

Protection of Persons Making Disclosures in Public Interest: An Analysis

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INTRODUCTION

The Persons making disclosures in public interest are popularly known as Whistleblowers. The term whistle blowing arises by analogy with the referee or umpire who draws public attention to a foul in a game by blowing of the whistle which would alert both the law enforcement officers and the general public of danger. US civic activist Ralph Nadar coined the phrase in the early 1970s to avoid the negative connotations found in other words such as “informers” and “snitches”.¹ A whistle blower is a person who tells the public or someone in authority about alleged dishonest or illegal activities occurring in government departments, a public or private organization, or a company.² The alleged misconduct may be classified in many ways; for example, a violation of law, rule, regulation or a direct threat to public interest, such as fraud, health/safety violations and corruption.³

The term 'whistle blowing' is a relatively recent entry into the vocabulary of public and corporate affairs in India, although the phenomenon itself is not new. In ancient period, Kautilya also dealt with reward for informants of corruption.⁴ During British Rule, criminal law in India, was codified by British government with the sole purpose of facilitating repression of Indians. Within this scheme of things a witness or informant perspective would have been a misfit.⁵ After Independence, the Indian Constitution was adopted by the Constituent Assembly.⁶ The Indian Constitution is unique in its contents and spirit. The Preamble of Indian Constitution secures to all citizens of India liberty of thought, expression, belief, faith and worship, through their fundamental rights enforceable in court of law, in case of violation. The Preamble is also provide for democratic form of government.⁷ Democracy rests on good governance founded on transparency, openness and accountability.⁸ Constitutional law in India also recognizes that a public office imposing on the holder of the office, an obligation of trust, and a fiduciary duty towards the people.⁹ The whistle blower laws are also based on this policy.

GOOD GOVERNANCE AND TRANSPARENCY ARE INSEPARABLE TWINS:-

One of the main functions of the State are maintenance of law and order, protection of life A citizen has a right to know about the activities of the State, the instrumentalities, the departments and the agencies of the State. The privilege of secrecy which existed in old times, that State is not bound to disclose the facts to the citizens or the State cannot be compelled by the citizens to disclose the facts, does not survive now to great extent. Under Article 19 (1) (a) there exists the right of freedom of speech and expression. Freedom of speech based on the foundation of freedom of right to know. The State can impose and should impose reasonable restrictions in the rights where it affects the national security or any other matter affecting the nation's integrity.¹⁰ The right of information is indisputably a fundamental right, a facet of 'speech and expression' as contained in Article 19(1)(a). It has been said that in a government of responsibility like ours, it is elementary that citizens ought to know what their government is doing. They have right to know every public act,

¹ Nader, Petkas and Blackwell, *Whistleblowing* 112 (1972).

² Available at <http://en.wikipedia.org/whistleblower> (visited on November 2, 2017).

³ Dr. Archana Gadekar, "Whistle Blower Bill: A Critique" *AIR* 177 (2012).

⁴ R. Shamastry, *Kautilya's Arthashastra* 126 (2005).

⁵ Uma Soumya, "Towards a legal regime for protecting the rights of victim and witness" 2 *Combat Law* 23 (2004).

⁶ The Indian Constitution was adopted by the Constituent Assembly on 26th November, 1949 and it came into force on 26th January, 1950.

⁷ M. Laxmikanth, *Indian Polity* 43 (2010).

⁸ Justice A. H. Saikia, "The Right to Information Act 2005 – An Instrument to Strengthen Democracy" 1 *Cri.LJ* 13 (2007).

⁹ *Shrilekha Vidyarthi (Kumari) vs. State of U. P.*, (1991) 1 SCC 212.

¹⁰ P. M. Bakshi, *The Constitution of India* 41 (2005).

everything that is done in a public way, by their public functionaries.¹¹ Although the State can impose reasonable restrictions on the right to know but the right to impose reasonable restrictions is limited and particularly in the matter of sanitation and other allied matters, every citizen has a right to know how the State is functioning and why the State is withholding such information in such matters.¹²

The simple meaning and interpretation of the words used in Article 19 (1) (a) says that Constitution provides the freedom of expression because the government functions must be transparent and the executive, legislature and judiciary should be prevented from deceiving people.¹³ Right to know and access information is implicit in right to free speech and expression guaranteed under Article 19 (1) (a) of the Constitution.¹⁴ Access to information on laws mandated government expenses are fundamental for the people to hold governments more accountable for their performance.¹⁵ The arena of right to information is hiding in Article 19 (1) (a) of the Constitution of India.¹⁶ The Supreme Court has traced the origins of the community's 'right to know' from his right to freedom of speech and expression. Right to know is necessary for democratic form of government. Democracy rests on good governance founded on transparency, openness and accountability. It is the best form of government for a country, more especially with a large population like us, which is based on the principle of 'government of the people, for the people and by the people'. But there can be no government by the people if they are ignorant of the issues to be resolved, the arguments for and against different solutions and the facts underlying those arguments. The business of the government is not an activity about which only those professionally engaged are entitled to receive information and express opinion.

It is, or should be a participatory process. But there can be no assurance that government is carried out for the people unless the facts are made known and the issues publicly ventilated. Sometimes inevitably those involved in the conduct of the government, as in any other walk of life, are guilty of error, incompetence, misbehavior, dereliction of duty, even dishonestly and malpractice. Those concerned may be very strongly wished that the facts relating to such matters are not made public. Publicity may reflect discredit on them or their predecessors, It may embarrasses the authorities. It may impede the process of administration. Experience, however, shows in this country and elsewhere, that publicity is a powerful disinfectant. Where abuses are exposed, they can be remedied. Even where abuses have already been remedied, the public may be entitled to know that they occurred.¹⁷ A democratic form of government is administered through the people's participation and such government is presumed to work for excellence and betterment of the common man. No democratic form of government can survive without transparency and accountability and the basic need for result oriented functioning of the democracy is that people should have information about each and every act of the government. Transparency is, therefore, a fundamental component of democracy. Democracy prohibits any form of secrecy in governance. Happening in the government cannot be withheld by section of the people to another section of the people. No democratic government can survive without transparency.

The trust of the government is the basic need of a democratic government. It cannot hide its basic aims and object from the people on the plea of secrecy because openness should be the reality and secrecy is an exception. It is highly essential that all the citizens, in this age of information and cyberspace, in the prevailing economic, social and cultural environment should get the opportunity of joining in the openness of participated democracy. Withholding openness, transparency and accessibility of citizens to all institutions of the government, no government can bring real democracy in its true sense of the term. Democracy and lack of open government cannot co-exist. When secrecy is permitted to be maintained in the functioning of government and the processes of the government are to be kept hidden from public gaze, it would certainly tend to encourage corruption, oppression and even misuse or abuse of authority, for it would all be clouded in the veil of secrecy without any public accountability. However by means of public participation in a democratic government, there would be greater exposure of the working of the government ensuring a better, clear, healthy and efficient administration. The concept of open government is the direct emanation from right to know which seems to be manifest in the right of speech and expression guaranteed under Article 19(1) (a) of the Constitution of India. To make democracy meaningful and successful, access of information to the citizen is a must. It is the only source to promote openness and transparency in a democracy.¹⁸

¹¹ *State of U.P. vs. Raj Narain*, 1975 SC 865.

¹² *L.K Koolwal vs. State of Rajasthan*, AIR 1988 Raj. 2.

¹³ *K. Ravikumar vs. Bangalore University*, AIR 2005 Karn. 21.

¹⁴ *M. Nagraj vs. Union of India*, (2006) 8 SCC 212.

¹⁵ *Diamond Jubilee Higher Secondary School, Erode vs. union of India*, Delhi (2007) 3 MLJ 77.

¹⁶ *M.Nagraj vs. Union of India*, AIR 2007 SC 71.

¹⁷ Right to information book.

¹⁸ Justice A. H. Saikia, "The Right to Information Act, 2005- An Instrument to Strengthen Democracy", *Cri.LJ.*, 115(2007).

CORRUPTION IS OPPOSED TO DEMOCRACY AND GOOD GOVERNANCE:-

"Corruption is today a world-wide phenomenon and social evil which prevents proper and balanced social growth and economic development. Corruption is termed as a plague which is not only contagious but if not controlled, spreads like a fire in jungle. Its virus is compared with HIV leading to AIDS, being incurable. It has also been termed as royal thievery. Corruption is opposed to democracy and social order, being not only anti-people, but aimed and targeted against them. It affects economy and destroys the cultural heritage. Unless nipped in bud at the earliest, it is likely to cause turbulence shaking the socio-economic system in an otherwise healthy, wealthy, effective and vibrating society".¹⁹ Today, there is not a single institution in India that can claim freedom from corruption. Starting from the office of the prime minister to the secretary of the village panchayat, cases of corruption surpass regularly, though the magnitude of such cases is not the same but differ substantially. The turn of corrupt events in the country is now forcing the people to talk, recite and write on what is going wrong, where and what will be the future of this country which is going through one of the most corrupt times.²⁰ Thus, it is relevant to discuss here concept, causes and effects of corruption.

CONCEPT AND DEFINITIONS OF CORRUPTION:-

There is no universal definition of what constitutes a corrupt behavior. The definition of corruption and corrupt practices varies from country to country. To start with its literal meaning, the term "Corrupt" has been defined as morally depraved, wicked, influenced by or using bribery or fraudulent activity, affect or harm by errors or by alterations. Corruption is defined as wide spread moral deteriorations, use of corrupt practices, such as fraud and bribery.²¹

Webster's NewWorld Dictionary defines corruption as the act of making or becoming or being corrupt, and corrupt is defined as changed from sound condition to unsound, contaminated.²²

According to *Black's LawDictionary*, the word corrupt means depravity, perversion, or taint, an impairment of integrity, virtue or moral principle; esp., the impairment of a public official's duties by bribery. The act of doing something with an intent to give some advantage inconsistent with official duty and the rights of others; a fiduciary's or official's use of station or office to procure some benefit either personally or for someone else, contrary to the rights of others.²³

According to *Bouvier's Law Dictionary and Concise Encyclopedia*, corruption includes bribery but it is more comprehensive; because an act may be corruptly done though the advantage to be derived from it may not offered by another. Something against law: as a contract by which the borrower agreed to pay the lender usurious interest. It is said in such case, that it was corruptly agreed etc.²⁴

According to *Wharton's LawLexicon*, bribe means a gift to any person in office or holding a position of trust, with the object of inducing him to disregard his official duty or betray his trust for the benefit of giver. It is a misdemeanour at common law for a public officer, whether judicial or ministerial, to accept a bribe, or for such an officer to conspire with others that he shall receive such bribe.²⁵

In its widest' connotation, corruption includes all kind of improper conduct, whether in the exercise of power or influence attached to public officer, or in the exercise of special position or influence of one's authority in public life, or in the exercise or adoption of personal discretion or profession.²⁶ The shorter and simple definition of corruption includes abuse of authority, bribery, favoritism, extortion and patronage, deceit, malfeasance and illegality. Corruption is most commonly defined as the misuse or the abuse of public office for private gain. It can be come in various forms and a wide array of illicit behaviour such as bribery, extortion, fraud, and nepotism, graft, speed money, pilferage, theft, embezzlement, falsification of records, kickbacks, influence peddling etc. While corruption is commonly attributed to public sector, it also exists in other aspects of governance, such as political parties, private business sector and non-governmental organizations.²⁷

¹⁹ *State of M.P. v. Ram Singh*, (2000) 5 SCC 88.

²⁰ Dr. B.H. Hydervali, "Law and Corruption in India", *Indian Bar Review*, 24 (2002).

²¹ *The Concise Oxford Dictionary of Current English*, 259 (1990).

²² *Webster's New World Dictionary of CurrentEnglish*, 283 (1980).

²³ *Black's Law Dictionary*, 348 (2004).

²⁴ *Bouvier's Law Dictionary and Concise Encyclopedia*, 446 (1914).

²⁵ *Wharton's Law Lexicon*, 145 (1976).

²⁶ Mahesh Chandra, *Socio Economic Crimes*, 73 (1979).

²⁷ Shelkar, "Treaties on Anti Corruption Laws", 2 (2013).

CHARACTERISTICS OF CORRUPTION

Corruption can assume many forms, cover a wide variety of transactions, and operate at many levels. It can relate to acts of commission, omission or delay; involve the exercise of discretion; or the violation of rules, but not necessarily, since illegal gratification can be taken even whilst technically conforming to rules. Bribery can be in the form of cash, kind, services or other favors. Corruption may involve a voluntary or collusive relationship between the bribe giver and the bribe taker, or it may be extortionate for rendering an entitlement, doing an undue favor, or desisting from harmful action.²⁸ Several characteristics of corruption make it difficult to track its course, expose it and effectively punish the culprits. Corrupt transactions take place in secret. In collusive corruption, the mutual interest between the recipient and the source of bribery make it difficult to unearth the evidence. There is also a 'vertical integration' between different layers of the political and bureaucratic echelons; e.g., minister - legislative party functionary and minister - higher bureaucracy, middle and lower bureaucracy.²⁹ In extortionate corruption, the victims are intimidated, above all, corrupt politicians and officials who occupy high positions in government are in a position to suppress evidence or resort to threat or inducement because of their privileged access to government records. Furthermore, legal process involved in tackling corruption, as is generally the case with the Indian legal system as a whole cumbersome, expensive and time consuming.³⁰

CAUSES OF CORRUPTION:-

The extensive literature on the subject of corruption draws attention to political system and practices, economic development, economic policies, sociological characteristics and the cultural milieu as the main factors which are relevant for a causal explanation of corruption.³¹ The following are some of the causes of corruption:-

Corruption is an efficient lubricant in the economic development process:-

This is a proposition that economists tend to support on the plea that in a highly regulated and slow-moving economic environment, corruption enables economic actors to cross barriers and move forward. If speed money is not paid, decisions are delayed and services are denied. Corruption is the price to be paid to cut through these problems.³²

Corruption is the result of shortage in the economy:-

It is true that the potential for corrupt practices increases with the severity of shortages. The temptation to jump the queue or invoke connections is high where shortages abound. What is overlooked, however, is the fact that corruption prevails even when no physical shortage is present.³³

High cost of election is responsible for corruption:-

Some aspects of the Indian electoral system have been given rise to corruption and other abuses necessitating urgent and comprehensive electoral reforms. Large-sized Parliamentary and Assembly constituencies in terms of area and population entails higher election costs to political parties in reaching out to the voters. Apart from this because of the federal system, repeated elections to the Parliament and State Legislatures become unavoidable adding enormously to the high costs. Furthermore, there is show of one's strength and lavish spending on election by more affluent contestants and political parties. Besides this, there is a non-nurturing of the constituencies by political parties over a longer period and resorting to rough and ready short-cut methods when elections are near, expecting quick success. These factors are responsible for corruption.³⁴

Corruption is a rational response to low public salaries:-

There is a germ of truth in this myth as in others. Low governmental salaries may encourage corruption and a tendency to sell favors. Implied here is the hypothesis that corruption would disappear once government compensation policies are reformed. This is difficult to accept for the simple reason that grand corruption is associated with those with high income and assets.³⁵

²⁸ S. Guhan, Samuel Paul, *Corruption in India : Agenda for Action*, 9 (1997).

²⁹ Zwart, *The Role of Transfers*, 11 (1994).

³⁰ *Supra* note 10.

³¹ Clarke, *The Causes of Corruption*, 12 (1983).

³² Manubhai Shah and Samuel Paul, "Corruption in Public Service Delivery", *Corruption in India: Agenda for Action*, 145 (1997).

³³ *Ibid.*

³⁴ K. Ganesan, "Corruption in the Political Process; A Case for Electoral Reforms", *Corruption In India: Agenda for Action*, 27 (1997).

³⁵ *Supra* note 14 at 146.

Dilatory and cumbersome working of government offices:-

It is commonly commented, "Delay breeds corruption". In order to avoid delay, every individual prefers to pay easy money for speedy disposal of his requirement. This is generally done in permit system and inspector raj. It is often observed, despite getting a favorable direction from the competent officials, the directions are not communicated till the public servant concerned gets his hands greased. In the *Santhanam Committee Report*,³⁶ the objectionable corrupt practice and custom of speed money were considered as one of the serious cause of delay and inefficiency.

Lack of stigma in corruption cases:-

The offence of corruption is not considered as stigma by public at large. It has become a way of life of majority of citizens not to get troubled by public officers in getting the work done from them after payment of bribes. Thus, such offences are not disregarded by citizens nor the government takes any serious initiative to get red of this problem Unlike other traditional crimes, these offences do not carry disgrace, depravity or immorality, because corruption has become fashion of the day.³⁷

Monopoly in the supply of public goods and services:-

Absence of competition tends to create opportunities for corruption either by restricting supply deliberately or through inefficiency. This can occur in both public and private sectors. When customers have no other option, they are more vulnerable to the pressures of monopolistic service providers. So, monopoly in the supply of public goods and services is also contributes to corruption in public services.³⁸

Lack of accountability of the service providers:-

Another factor which is responsible for corruption is the lack of accountability of the service providers except in the nominal sense of presenting annual audited accounts to Parliament or other superior authorities. When those who are expected to supervise the agents are themselves party to collusion with the latter, the enforcement of accountability becomes extremely difficult. The lack of proper reporting system and supervisory control add to the severity of the problem.³⁹

Change in the value system and ethical qualities:-

Corruption is caused as well as increased because of the change of value system and ethical qualities of men who administer. The old ideals of morality, service and honesty are regarded as anachronistic. Tolerance of people towards corruption, complete lack of intense public outcry against corruption and the absence of strong public forum to oppose corruption are the main factors which contributes to corruption.⁴⁰

Rampant corruption is unique to some societies and cultures:-

It is true that corruption in public services which concern the average citizen is minimal in most developed countries. It is also pointed out that corruption was rampant in the same countries in an earlier era. There is a tendency, therefore, to conclude that corruption is a manifestation of the socio- economic backwardness of a country. Here again, the socio-economic transformation of a society will no doubt have a bearing on the behaviour of its public officials and citizens. But to assume that no perceptible change can be expected in the medium term is perhaps too pessimistic. In our own life time, Singapore, which was known for its corruption, has substantially eradicated the problem. Chile, though surrounded by several countries known for wide spread corruption, is known for its relatively non-corrupt services and institutions.⁴¹

Lack of adequate state protection to whistle blowers:-

Another factor which contributes to corruption is lack of adequate protection to the complainants reporting the corruption or willful misuse of power. Whistle blowers play a very important role in providing information about corruption. People working in the same department best know who is corrupt but they are not bold enough to convey this information to their higher authorities as there is fear of reprisals.⁴²

³⁶ *Report of the Committee on Prevention of Corruption*, 251 (1964).

³⁷ *Supra* note 8.

³⁸ R. Klitgaard, *Controlling Corruption*, 148 (1988).

³⁹ *Ibid.*

⁴⁰ M.R. Reddy, *Anti Corruption Laws and Departmental Enquiries*, 11 (2015).

⁴¹ *Supra* note 14.

⁴² Robert G. Vaughan, "State Whistle Blower's Statutes and Future of Whistle Blower Protection", *Administrative Law Review*, 581 (1999)

EFFECTS OF CORRUPTION

There is considerable agreement about the adverse effects of corruption on society, polity and the economy. Corruption corrodes the moral fiber of the society. It undermines the legitimacy of governments because of the widespread cynicism, based on a mixture of facts and perceptions concerning the level of corruption. It has been pointed out that general impressions about corruption, circulated in public discussion and gossip, might be unfair and exaggerated but the very fact that such impressions are there causes damage to the social fabric.⁴³ The adverse effects of corruption are countless but an attempt has been made to enlist few:

On Society :-

When society is corrupted its members become cynical and contemptuous of social and moral values. In such a society sane voices of wise men and social reforms will remain unheard and unattended. The effect of corruption on the social fabric of society is the most damaging of all. It undermines people's trust in the political system, in its institutions and its leadership. Frustration and general apathy among disillusioned public results in a weak civil society.⁴⁴ Where corruption prevails, the poor receives less social services such as health, education, social security and welfare benefits. By reducing the total revenue available for social spending it distorts the allocation of public expenditure away from social programs and denies the equal access to public property. Corruption increases income inequalities and poverty. In corrupt countries poor treated discriminately in terms of access to basic services.⁴⁵

On Economy :-

Corruption leads to the depletion of national wealth. It is often responsible for the funneling of scarce public resources to uneconomic high profile projects, such as dams, pipelines and refineries, at the expense of less spectacular but fundamental infrastructure projects, such as schools, hospitals and roads, or the supply of power and water to rural areas. Furthermore, it hinders the development of fair market structures and distorts competition theory deterring investments. Corruption has various evil consequences on various facets of economy. Some of the ways through which corruption weakens economic growth and investment are followings:

- (a) Misallocating talent and under-utilization of key segments of society.
- (b) Lower domestic and foreign investment.
- (c) Distorted enterprise development and growth of unofficial economy.
- (d) Distorted public expenditure and public investments.
- (e) Lower public revenue and less provision of rule of law.⁴⁶

On Government :-

Corruption undermines the stability of the government. We have many examples in which number of corrupt officials, ministers, M.P.'s were unseated. And the chief ministers of States were obliged to resign their posts on corruption charges. Some ministers of States were sent behind bars and their bail pleas are also rejected on account of corruption charges. This pose a threat to government, because now politics has become number game and these corrupt politicians had some representatives and ardent followers in their support. In this way corruption leads to instability of government, and also hampers the smooth functioning of the government by making the ministers busy in protecting their seat and interest than the interest of people who elected them to represent.

On Democracy :-

Corruption also decomposes democracy, undermining democratic governance. Corrupt practices remove government decisions from the public realm to the private diminishing openness and accountability. Corruption is a major obstacle to democracy and rule of law. In a democratic system, offices and institutions lose their legitimacy when they are misused for private advantage. Though this is harmful in the established democracies, it is more so in newly emerging ones. Accountable political leadership can not develop in a corrupt climate. Corruption is inherently contradictory and irreconcilable with democracy.⁴⁷

⁴³ Baxi, *The Flokore of Corruption*, 12(1989)

⁴⁴ Abidulla. Hadimani, "Corruption: A Curse and its Cure", *Cri.LJ.*, 11 (2013).

⁴⁵ Daniel Kaufanam, "Transparency incentives for corruption control and good governance" *available at* <http://www.worldbank.org/wbi/governance> (visited on October 28, 2017).

⁴⁶ Mohammad Mohabat Khan, "Political and Administrative corruption" *available at* <http://www.cdrr.org/journal/2005/pdf> (visited on October 29, 2017).

⁴⁷ *Supra* note 26.

On Environment :-

Environment degradation is yet another consequence of corrupt systems. The lack of or non-enforcement of environmental regulations and legislations has historically allowed the north to export its polluting industry to the south. At the same time, careless exploitation of natural resources from timber and minerals to elephants, by both domestic and international agents has led to ravaged natural environment. Environmentally divesting projects are given preference in finding, because they are easy targets for siphoning of public money into private pockets.⁴⁸

On Development :-

Higher corruption is associated with (a) higher and more costly investment; (b) lower government revenues; (c) lower quality of public infrastructure. Corruption increases public investment by making it more expensive, while reducing its productivity. If corruption levels in India were reduced to that in the Scandinavian countries, investment rate could increase annually by some 12 percent and gross domestic product (GDP) growth rate by almost 1.5 percent each year. Corruption also acts as an additional tax on investment by lowering the potential return to an investor on both the initial investment and on subsequent returns. Corruption also reduces the government's resources and hence its capacity for investment, since tax revenues are depleted by tax evasion.

On Administration of Justice:-

Corruption increases injustice and disregard for rule of law. Basic human rights and freedoms comes under threat, as key judicial decisions are based on the extent of bribe given to court officials rather than on the innocence or guilt of the parties concerned. Police investigations and arrests may be based on political victimization or personal vendettas rather than on solid legal grounds.⁴⁹

ROLE OF WHISTLE BLOWERS IN COMBATING CORRUPTION:

Whistle blowers play a very crucial role in providing information about corruption. Whistle blowing in good faith represent the highest ideals of public service and challenging the abuse of public power. Whistle blowers play a very important role in providing information about corruption and mal-administration. People working in the same department best know who is corrupt but they are not bold enough to convey this information to their higher authorities as there is fear of reprisals. There have been multiple instances of threatening; harassment and even murder of various whistle blowers. There are so many murder cases of whistle blowers reported in the media which become a matter of concern for the government to come up with the law on the protection of whistle blowers. The gruesome murder of two whistle blowers Satyendra Dubey⁵⁰ and Manjunath Shanmugham⁵¹ in 2007 brought the issue of vulnerabilities of the whistle blowers to public focus. Apart from this a Karnataka official SP Mahantesh, a whistle blower in controversial land allotments by societies, was murdered in May 2012.⁵² Similarly a senior police officer alleged that Mayawati's government is corrupt and embezzled large amount of money. Shortly, thereafter, he was sent to a psychiatric hospital.⁵³

In order to provide protection to the whistle blowers in India the Whistle Blower's Protection Act, 2011⁵⁴ was passed by the Parliament. Whistle Blower's Protection Act, 2011 provides a mechanism to investigate alleged corruption and misuse of power by public servants and also protect anyone who exposes alleged wrong doing in government bodies, projects and offices. The wrong doing might take the form of fraud, corruption or mismanagement. The Act will also ensure punishment for false or frivolous complaints.⁵⁵ According to the provisions of this Act any public servant or any person including a non-governmental organization may make such a disclosure to competent authority.⁵⁶ Every complaint has to include the identity of the complainant. The competent authority shall not disclose the identity of the complainant. Those who reveal the identity of the whistle blower will be held liable and penalized.⁵⁷

⁴⁸ Available at <http://www.transparency.org/news-room/faq/corruption-Faq>(visited on 03.06.2015).

⁴⁹ *Supra* note 23.

⁵⁰ Truth Silenced, S.K. Dubey Murder, Available at <http://www.rediff.com/news/> (Visited on October 28,2017).

⁵¹ Manjunath Shanmugam Trust, Available at <http://syg.com/web/> (Visited on October 28,2017).

⁵² *Supra* note 3.

⁵³ *Ibid.*

⁵⁴ *Supra* note 4.

⁵⁵ Section 17 of the Whistle Blowers Protection Act, 2011.

⁵⁶ Section 4(1) of the Whistle Blowers Protection Act, 2011.

⁵⁷ Section 16 of the Whistle Blowers Protection Act, 2011.

CONCLUSION

Corruption and lack of transparency are opposed to good governance. It is established fact that corruption or corrupt practices have detrimental or corrosive effects especially in developing countries. One result of such deterioration is political instability when one democratic regime after another is outvoted from office on the issue of corruption. More serious is the replacement of democratic government with authoritarian or military rule. Moreover, corruption may lead to the divergence of funds from intended targets and the financing of unproductive public expenditure. It may result in loss of tax revenue in the form of tax evasion. Besides economic consequences, the rampant corruption tends to undermine the legitimacy of state institutions and governments. Thus, it destroys the ability of institutions and bureaucracies to deliver services that society may expect, thereby posing a serious threat to the democratic institutions and the very existence of social order. Thus, corruption in a civilized society is a disease like cancer. If not detected in time it is sure to turn the polity malignant leading to disastrous consequences. One of the impediments felt in eliminating corruption in the government and public sector is lack of adequate protection to the whistle blowers reporting the corruption and willful misuse of power. If adequate State protection is granted there can be no doubt that the government will be able to get more information regarding wrong-doings.

India is a representative federal democracy that espouses liberty, democracy, human rights and the rule of law. But whistle blower's protection has historically weak, in part because the ability of the federal government to enforce federal laws is limited. In recent years, protection for whistle blowers has been strengthened, but protections are still questionable. Whistle blowers have been subject to threats, harassment, and even murder. The push for strengthening protections followed several high profile murders where victims have blown the whistle on corruption in the public sector. With respect to protections for whistleblowers, the Indian Parliament passed the Whistle Blowers Protection Act, 2011⁵⁸ in May 2014. This federal law seeks to protect individuals who are making public interest disclosures related to corruption, misuse of power, or criminal offences. Though the law relating to protection of whistle blowers is enacted but still there are threats to the life and liberty of whistle blowers. So, strict implementation of the Whistle Blowers Protection Act, 2011, is the need of the hour . How effective these new whistle blowing protections will be remains to be seen.

⁵⁸ Act no.17 of 2014.