

Whistle Blowing in India: Issues and Challenges- A Case Study

Executive Summary

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Organizations often receive information that exposes illegality, wrongdoing or misconduct. When the organization either ignores or refuses to take necessary corrective action in appropriate cases, insiders or outsiders may call broader attention to the issue by blowing the whistle. The term 'whistle blowing' is a relatively new term in the domain of public and private organizations, although the concept itself is not new. Whistle blowers may reveal the facts of alleged malpractices either internally (for example, to other people within the organisation) or externally (to commissions, law enforcement agencies, to the media or to the groups-concerned with the issues).

Many whistle blowers have the courage to question the illegal activities, but they require protection against harassment and victimization. In India, protection of whistle blowers gathered attention of Honb'le Supreme Court and government due the much controversial murder of Sh. Satyendra Dubey. Sh. Dubey was a National Highways Authority of India (NHAI) engineer, who was killed after he complained Prime Minister's Office about corruption in the construction of highways.

The murder of Sh. Satyandra Dubey shook conscience of the nation. While hearing Writ Petition (C) No. 539/2003 concerning the murder of Shri Satyendra Dubey, the Supreme Court directed that pending enactment of appropriate legislation, suitable machinery should be put in place for handling the complaints of whistle blowers. Therefore, the Union Government passed the Gazette Notification on 21.04.2004, commonly known as the Public Interest Disclosure and Protection of Informers (PIDPI) Resolution.

One of the difficulties experienced in fighting corruption in the government and other organizations is non-existence of adequate protection to the whistle blowers. Therefore, it was decided by the government in India to enact a separate legislation to provide protection to the persons reporting corruption or wilful misuse/abuse of power or who discloses the commission of an offence by a public servant. The Whistle Blowers Protection Act, 2011, provides a process to examine alleged corruption and misuse of power by public officials and protects anyone who exposes wrongdoings in government bodies. As per Government, the Whistle Blowers Protection Act, 2011 requires some amendments (aimed at safeguarding against disclosures affecting sovereignty and integrity of India, Security of the State, etc.),

before it is brought into force. So, The Whistle Blowers Protection (Amendment) Bill, 2015, is on anvil. Enacting Parliamentary Act is one solution but this is not sufficient. Certain steps need to be taken at organizational level. Whistle blower policy needs to be made mandatory, with transparent guidelines for handling the intimidation or retaliation against the complainant.

The main aim of the study is to examine whistle blowing legislations in India to find out reasons; why these legislations are ineffective in providing adequate protection to whistle blowers and to recommend remedial measures. Another aim, is to find out the reasons for organizational harassment and to recommend remedial measures. The literature has also been reviewed in respect of whistle blowing process, organizational harassment and whistle blowing legislations in different countries viz., UK, USA, Australia, South Korea, and Canada etc.

The method adopted for the study is based primarily based on 'Real Life Case Study of Sh. Ram Singh' (an officer of a Central Government Organization name changed) pursued in the backdrop of whistle blowing protection and organizational harassments. Some other leading national and international cases have also been analysed.

Case study as mentioned above and cases related to other whistle blowers throw many perplexing questions related to whistle blowing, organizational harassment and victimization, role of Central Vigilance Commission (CVC) and its effectiveness, efficacy of existing whistle blower laws in India etc. Attempt has been made to find answers of these challenging questions.

For effective protection of whistle blowers various measures have been recommended. These include amendments in existing legislations and guidelines for organizational whistle blower policies. In order to keep identity of whistle blower confidential, an online whistle blowing complaint system is also suggested. Once all measures in place, it is expected that the Indian whistle blowers would get their due and respect, rather than being considered unwanted elements on system.