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Accountability of Civil Servants under Indian Laws: A Critical Analysis

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Abstract

The civil servants are accountable to both political-executive and citizens for ensuring transparency and honest policy implementation. The administration in India has acquired a vast power in the name of socio-economic development. Thus, the chances for administrative abuse are more. So, there is need to establish effective institution (Ombudsman) for the efficient working of the administration. This article focuses on the accountability of the civil servants under the Indian laws. First part of this article deals with the introduction of the civil servants. The second part, describes the provisions related to the civil servants under Indian Constitution (Article 308-311). The third part deals with the accountability of civil servants towards public and political-executive. It also describes the relevant recommendation of committees. Fourth, the most important part deals with the mechanisms to control the civil servants so as to prevent the abuse of power under the administration. The fifth part of the article deals with the lacunas which prevent the proper implementation of all these mechanisms. Finally, the article concludes that Lokpal has provided effective implementation of all mechanisms which can help to eradicate the menace of corruption

Keywords*: Civil Servants, Accountability, Administrative, Constitution, Lokpal*

I. Introduction

Civil service is the backbone of administration. The political executive is temporary and changeable periodically. Civil servants have fixed tenure. During the British rule in India, civil service played dominant role in administration.[2] This system continues after the commencement of the constitution of India underlying the important role of civil services, the prime minster while addressing the nation on its sixty-third Independence day on august15, 2009

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[2] PETER CLANE, AN INTRODUCTION TO ADMINISTRATIVE LAW, 200-246 (Clarendon press, 1996).

from the rampart of red ford said the benefits of developmental schemes cannot reach the people without the assistance of civil servants[3]. The civil servant is indispensable to the governance of the county in the modern administrative age. In the welfare state like India, it is the duty of civil servants to execute policies and programmes of the government and also to provide necessary inputs for future policy planning. The bureaucracy thus, helps the political executive in the governance of the country.[4] The civil servants have played important role in ensuring the continuity of the administrative department. However, they are dictated by rules and procedures which are formulated taking their advice into the account.

The concern of the people in the civil society is that their government must function transparently. In the many countries around the world, civil servants exercise many powers in discharging their functions based on the authority incorporated to them. All the democratic countries like America, Russia etc, have developed systems and procedures of the checks and balances on the powers of the administration so to ensure their proper use of power. These democratic systems can broadly be termed as mechanisms that promote accountability and the transparency. To ensure the transparency and the accountability for performance is not a simple task in government department; there are various complexities involved in making civil servants answerable for the outcomes. The public officials have a close relationship with the citizens through the variety of services it provides. So, the maintenance of ethical behaviour is very important aspect to them. They should act professionally and honestly use their power while delivery their service. For, the good Government system it is very important that their systems and sub-systems of Governance are efficient, economically and ethically. In addition to this the public officials must act in just, fair and citizen-friendly manner. The administration must be accountable and promoting transparency. To ensure that there must be good governance, it lies in the effective implementation of its schemes and programmes for the attainment of the goals in the society. The concept of the good governance implies accountability to people and their involvement in decision making, implementation of the public policies. In this perspective the concept of accountability become very important components of the good

[3] K. C. JOSHI, THE CONSTITUTIONAL LAW OF INDIA, 655 (Central law publication, 2016).
[4]TIMOTHY EDICOTT, ADMINISTRATIVE LAW, 226 (Oxford University Press, 2015).

governance as well as of good administration in the developed countries. The Transparency ensure that the citizen should know exactly what is going on in the administration and what is rationale of the decisions taken by the Government servants. The Minister of the government department has taken the advice of the civil servants for the smooth functioning of the government. They assist the ministers of the country regarding the proper flow of work of the department and also solutions of the different administrative problems arising in the normal routine of the government department. Although enacting the policy is the duty of the minister of the country but even for that he is totally depend upon the executives whose experience provide the necessary knowledge for policy. Warren Fisher has defined the role of public officials as "Determination of the policy is function of ministers in the country and once a policy is determined it is the unquestionable business of the public officials to carry out that particular policy with the same goodwill."[5]

While decisions are being formulated, it is primary responsibilities of the civil servants to make available all the important information to their chiefs and to do this without any kind of fear irrespective of whether the advice thus tendered may or not accord with the minister's point of view. Furthermore, it is only the civil servants who prepare the answers which the ministers have to give in the both houses (Loksabha & Rajyasabha). The civil servants only prepare the speeches of the ministers. Thus, for all these works to be done, civil servants are required the knowledge and experience but the responsibility lies with the minister. It is very important aspect that they should be accountable to the government. The public views in the today's societyis that the civil servants are unresponsive to the needs and concerns of the people in the society and the government does not address this problem because the mechanisms to ensure accountability of the civil servants do not appear to be adequate.

Keeping in view the significance of civil services, the constitution makes elaborate provisions relating the services under the union and the states. Part 14 (article 308 to 313) deal with matters of interpretation, recruitment and conditions of services, tenure, major penalties and protection, creation of new

[5] H.M. SEERVAI, CONSTITUTIONAL LAW OF INDIA, 1250 (Universal Law Publishing, 2008).

all India services and varying and revoking conditions of service of officers of certain services.[6]

II. Provision related to Civil Servants under Indian Constitution

In order to ensure the progress of the country it is essential to strengthen the administration by protecting civil servants from political and personal influence. So provisions have been included in the Constitution of India to protect the interest of civil servants along with the protection of national security and public interest. Part XIV of the Constitution of India deals with Services under The Union and The State.

Article 309 empowers the Parliament and the State legislature to make laws regulating the recruitment, and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State respectively. such law subject to the provision of the constitution. Proviso to article 309 makes interim arrangement and gives power to the President or such person as he may authorise to make rules for the above purposes until provision in that behalf is made by or under an Act of Parliament[7]. similar power given to the governor of a state to make rules with regard to the employees of the state.

According to Article 310, Members of the services, the civil services of the centre and the all India services or persons holding defence or civil posts under the centre, hold office during the pleasure of the president. Similarly members of the civil services of a state or persons holding civil posts under a state hold office during the pleasure of the governor of the state. Article 310 in-corporate the doctrine of pleasure in our constitution. This doctrine has been borrowed from the British system of governance, where in any person holding a post under the crown holds his/her office during the pleasure of the crown. This doctrine applies to all the services under the union and the state, including the All India services, in India.

Article 310(1) will not apply where the constitution expressly provides for secured tenure. The Supreme Court Judges (Art. 124), Auditor-General

[6] N. NARAYANAN NAIR, THE CIVIL SERVANT UNDER LAW AND THE CONSTITUTION, 276 (The Academy of Legal Publications, 1973).

[7] M. P. JAIN, INDIA CONSTITUTIONAL LAW, 1558 (Lexis Nexis, 2010).

(Art.148), High Court Judges (Arts, 217, 218), a member of a Public Service Commission (Art 317), and the Chief Election Commissioner have been expressly excluded by the Constitution from the rules of pleasure[8].

Cl. (2) of article 310 especially empowers the government to enter into service contracts with persons having special qualifications.[9] The doctrine of pleasure can be qualified or limited by such service agreements. Thus, in order to secure the services of any person, the government may include in the service agreement a provision for compensation in case of premature abolition of the post or retirement not due to misconduct.[10]

Article 311 is the bulwark of civil servants. This is an important guarantee which severely restricts the doctrine of pleasure contained in articles 310(1) of the constitution. The object of imposing the restrictions on the doctrine of pleasure is to see that the bureaucracy may not become autocracy, and exploit the savants. To save the civil servants, certain restrictions are framed in the constitution. Article 311 envisages three major penalties which may be inflicted on a civil servant. They are dismissed, removal and reduction in rank. Article 311 gives more protection to a civil servant against these penalties. Article 311 gives more protection to a civil servant against these penalties. Reduction in rank does not end the services of an employee and has been treated differently. Article 311 (1) provides that no person who is a member of a civil service of the union or of an all India service or a civil service of a state or holds a civil post under the union or a state shall be dismissed or removed by an authority subordinate to that by which he was appointed. Article 311 (2) no civil servant can be removed or dismissed or reduced in rank, except after an enquiry in which he has been made aware of the charges against him and also given a reasonable opportunity to defend himself. Under article 311 civil servants cannot be removed without hearing. It expressly talks about the principles of natural justice.

[8] I. P. MESSY, ADMINISTRATIVE LAW,590 (Eastern Book Company, 2017).
[9] PETER CLANE, AN INTRODUCTION TO ADMINISTRATIVE LAW, 200-246 (Clarendon press, 1996).
[10] WENDEY VAN DUYNE, ADMINISTRATIVE LAW GUIDE FOR PARALEGALS, 269 (Wiley Law Publication 1994).

Legislative power as well as rule making power under article 309 is subject to 310 which contains "doctrine of pleasure" and article 311 which provides for certain safeguards. Article 311 controls both the articles 309 and 310. The directive principles of state policy incorporated in the Indian Constitution in the part 4 imply the certain duty to be taken by the state government while framing their policies or for the governance while, the directives of the state policy are not enforceable in the court of law. There is the need to examine that there is any other Article of the Constitution of India which will facilitate the adoption of accountability for the public officials in the system. It is the Article 350 in the Indian Constitution which stated that: Every person shall be entitled to submit a representation for the redress of any grievance of any officer or authority. It represents the accountability.

III. Accountability towards Public

The primary concern of a citizen in a good civil society is that, their government must be fair and good. For a government to be good it is essential that there system of governance is efficient, reasonable, fair and citizen friendly.[11] The civil servants have always played a pivotal role in ensuring continuity and change in administration. However, they are dictated by the rules which are formulated taking their advice into account. It is the Rule of Law rather than the Rule of Man that is often blamed for widespread of abuse of power and maladministration among government servants.[12] The concept of the Accountability also means answerability by the public officials is that the questions asked of civil servants have to be answered by them. There are two types of questions can be asked. First one is under the Right to information Act merely seeks information and involves one way transmission of information and the data. It promotes transparency & accountability of the civil servants in the Government. The second type of the question is not just as to what was done but why and therefore involves a two ways flow of information with the people of the society usually providing a feedback in respect of working of government departments.

[11] S. K. DAS, CIVIL SERVICE REFORMS AND STRUCTURAL ADJUSTMENT, 235 (Oxford University Press, 1998).

[12] H.W.R.WADE, ADMINISTRATIVE LAW, 346 (Oxford University Press, 2014).

The civil servants are accountable to both the political-executive in charge of the department and to the citizens for ensuring responsive, transparent, and honest policy implementation. but in practice the accountability is vague and generalised nature. It is expected that a civil servant would be imaginative, dynamic, effective, committed, objective, independent, fair, reasonable, and non- political.[13] However, unfortunately the popular image of a civil servant has gone done considerably. Today, the general impression is that civil servants have become political, useable, and pliable and that there is corruption, indifference and inertia in the services, besides mal administration, non-administration and abuse of power. Today, the discretionary power in the hands of the administrators is widely misused. Many people view that civil services has become politicised over a period of time. There is a growing political interference in administration. Thus this led to administrative deviance. The continuous increase in the instances of maladministration undermines the public faith.[14]

A. Relevant Recommendations of Committees

The "SANTHANAN COMMITTEE"[15] made a range of recommendations to fight the menace of corruption. These are red tape, administrative delay, lack of transparency, scope of personal discretion. It further stated that the reason for corruption are where officers on behalf of state engage with private company to perform specific task or public work and these companies collusion with officers indulge in corrupt practices. It also recommended the constitution of the central vigilance commission and changes were also suggested in article 311 of constitution for conducting disciplinary proceeding against civil servants. It was also recommended that offering of bribes should be made a substantive offence.

The first Administrative Reform Commission[16] recommended that the departments and organisations which were in direct charge of development

[13] NIRANJAN PARIDA, *THE ROLE AND IMPORTANCE OF CIVIL SERVANTS INDIA- A SOCIO LEGAL STUDY*, IJL 24 (2015).
[14] NEIL PARPWORTH, CONSTITUTIONAL & ADMINISTRATIVE LAW, 167 (Oxford University Press, 2016).
[15] https://www.civilsdaily.com/reforms-needed-in-civil-services-2nd-arc-report-and-other-committee-recommendations/ (retrived on 1 feb., 2020).
[16] PETER CLANE, AN INTRODUCTION TO ADMINISTRATIVE LAW, 200-246 (Clarendon press, 1996).

programmes should introduce performance budgeting. The A.R.C also recommended the establishment of two special institutions for the proper functioning of civil services, The Lokpal to deal with the complaints against administrative acts of the ministers and secretaries to the government at the centre and Lokayuktas to deal with such complaints in states.

The second Administrative Reform Commission[17] was constituted in 2005 and submitted its 4th report on "Ethics in Governance" in January 2007. The terms of reference of this (Commission regarding corruption are:-

- *Strengthening pro-active vigilance to eliminate corruption and harassment to honest civil servants.*
- *Addressing systemic deficiencies manifesting in reluctance to punish the corrupt.etc*

  The second administrative reform commission in its 10th report pertaining to values and ethics of civil services in India recommended drafting bill on ethics to give code of ethics a statutory basis in the form of "civil services bill". The commission recommended to upholding the constitutional spirit the civil servants shall be guided by following values:
- *Impartiality and non partisanship.*
- *Objectivity*
- *Adherence to the highest standards of integrity and conduct.*
- *Dedication to public service .etc*

The HOTA Committee[18], 2004 recommended that section197 of CRPC may be amended to protect the honest civil servants from the malicious prosecution of harassment. It also recommended that the code of ethics should be drawn up for civil servants incorporating the core values of integrity, merit and excellence in public services. Another Recommendation of HOTA Committee was that each department should be lay down and bench mark services to be delivered, methods of grievance redressal and public evaluation of performance.

[17] I. P. MESSY, ADMINISTRATIVE LAW,590 (Eastern Book Company, 2017).
[18] Committee on Civil Service Reforms: P.C. Hota Committee (uly 2004).

IV. Mechanisms to control civil servants

There are several mechanisms to control civil servants in India and to prevent corruption, maladministration and abuse of power under the administration such as:

A. Prevention of Corruption Act, 1988[19]

Corruption remains one of the leading problems plaguing the country. Corruption was inherited along with the political emancipation of India in 1947. To eradicate the evils of maladministration and corruption done by civil servants, Indian penal code, 1890 was the main tool. In 1974 itself, the government realised that time perceived that corruption had reached a level which required a special law other than penal code to deal with it. Hence, prevention of corruption act was codified. Finding that bribery and corruption had considerably increased after 2nd world war and many officers had amassed huge wealth and Ipc and Crpc were inadequate to tackle this problem. The prevention of corruption act declared such corrupt act, offences as taking bribe, misappropriation, obtaining pecuniary advantage and abusing official position, it define a new offence "criminal misconduct" in discharge of duty is punishable by 1-7 years imprisonment.

B. Delhi Police Act, 1946[20]

Before 1963, there existed the special police establishment under Delhi police establishment act 1946 to investigate offences committed by central government. In 1963, by an executive resolution the government established CBI under the act for the purpose of investigation.

C. The Commissions of Inquiry Act, 1952

To enable administrations to effectively discharge its multifarious functions it needs to exercise broad powers of conducting investigation and inquiry into various matters. The primary purpose of this technique is to collect information with a view to decide the further course of action in a given situation, or to find correctives to a given problem. Administrations, in today's complex socio

[19] M.P. JAIN & S.N. JAIN, PRINCIPLES OF ADMINISTRATIVE LAW, 1019 (Lexis Nexis, 2017).
[20] I. P. MESSY, ADMINISTRATIVE LAW,590 (Eastern Book Company, 2017).

economic life have increasingly come to depend on investigations to determine facts. It is correct to say that an action taken in ignorance of full facts may not only fail to rectify the given situation, but may even create more problems. Sec 3 of the act says that central and state government may appoint a commission of inquiry for the purpose of making inquiry into any definite matter of public importance to enable the administration to discharge effectively the functions entrusted to it. The phrase "definite matter of public importance" is of wide import and enables the government to launch inquiries practically into any matter. It has powers of a civil court while trying a suit under CPC. The inquiry made by commissions is not judicial/ quasi-judicial. Its only function is to investigate the facts and record its findings and then report to the government in order to enable it to make up its mind as to what legislative or administrative measure should be adopted to eradicate the evil. It is simply a fact finding body, without any power of adjudication. The purpose of the inquiry is to maintain the purity and integrity of administration in the country.

D. Central Vigilance Commission Act, 2003[21]

To curb the corruption practices in the administration the Indian government created central vigilance commission in 1964. It was done on the recommendation of the SANTHANAN COMMITTEE. The CVC is empowered to undertake an inquiry into any transaction in which public servant is suspected/ alleged to have acted in a corrupt manner. In Vineet Narayan& others vs. union of India& another[22], popularly known as Jain Hawala, Hon'ble Supreme Court gave directions regarding the superior role of central vigilance commission. It laid down guidelines to ensure independence and autonomy of the CBI and ordered that CBI be placed under the supervision of the central vigilance commission.

To ensure independence of CVC from governmental interference, the parliament has enacted central vigilance act, 2003 in such a way that the commission exercised all the powers and functions entrusted to it so that it will not be inconsistent with this act. The CVC is empowered to undertake the inquiry or investigation into any complaint of corruption, gross negligence,

[21] K.C. JOSHI, AN INTRODUCTION TO ADMINISTRATIVE LAW, 287 (Central law publications, 2006).

[22] Vineet Narayan & others v. Union of India & another, AIR 1998 1 S.C.C. 226.

misconduct or other kind of malpractice on part of civil servants. It has only advisory jurisdiction. It cannot perform adjudicatory function and it cannot inquire into complaints of corruption except to limited extent. When commission gets complain, it refers them to the CBI for investigation. This body will have to send the report to commission after investigation. It exercise superintendence over the functioning of CBI and give direction to CBI for superintendence in so far as it relate to inquiry of offences under prevention of corruption act, 1988.

E. Right to Information Act, 2005[23]

Government openness is a sure technique to minimise administrative faults. Brandeis J rightly said, "A government which revels in secrecy… not only acts against democratic decency but busies itself with its own burial". Information is a core value of democracy and good governance. The parliament has enacted the right to information act in 2005. This right is derived from our fundamental right of freedom of speech and expression under article 19 of the constitution. If we do not have information on how our government and public institutions function, we cannot express any informed opinion on it. The object of the act is to promote openness, transparency and accountability in the administration.

Right to information entitle every citizen to have access to the information controlled by the public authorities. The act also encourages the administration to make voluntary disclosure in relation to their system of functioning and thereby sow's the seeds of transparency. The need to enact a law is to make an open and transparent government. Section 4 of the act cast duty on public authority to maintain all its records and particulars. Sec 8 of the act provides restrictions on information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interest of state, relations with foreign states, forbidden information, disclosure of which would cause a breach of privilege of parliament or state legislature etc. It was enacted to radically alter the administrative ethos and culture of secrecy and to bring new era of transparency and accountability in governance. The act is meant to harmonise the conflicting interests of government to preserve the confidentiality of sensitive information with the right of citizens to know the

[23] C.K. TAKWANI, ADMINISTRATIVE LAW, 503 (Eastern Book Company, 2017).

functioning of the governmental process in such a way as to preserve the paramount of democratic ideals.

F. The Lokpal and Lokyukta Act, 2013[24]

There was a need to establish an ombudsman system in India for the efficient working of the administration. M.C. Setalvad also in his speech at the all India lawyers' conference held in 1962, suggested the idea of establishing an institution similar to that of an ombudsman because administration in India has acquired a vast power in the name of socio-economic development. Thus, the chances of administration abuse are more. There was need because this will describes and establishes the important principles and characteristics which create the distinctive culture and ethos of the civil service in the India. If it is properly drafted it can provide a clear framework within which the civil service can carry out its distinctive roles and duties. It describes the legal basis for the legislature to express the important values it wants in the civil service department. It is also the lasting initiative towards better performance and accountability of the civil servants in the India. Basically it is a concept of Sweden. Administrative reform commission report 1966, propounded a scheme for setting up Lokpal and Lokayuktas in India. The word Lokpal is derived from the Sanskrit word "Lokpala" which means people caretaker. Government of India accepted the recommendation and in 1968 the first bill was introduced regarding establishment of Lokpal in India, but eventually it was allowed to lapse. Eight attempts were made but bill was not passed. Finally, In 2011 with efforts of civil society members (Anna Hazare, Arvind Kejriwal, Prashant Bhushan etc) the Jan Lokpal bill was drafted. The salient features of the proposed bill include constitutional position for Lokpal and Lokayukta. The purpose of the Bill is to provide a statutory basis for the Civil Services in India as enshrined in Article 309 and Article 312 of the Constitution of India, to regulate the appointment and conditions of the service of public officials to lay down the basic values of Civil Services.

It is established to inquire the allegation of corruption against public servants. The act mandates for creation of Lokpal for the union and Lokayukta for states. The jurisdiction of the Lokpal is very wide because it includes ex and sitting

[24] http://www.legalserviceindia.com/legal/article-50-lokpal.html (retrieved on 1 Feb., 2020).

Prime Minister, Members of Parliament; Group A, B, C, D officers, chairperson, officers and employee of the board, company, society or trust established by the act of parliament wholly or partly.[25] But it will not inquire the P.M. if the allegation of corruption is related to international relation, external/internal security or public order, Atomic energy and space. The allegation on P.M. can be taken up for inquiry on when full bench of Lokpal consist chairman and all its members consider the initiation of inquiry & at least 2/3 members approve it. The Lokpal has following powers:

- It has power of superintendence over and gives directions to CBI.
- It has powers of confiscation of assets, proceeds, receipts and benefits arisen or procured by means of corruption in special circumstances.
- It has power to authorize CBI for search and seizure operations connected to such case.
- It has power to recommend transfer or suspension of public servant connected with allegation of corruption.
- It has power to give directions to prevent destruction of records during preliminary inquiry.
- The inquiry wing of the Lokpal has been vested with the powers of a civil court.

There are 3 wings of the Lokpal so that to ensure smooth functioning of it, such as:

Inquiry Wing

Lokpal would constitute it, which is to be headed by director of inquiry. Its functions are to conduct inquiry in to the offences committed by public servants punishable under prevention of corruption act, 1988.

Prosecution Wing

Lokpal by notification would constitute a prosecution wing. This wing will be headed by the director of prosecution for the purpose of prosecution of public servants. Director of prosecution files the case before in accordance with findings of investigation report.

Special Courts

[25] R.B. JAIN, THE PUBLIC ADMINISTRATION IN INDIA: 21 Century Challenges for Good Governance 152 (Deep & Deep Publications Pvt. Ltd., 2004).

On the recommendation of the Lokpal, the central government shall constitute special courts to hear and decide the cases arising out of the prevention of corruption act, 1988 or under Lokpal act. Such courts are required to finish each trial with in a period of one year from the date of the case in the court. This one year period may be extended for 3 months by recording in writing.

V. Gap Analysis

Although in India there are several control mechanisms to prevent the practice of maladministration and misfeasance but all these mechanisms are subject to the several loopholes which prevent their proper implementation. In prevention of corruption act 1988, punishment system is not effective. The punishment awarded to the wrongdoers is less as compared to the acts committed by them. In the commission of inquiry act 1952, after inquiry the report submitted to the appropriate government. The appropriate government lay it down to the house of parliament/ state legislature along the memorandum of action taken within 6 months of the submission of report which is the biggest drawback because it is difficult to follow such kind of procedure and report of commission have also not binding force.[26]

There are several issues in the constitution and the powers granted to central vigilance commission. When it comes to the appointment of the chief vigilance officer, the system is not transparent and clear. In 2010, the issue was brought to the limelight when PJ Thomas was appointed as the chief vigilance commissioner on the recommendation of selection committee headed by prime minister of India. The selection of the new CVC was marked by controversies, after the Sushma Swaraj, who was part of selection committee, objected to the choice of Thomas, citing the pending charge sheet against him. The Supreme Court quashed the appointment of Thomas as the chief vigilance commissioner noting that the selection committee did not consider the relevant material pending on the pending charge sheet.

Another important issue which also shows the lack of accountability and transparency in the administration is in the case of CBI vs. CBI[27], the Hon'ble Supreme Court relied upon the Jain Hawala case , set aside the centre's decision

[26] I. P. MESSY, ADMINISTRATIVE LAW,590 (Eastern Book Company, 2017).

[27] https://www.livemint.com/Politics/nIlRikkA7cRDBETxEcpklM/CBI-vs-CBI-SC-reinstates-Alok-Verma-as-CBI-director-sets-a.html (retrieved on 3rd feb.,2020).

divesting CBI director Alok Verma and sending him on leave. Reinstating Mr. Verma, the apex court said that any further decision against Mr. Verma would be taken by the high powered committee, which selects and appoints the CBI director. And while hearing the case it also questioned the government's haste in removing Alok Verma without consulting a selection committee as is the rule. Another main problem in CVC is that it is an agency of executive not of the legislature. The commission does not have any investigation mechanisms and cannot investigate any complaints and should depend on other bodies for their investigation report.

The another important issue which shows the lack of the accountability of public officials is when the report of the Auditor General on the 2G spectrum submitted in the 2010 describes the loss caused to the Central government of the India about Rs.1.76 lakh crore. The CBI decision to arrest the former Telecommunications Secretary Mr. Sidhartha Behura along with the Minister A. Raja in relation with this case revives an debate over the connections between the public officials and the politician. The issue shake the entire bureaucracy especially the officers of the Indian Administrative Service and the Indian Police Service. Till now there is nothing that suggests that Mr. Behura had been dishonest and received monetary benefits from the companies. Only the Central Bureau Investigation charge sheet will lead to the process of confirming his integrity in the department. There is a chances that while being honest he had been more than willing to do the Ministers bidding in order to stay in the good books because he had worked under Mr. Raja earlier in the Ministry of the Environment.

Even after the 14 years, since the right to information act, 2005 was passed; there are several drawbacks in implementation and lack of accountability among some public officials. People fear of being victimized on using the right to information act. To stop the victimisation of activists, there is need to amend the right to information act, 2005. People misuse the act to obtain information and blackmailing the government officials. Another criticism is the large chunk of population is unaware about the act and its rules. The act also reinforces the controlling role of the government official, who retains wide discretionary powers to withhold information. The recent amendment is the stringent criticism

that was to be made allowing file noting except those related to social and developmental projects to be exempted from the purview of the act.[28]

Though the Lokpal and Lokayuktas act, 2013 has offered a productive solution to combat the never ending menace of corruption and prevent maladministration but at the same there are loopholes which need to be corrected. It is not free from political influence as an appointing committee itself consist parliamentarians. The biggest loophole in the act is delay in its implementation after 6 years of enactment, the Lokpal appointed in 2019 whose chairman is former judge of Supreme Court Pinaki Chandra Bose. Further, the act provides no concrete immunity to the whistle blowers. There is no foolproof way to determine whether the person who is appointed as the Lokpal will remain honest throughout.

The biggest lacuna is the exclusion of judiciary from the ambit of the Lokpal.The act provides for the Lokpal itself dealing with the complaints against its officers, which seem to be contrary to very rationale for setting up an independent body. The Lokpal is also not given a constitutional backing. There are no adequate provisions for appeal against the Lokpal. The powers, composition and scope of Lokyuktas do not find any mention of the act. There is a long way to go to ensure transparency and crusade against corruption are still on and yet to reach its destination.

VI. Conclusion and Suggestions

It is rightly said by Publius Cornelius Tecitus that "the more corrupt the state, the more laws". Any good system of administration, in the ultimate analysis, has to be responsible and responsive to the people.[29] There is the huge problem of transparency and accountability of the anti corruption agencies. The motive behind implementation of Lokapal and Loksyukta act, 2013 is that people can raise their voice against the maladministration without any fear. The institutions like CVC and CBI have failed to ensure accountability and transparency towards administration. The concept of the Accountability of the executive arm

[28] MAHABIR PRASAD JAIN, CHANGING FACE OF ADMINISTRATIVE LAW INDIA AND ABROAD 45-78 (NM Tripathi, 1982).

[29] HENRY WILLIAM RAWSON WADE, ADMINISTRATIVE LAW, 345 (Oxford University Press, 2004).

of the government to Parliament and to the citizens is of course the fundamental feature of a democracy.

Even though Lokpal has provided the effective implementation of all the mechanisms but a single Lokpal act will not help to solve the problem of maladministration. In fact, there is no single law which can help to eradicate this malice. There are many bills pending in the parliament which are complimentary to the Lokpal act and promote transparency and accountability of public servants which are necessary to eradicate the evil of corruption. So, there is necessary to effective implement all those bills and effective implementation of them.

To stop the menace of corruption and to tackle the problem of corruption, the institution of ombudsman should be strengthened so that to check abuse of power in the administrative system. More right to information and transparency is required along with the great leadership. The government of India should address the issues based on which people are demanding a Lokpal. Merely in addition to the strength of the investigative agencies will enhance the size of the Indian government but not improve the governance system. The slogan of the less government and more governance should be followed in letter. The ombudsmen appointments must be transparently done so as to reduce the chances of the wrong people getting in. The biggest loophole is the exclusion of judiciary from the ambit or sphere of the lokpal. So there is a need to include the judicial system in the sphere of lokpal for its proper functioning and for maintaining the accountability.

“Corruption will be out one day; however, one may try to conceal it: & the public can as its rights and duties, in every case of justifiable suspicion, call its servants to strict account, dismiss them, sue them in a court of law, appoint an arbitrator to scrutinize their conduct, as it likes”

-Mahatma Gandhi