

## Judicial Approach towards Corruption in India: An Analysis

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### Abstract

Judiciary in India has always played a laudable role in eradicating social evils, and to bring social justice to masses. The Supreme Court of India has devised various ways like epistolary jurisdiction, relaxing *locus standi* principle, allowing public interest litigation and has played pro-active role for bringing justice to every doorstep. Through various cases, several guidelines have been provided by the Apex Court to curb corruption. This paper discusses the important judgments of the Supreme Court relating to corruption and the related aspects.

**Keywords:** Corruption; Judiciary.

### Introduction

Corruption is one of the essential evils of the society whereby each person gets himself influenced somehow by this evil system. Public life gets itself contaminated amidst which citizens need to confront troubles both social and financial, the corrupt individuals get their work done at the cost of common man, in this way the administration doesn't function properly having no effectiveness, honesty in its exercises and group welfare activities being overshadowed [1].

Corruption has influenced every one of the countries of the world, however the level of corruption may fluctuate from nation to nation. The well-known economist, Late Mehabub-Ul-Haq has said that there are two measurements to corruption, one is the exploitative corruption where public worker misuses the poor national and the other is collusive corruption where the citizen corrupts public servants by a bribe as he gets

financial benefits, in India we can discover both of the above said corruptions [2].

Justice Arijit Pasayat in State of Andhra Pradesh vs. V Vasudeva Rao has said that "Corruption is a standout amongst the most discussed subjects today in the nation since it is accepted to have infiltrated into each circle of action. It is depicted as completely boundless and breathtaking. Corruption all things considered has achieved risky statures and perilous possibilities.

The word 'corruption' has wide implication and grasps every one of the circles of our everyday life the world over. In a restricted sense it hints permitting choices and activities of a man to be affected not by rights or wrongs of a reason, but rather by the possibilities of fiscal additions or other narrow minded contemplations. Voracity is a typical delicacy of humankind, and keeping in mind that Robert Walpole's perception that each man has a cost, might be somewhat summed up, yet it can't be disclaimed that it isn't a long way from truth. Burke advised "Among a people generally corrupt, liberty cannot last long" [3].

The Hindu sacred scripture of Sama Vedadescribes corruption as Hydra headed, having nine heads and it enters human body through five senses, The Rig Veda says that taking bribe for money belonging to the state is mis-appropriation of public funds, all bribe takers are thieves of god and they get rebirth in the foulest of the womb, the Yajur Veda says that the corrupt people should not be allowed by the ruler to mix with people following four divine professions [4].

Battling corruption has risen as a key improvement issue in India as of late. More policymakers, organizations, and common society associations, have started to stand up to the issue straightforwardly. In the meantime the general level of comprehension about corruption has risen especially. Recently it was normal to hear somebody talk about anti- corruption entirely in law implementation terms. Various variables clarify this developing accentuation on battling corruption. Extension and union of democracy government at the grassroots level has empowered subjects to utilize the vote and recently discovered common freedoms to go up against corruption, inciting pioneers and opposition figures to demonstrate anti-corruption commitment [5].

### Defining Corruption

According to Merriam Webster Dictionary. Corruption is "Dishonest or illegal behavior especially by powerful people (such as government officials or police officers) or the act of corrupting someone or something" [6].

The Business Dictionary defines Corruption as "Wrongdoing on the part of an authority or powerful party through means that are illegitimate, immoral, or incompatible with ethical standards. Corruption often results from patronage and is associated with bribery" [7].

The Asian Development Bank: "Corruption involves behavior on the part of officials in the public and private sectors, in which they improperly and unlawfully enrich themselves and/or those close to them, or induce others to do so, by misusing the position in which they are placed" [8].

Mnemonic Dictionary defines Corruption as "lack of integrity or honesty (especially susceptibility to bribery); use of a position of trust for dishonest gain" [9].

As stated in the 9<sup>th</sup> International Anti-Corruption Conference also known as The Durban Commitment to Effective Action against Corruption "Corruption

is an evil that threatens and challenges all people around the globe, but bears with special cruelty upon the world's most poor. It deepens poverty; it debases human rights; it degrades the environment; it derails development, including private sector development; it can drive conflict in and between nations; and it destroys confidence in democracy and the legitimacy of governments. It debases human dignity and is universally condemned by the world's major faiths" [10].

As per Black's Law Dictionary Corruption is "An act done with intent to give some advantage inconsistent with either official duty and the rights of others. The act of an official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefit for himself or for another person, contrary to duty and the rights of others" [11].

Judiciary in India has always played a laudable role in eradicating social evils, and to bring social justice to masses. The Supreme Court of India has devised various ways like epistolary jurisdiction, relaxing *locus standi* principle, allowing public interest litigation and has played pro-active role for bringing justice to every doorstep. Through various cases several guidelines have been provided by the Apex Court to curb corruption. This paper will go through some prominent judgments of the Indian judiciary wherein certain path breaking guidelines were passed with a view to minimize corruption and its related aspects.

### Important Judgments of the Indian Judiciary

#### 1. *M.P. Special Police Establishment Vs. State of M.P.* [12]

Rajender Kumar Singh and Bisahu Ram Yadav Ministers of the Government of M. P illegally exchanged 7.5 sections of land of land belonging to the Indore Development Authority to other persons. Aand Complaint was made to the Lokayukta against them and after examination the Lokayukta presented a report holding that there were adequate reason for prosecuting the two Ministers under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1983 and furthermore for the offenses of criminal conspiracy punishable under Section 120-B of the Indian Penal Code. Prior to the report came the two Ministers had just resigned their post. For prosecuting the two Ministers Sanction was required from the Council of Ministers who declined authorize on the ground that no primary evidence had been made out against them. However, the Governor opined that the accessible archives and the confirmation was sufficient to demonstrate that

a by all appearances case for indictment had been made out. The Governor appropriately conceded authorize for prosecuting under Section 197 of the Criminal Procedure Code.

Both of them filed Writ Petitions under Articles 226 and 227 of the Constitution of India challenging the sanction giving by the Governor. The High Court told that the Governor can't act in opposition to the "guide and counsel" of the Council of Ministers. The sanction order of the Governor to prosecute the Ministers in connection to offense under Section 120 of the Indian Penal Code was upheld by the Supreme Court.

*P. Nallammal vs. State Rep. By Inspector of Police [13]*

Tamil Nadu Ministers were facing charges under Section 13(1) (e) of the Prevention of Corruption Act, 1988 for having amassed disproportionate assets during the period of Chief Minister Smt. Jayalalitha's tenure. And some of their kith and kin were also facing charges as co accused for the said offence read with Section 109 of the Indian Penal Code. The question before the Supreme Court was whether they are liable to be prosecuted along with public servants for the offence under Section 109 of the Penal Code read with Section 13(1) (e) of the P.C. Act.

The Supreme Court held that if a non- public servant is also part of criminal conspiracy for any public servant to commit any offence under the Prevention of Corruption Act, 1988 or if public servant has abetted any of the offences which the non- public servant commits, such non- public servant shall be liable to be tried along with the public servant.

*Prakash Singh Badal and Anr vs. State of Punjab And Ors [14]*

The cases were instituted under the various provisions of Prevention of Corruption Act, 1988 and some provisions of the Indian Penal Code against Sri Prakash Singh Badal the former Chief Minister of the State of Punjab, his wife Smt. Surinder Kaur and his son Shri Sukhbir Singh. The legality of the criminal proceedings were challenged before the High Court and later to the Supreme Court. The Supreme Court held that the relevant date with reference to which a sanction is sine qua non for taking cognizance of an offence committed by a public servant under section 19 of the Prevention of Corruption Act, 1988, is the date on which the court is called upon to take cognizance of the offence of which he is accused, in this case the accused Prakash Singh Badal ceased to be Chief Minister of the State of Punjab when the court took cognizance of the

offence under Prevention of Corruption Act, 1988 alleged to have been committed by him and such as to the question of obtaining sanction under section 19 of the said Act does not arise. The appeal is accordingly dismissed.

*Lalu Prasad Yadav vs. State Of Bihar Through CBI (Ahd) [15]*

Lalu Prasad Yadav's and his wife Rabri Devi were charged with offences punishable under Section 13(1) (e) read with Section 13(2) of the Prevention of Corruption Act, 1988, Sanctions under Section 19(1)(b) of the Act and Section 197 of the Code of Criminal Procedure, 1973 were obtained from the Governor of Bihar for Lalu Prasad Yadav and no separate sanction was obtained for Rabri Devi but in the Sanction order it was said that as Rabri Devi aided and abetted her husband for offence under Section 13(1)(e) committed by her husband and she is punishable under Sections 107 and 109 of the Indian Penal Code, 1860 and liable to be prosecuted along with him. The validity of the sanctions were questioned by the accused. The Supreme Court upheld the sanction order of the Governor to prosecute the accused.

*P.V. Narsimha Rao vs. State (CBI/Sp) [16]*

In this case the questions before the Supreme Court was whether by virtue of Article 105 of the Constitution a Member of Parliament can claim immunity from prosecution on a charge of bribery in a criminal court, and whether a Member of Parliament is a "public servant" falling within the purview of the Prevention of Corruption Act, 1988. The Supreme Court held that under the Constitution of India A Member of Parliament is a Public Servant but he doesn't have Immunity under Article 105(1) or under Article 105(3) for a criminal offence involving bribery and also till Parliament makes a law the prosecuting agency before filing a charge-sheet has to obtain prior sanction from the Speaker of Lok Sabha or the Chairman of the Rajya Sabha as the case may be.

*J. Jayalalitha vs. Union of India and Anr [17]*

The newly established three additional Courts of City Civil and Sessions Judges, Chennai were established and the Judges of those Courts were appointed as Special Judges to try exclusively on day-to-day basis the criminal cases filed against Ms. Jayalalitha- former Chief Minister of the State of Tamil Nadu, her cabinet colleagues, some ML As of the

AIADMK Party and some officer of the Government, so the accused challenged the validity of Section 3 of the Prevention of Corruption Act, 1988 insofar as it empowers the State Government to appoint as many Special Judges as may be necessary. The High Court of Judicature at Madras held that Section 3 insofar as it empowers the Government to appoint special Judges "for such case or group of cases" is constitutionally valid and not violative of Articles 14 and 21 of the Constitution. It also held that the establishment of three additional Sessions Courts at Chennai and appointment of Judges of those Courts as Special Judges by the notification dated 30-4-1997 is also valid and that in no way contravenes Articles 14 and 21 of the Constitution nor does that stand vitiated by mala fides either

*Madhukar Bhaskarao Joshi v. State of Maharashtra* [18]

The accused had accepted illegal gratification, the plea of the accused is that the amount received by him was repayment of loan amount due to him. Accused was unable to prove it. The Supreme Court held that no exception can be taken to the conviction passed by trial court and longtime pendency of the case does not constitute special reason for reduction of sentence.

From the above cases it is clear that the Supreme Court of India has a tough stand on corruption and it never lets the corrupted go scot free and many a times the accused who were let off by trial court or respective High Courts got acquittal reversed by the Supreme Court.

#### Recent Judgments by Special Judges and High Court

- Lalu Prasad Yadav was convicted with imprisonment for three and half year in the 2<sup>nd</sup> Fodder Scam case relating to Deoghar treasury fraudulent withdrawal and he has already been convicted in the 1<sup>st</sup> Fodder Scam Chaibasa treasury fraudulent with a five year imprisonment. And in the 3<sup>rd</sup> Fodder Scam case Lalu was convicted with imprisonment of five years also relating to Chaibasa treasury fraudulent withdrawal and the trial in remaining three cases are still going on.
- In a stunning verdict the CBI Court acquitted all the accused in the 2G Spectrum Scam case. The CBI had failed to prove that the main accused A Raja along with Telecom Ministry Officials had manipulated the cut-off date for bids or the first come first served policy for allocating spectrum.
- The Bombay High Court quashed and set aside

the sanction granted by the Governor Ch Vidyasagar Roa to CBI in 2016 to prosecute Former Maharashtra Chief Minister Ashok Chavan relating to the Adharsh Housing Society Scam.

#### Conclusions and Suggestions

Corruption in India is growing fast and as per the Transparency International's Corruption Index of 2015 [19]. India has a score of 38 and a rank of 76 which means it has high level of corruption. The Supreme Court has an important role to play in curbing corruption, through its judgements the Supreme Court has provided various guidelines to be followed in corruption cases by the lower courts, investigation agencies and the various Governments.

#### Suggestions

- There is a need to establish more Special Courts to deal with corruption cases.
- The Investigation Agencies need to complete investigation quickly in corruption cases.
- The Governments and Investigation Agencies need to follow the Supreme Court's Guidelines in corruption cases.

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