prevention of Corruption, headed by Shri K. Santhanam, to advise and guide Central Government agencies in the field of vigilance. Again the Parliament passed legislation in 2003 the Central Vigilance Commission Act.

Fighting corruption has become a key development issue in our country. The public spirited persons, organizations and civil society waging heroic and unrelenting endeavours for controlling the corruption but due to various factors they have not fully able to succeed. When they are not succeeding in their endeavours, they are forced to approach the judiciary for curbing this menace. In recent years the judiciary particularly the apex country of the land has become very active in unearthing various scams which involved thousands of crores of public money. The timely intervention and monitoring of judiciary in curbing the corruption though at infancy stage but it should be welcomed by all.

Various Corruption Scams

The large scale corruption scams in India though recent phenomena the existence of scams were there from the British rule in 1940 the Jeep Scam broke out, in free India the first major scam was Cycle Import scam in 1951 since then the one scam or the other became the order of the day. In recent years our country is mute spectator to various scams like Bofors Scam, Bellary Mining Scam, Maharastra Adarsh Housing Scam 2011, Andhra Pradesh Emmar Scam 2010, Commonwealth Games scam concerning public money of Rs. 700 crores, Bihar fodder scam, Hawala scam, 2 G Spectrum scam, U.P. Food grains scams, Cash for vote scandal, Stamp scam in 2002, Ketan Pareek securities scams, Suk Ram telephone equipment scam, St. Kitts forgery scam in 1989 etc.

Civil Society movement against Corruption

Our country in recent years has been witnessing coming into of people's movement for curtailment of corruption. It is very good sign and it should be encouraged at all levels. There are many nongovernmental organizations and movements like Bharat Swabhiman Trust established by Yoga Guru Swami Ram Dev, India Against Corruption created by different citizens like Anna Hazare, Kiran Bedi, Prashant Bhusan, Arvind Kejriwal, they have created a mass movement against the corruption in 2012 and later Arvind Kejriwal launched a political organization which is called as Aam Adhmi party recently which formed the government in national capital for brief period, the Lok Satta movement which was started by Mr. Jaya Prakash Narayana in Andhra Pradesh state later it is transformed into a political party and many more organizations have putting their yeoman service to the nation by creating awareness and fighting corruption at their levels.

Because of public conscious and spirited persons who have filed public interest litigations in the various high courts and the apex court land regarding the above cases, the respective courts have seized of the matter. The apex courts in number of cases have directed the investigating agencies to work under its directions. The apex court of the land in cases like the Bihar fodder scam, Bellary Mining Scam, Adarsh Housing scam, etc. sentenced the culprits for maximum punishments and even taken the responsibility that the judiciary should be active in curbing the corruption in India.

Though the judiciary is some extent successful in unearthing scams but it is also not free from allegation of corruption According to Transparency International, judicial corruption in India is attributable to factors such as "delays in the disposal of cases, shortage of judges and complex procedures, all of which are exacerbated by a preponderance of new laws"⁵.

Supreme Court on Corruption:

The Supreme Court of India in various occasions has observed that the corrupt should be punished with stricter punishments. In A.R. Antulay v. R.S. Nayak⁶ the court has opined that the Prevention of Corruption Act 1988 is enacted for purpose of larger good of the society and every public spirited persons can file

cases against corrupt officials and there is no locus standi for it.

The apex court of the land observed that "Corruption in a civilized state is like cancer, if it does not detected in time to it sure to marginalize the polity of the country leading to disastrous consequences. It is termed as a plague which is not only contagious, if it is not controlled spreads like a wild fire in a jungle. Its virus is compared with HIV leading to AIDS, being incurable. It has been termed as royal thievery. The socio-political system exposed to such a dreaded communicable disease likely to crumble under its own weight. Corruption is opposed to democracy and social order, being not only anti-people, but also aimed and targeted at them. It affects economy and destroys cultural heritage. Unless nipped in the bud earliest, it is likely cause turbulence shaking of the socio-economic political system in an otherwise healthy, wealthy, effective and vibrating society"⁷

The apex court in *Vineet Narain v. Union of India*⁸ issued the directions to the government to make Central Bureau of Investigation in to an independent agency so that it may function more effectively and investigate crimes and corruptions at high places in public life which poses a serious threat to the integrity, security and economy of the nation. In *Satya Naraiyan Sharma v. State of Rajasthan*⁹ the Supreme Court held that no court can stay proceedings involving an offence under the Prevention of Corruption Act 1988 on any ground whatsoever.

The apex court of the land in *Dr. Subramanya Swami v. Dr. Man Mohan Singh and another*¹⁰ held that "today, corruption in our country not only poses a grave danger to the concept of constitutional governance, it also threatens the very foundation of Indian democracy and the Rule of Law. The magnitude of corruption in our public life is incompatible with the concept of socialist, secular, democratic, republic.....corruption devalues the human rights, chokes development and undermines justice, liberty, equality, fraternity which are the core values in our preambular vision. Therefore the duty of the court is that any anti- corruption law has to be interpreted and worked out in such a fashion as to strengthen the fight against corruption".

The above judgment reflects that mood of the apex court with the prevalence of corruption in our country and it opines that when we have corrupt free country then only we can achieve the ideals of the founding fathers of the nation. So it is now high time that the citizens should take a pledge to remove 21st century menace from our country for its all round development.

Conclusions

The eradication of corruption is not a easy task unless and until we take a strong pledge. For dealing the corruption we have to adopt some measures like the government employees should be well paid and rewarded for their services in form of quick promotions, amend the anti corruption laws to meet emerging requirements, strengthening anti corruptions wings at all levels of government, constitution of more courts for speedy disposal of cases, creating

awareness among the people regarding their rights and bring radical reforms in electoral system like state sponsoring of elections.etc., If we adopt these measures we can attain the result in shortest possible time.

Combating corruption is like judo. Instead of bluntly resisting the criminal forces, one must redirect the enemy's energy to his own decay. Instead of proclaiming a policy of zero tolerance one must recognize that the imperfections of human behavior will endure. Instead of demanding a world of absolute integrity, fighting corruption foremost is the art of exploiting these imperfections for our battle¹¹.

References

1. Kraus, Karl (April 28, 1874 -June 12, 1936) Austrian writer and journalist
2. Greek renewed philosopher
3. Morris, S.D. (1991), *Corruption and Politics in Contemporary Mexico*. University of Alabama Press, Tuscaloosa
4. http://en.wikipedia.org/wiki/Corruption_in_India
5. Praful Bidwai. "INDIA: Legal System in the Dock" -www.wikipedia.org
6. SCC p.509
7. AIR 2000SC 870.
8. AIR 1998 SC 889
9. AIR 2001 SC 2856
10. Civil Appeal No. 1193 of 2012 before the Hon'ble Supreme Court of India in Civil Appellate Jurisdiction.
11. Lamsdorf Johann Graf and Nell Mathias 'Corruption where we stand and where to go' - Published in Kreutner, M. (Editor): "The Corruption Monster: Ethik, Politik und Korruption", Vienna, 2006.