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# Whistleblowers Protection- Scenario In India In Light Of The Whistleblowers Protection Act, 2014

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## ABSTRACT

The phrase “Satyameva Jayate” meaning- ‘Truth alone triumphs’ is a kind of mantra which is followed by the people of India when it comes to decide any matter. The basis of the Indian judiciary is also the same. But when it comes to the practical implementation of this, we’re somehow lacking into this and are still unable to ensure proper transparency and accountability of the government and its policies in India. We all know that the height of corruption and other unfair activities into the governmental offices is so high that if we try to measure it, we could not even do that because the corruption rates are so high and unmeasurable. Not only into the governmental but also into the non-governmental offices, the corruption is at peak and there’s not much differences between the both. Any person who tries to speak up or blow a whistle against such illegal activities is being suppressed by the people in power. To ensure that the whistleblowers do not get into any trouble for standing beside the truth, the Indian government need to take strict legislative actions in order to ensure transparency and accountability into the system.

In this paper, we’re going to cover the concept of whistleblowing, the Indian scenario of whistleblowing, modes of whistleblowing, situation before and after the Whistleblowers Act, 2014 came into picture, what is the standing of the Whistleblower law in India and the features of this law, landmark judgments on the Whistleblowers and the judiciary’s views onto it, shortcomings/loopholes of the Whistleblower law and the suggestions would also be shared at the end of this Research paper as to what steps could be taken by the government to improve the Whistleblowers law in India.

**Keywords-** #Whistleblower #Laws #Government #Corruption #Accountability #Transparency #Truth



So, Whistleblowing is a mechanism which promotes transparent structure and effective and clear communication. This whistleblowers protection law was highly needed in India because unfortunately in India, the percentage of the people who pays bribe is 51%<sup>1</sup>. Although, in the year of 2018, the corruption rate of India was overall 58% and it fell to 51%, but still it is a huge number and to prevent this also, a series of laws are required and are needed to be strictly implemented.

Whistleblowing law introduced in 2014 is also indirectly affecting the rate of corruption which would contribute in reducing corruption rate in India.

Before proceeding further, let's get to know the concept of Whistleblowing in detail-



## What is Whistleblowing?

Whistleblowing, in the simple terms means to speak up or to pass the information regarding the wrong activities going on in an organisation. It is to expose the wrongdoing of some people so that's why it is been named as "Whistleblowing", means to "Blow the Whistle" to disclose that what's wrong is going on. Whistleblowing sometimes may also be referred to as "Snitching", an act of bravery committed to dedication towards ethics. In whistleblowing, a person chooses to stand against unlawful activities out of his natural conscience and ethics.

It's the disclosure of TRUTH against misconduct, wrongdoing, unethical activity which is going on within Public, Private or Third-Sector organisations.

## Definitions of Whistleblowing

- **United Nations Convention against Corruption (UNCAC)<sup>2</sup> defines Whistleblower as-**  
"Any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention."

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<sup>1</sup> India Corruption Survey 2019, available at: <https://affairscloud.com/india-corruption-survey-2019-indias-corruption-rate-fell-by-10-in-2019/> (Last visited on January 22, 2023).

<sup>2</sup> United Nations Convention against Corruption (UNCAC), available at: [https://www.unodc.org/documents/brussels/UN\\_Convention\\_Against\\_Corruption.pdf](https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf) (Last visited on January 22, 2023).

- **International Labour Organisation (ILO)<sup>3</sup> defines it as-**“The reporting by employees or former employees of illegal, irregular, dangerous or unethical practices by employers.”
- **Koehn (2003)-** “Whistle Blowing occurs when an employee informs the public of inappropriate activities going on inside the organization.”
- **The Council of European Civil Law Convention on Corruption<sup>4</sup>-**  
“Employees who have reasonable grounds to suspect corruption and who report in good faith their suspicion to reasonable persons or authorities.”
- **Section 3(c) of the Whistleblowers Protection Act, 2014-**  
A Whistleblower or a Complainant means any person who makes a complaint relating to disclosure under this Act.

## Types of Whistleblowers

- **Internal-** When the whistleblower discloses the illegal misconducts or wrong doings to the higher officials in the organisation itself, this is called Internal Whistleblowing.
- **External-** When the misconduct is reported to the authorities which are not the part of the organisations and the people who are outside the organisation, when the matter is reported to them then it refers to as External Whistleblowing.
- **Alumini-** When the former employee of an organisation reports the matter, it refers to as Alumini Whistleblowing.
- **Open-** When the identity of the Whistleblower is not kept secret and is kept open, then it's the Open Whistleblowing.
- **Personal-** When the misconducts of an organization or a person is to harm one person only, then it becomes Personal Whistleblowing.
- **Impersonal-** When wrong activities are done to harm multiple people, it is Impersonal Whistleblowing.
- **Government-** When the wrong activities/ misconducts adopted by the Government Officials are disclosed, it is Government Whistleblowing.
- **Corporate-** When the whistleblowing is about the wrong activities done in a business corporation, it's called Corporate Whistleblowing.

<sup>3</sup> On Whistleblower Protection in the UN System Note prepared by CCISUA (ILO), *available at:* <http://www.ilostaffunion.org/new/wp-content/uploads/Whistleblower-Policy-CCISUA.pdf> (Last visited on January 22, 2023).

<sup>4</sup> Civil Law Convention on Corruption, *available at:* <https://rm.coe.int/168007f3f6> (Last visited on January 22, 2023).

## OBJECTIVES OF THE STUDY

In this assignment report, a detailed analysis would be done on the concept of Whistleblowing by stating the instances which depicted a need before to enact a particular law for the protection of the Whistleblowers before the enactment of 2014 and the afterwards scenario in India. The following objectives are to be achieved through this research which are of utter importance-

- ✓ To find the major causes which lead to enact a specific law for the Protection of the Whistleblowers.
- ✓ To gather data from the Primary and Secondary sources which corroborate the concerning issue.
- ✓ To thoroughly analysis the data obtained and provide appropriate suggestions.

## RESEARCH METHODOLOGY

The research methodology which is being used for the preparation of this Research Paper is Doctrinal Research. The data gathering and identification of the concepts is done with the help of Primary and Secondary sources which includes-

- Library sources/ Reports/ Internet Sources.
- Case Laws/ Judgments.
- Propositions.
- Case Studies.

The data is analyzed by grouping the information on the basis of its collection and testing it to a tentative conclusion. The adequate analysis is framed after collecting the appropriate data on the concerned research topic.

## IDENTIFICATION OF PROBLEM

The Governmental, Non-Governmental and the Corporate Structures are assumed to be as big entities which carry on huge businesses/ works. So, in exercise of their authority, they have been provided with the wider powers which causes complicated mechanism of governance of an organisation. So, this is most common with these kinds of entities that in the desire of more and more wealth, they use unfair means and follow corrupt practices in order to get more richer faster. These kinds of practices are not in harmony with the public interests as these kind of activities could actually bring great losses to the government and ultimately, to the country as



well. And, in India, we could see these kinds of corruption practices and scams casually. The lust of money has resulted into murders of many people who tried to disclose these scams and there are many landmark cases which are directly linked to these practices only which would be discussed further in this research.

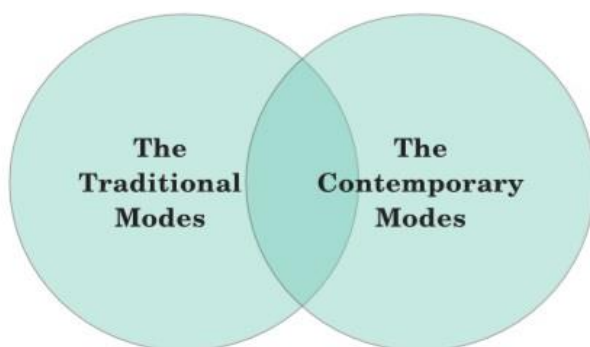
Due to all these incidents and cases arising out, the Parliament of India felt a great need to enact a law which could really help out and protect those which actually wants to be honest with the nation and who cannot see the scams happening right under their nose and as a consequence, they expose these scams.

## SCENARIO IN INDIA

This point cannot be doubted upon that India needs a strict and effective Whistleblowers Protection Law urgently which actually ensures transparency and accountability in the system while elimination the menace of corruption side by side. Other than the statutory enactment, the following could be considered as the modes of Whistleblowing-

### Modes of Whistleblowing

Basically, there are two main modes of Whistleblowing perataining to the Indian pretext which can be categorized under the following groups-



#### A. The Traditional methods of Whistleblowing are as follows-

- i. *The Constitution of India.*
- ii. *The Statutory Enactments.*

**The Constitution of India-** The Whistleblowing under the ambit of the Indian Constitution could be done through the instrument of PIL i.e. in the form of Public Interest Litigation. “PIL or Public Interest Litigation” is a Socio-Justice tool through which the aspirations of the Constitution itself as well as

the common public are achieved.

Ex. In the famous case of *S.P. Gupta v. Union of India*<sup>5</sup>, Justice P.N. Bhagwati became the torchbearer of Public Interest Litigations and observed that-

*“Where a legal wrong or a legal injury is caused to a person or to a determinate class of persons by reason of violation of any constitutional or legal right or any burden is imposed in contravention of any constitutional or legal provision or without authority of law or any such legal wrong or legal injury or illegal burden is threatened and such person or determinate class of persons by reasons of poverty, helplessness or disability or socially or economically disadvantaged position unable to approach the court for relief, any member of public can maintain an application for an appropriate direction, order or writ in the High Court under Article 226 and in case any breach of fundamental rights of such persons or determinate class of persons, in this court under Article 32 seeking judicial redress for the legal wrong or legal injury caused to such person or determinate class of persons.”*

**The Statutory enactments-** The Indian statutes like The Indian Penal Code, 1860<sup>6</sup>, The Code of Civil Procedure, 1908<sup>7</sup>, The Code of Criminal Procedure, 1973<sup>8</sup>, The Indian Evidence Act, 1872<sup>9</sup> etc. Could be sought for help against any kind of Civil or Criminal wrong committed against a person if he/ she blows the whistle and discloses the malpractices and due to that if any kind of loss caused to a person.

## B. The Cotemporary Modes

As we know that today is the modern era of Internet and Technology. So, by utilizing this facility, an effective Whistleblowing could be done and it would be having a low risk also because people will get to know about the activities of the officials they those people will have fear of harming the Whistleblower also. Also, with the enactment of the Information Technology Act, 2000<sup>10</sup>, more transparency and accountability is expected from the government officials.

This act also facilitates e-governance by accepting electronic records and digital signatures in the government offices and its agencies.

Due to this, the authorities will have the fear in their minds also before committing any kind of scam

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<sup>5</sup> AIR 1982 SC 149

<sup>6</sup> The Indian Penal Code, 1860, available at: <https://indiankanoon.org/doc/1569253/> (Last visited on January 26, 2023).

<sup>7</sup> The Code of Civil Procedure, 1908, available at: <https://indiankanoon.org/doc/178223340/> (Last visited on January 26, 2023).

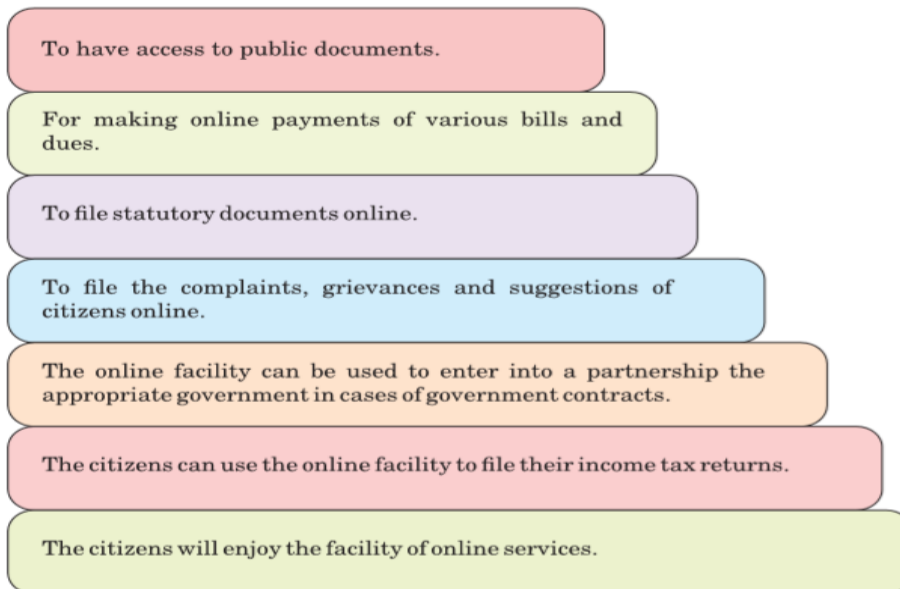
<sup>8</sup> The Code of Criminal Procedure, 1973, available at: <https://indiankanoon.org/doc/445276/> (Last visited on January 26, 2023).

<sup>9</sup> The Indian Evidence Act, 1872, available at: <https://indiankanoon.org/doc/1953529/> (Last visited on January 26, 2023).

<sup>10</sup> The Information Technology Act, 2000, available at: <https://indiankanoon.org/doc/1965344/> (Last visited on January 26, 2023).

because everything and every record is on the internet now-a-days. This will make the government offices hassle free and will promote transparency within the administration.

*The Concept of Information and Communication Technology has been beneficiary to the general public for the following purposes*



## **SITUATION BEFORE THE ENACTMENT OF THE WHISTLEBLOWERS PROTECTION ACT, 2014**

The Constitutional Law of India has placed the status of a Public Office at a high level and provides it with a great duty of trust and fiduciary duty towards the people. But unfortunately, even after the presence of the highest Grundnorm which itself specifies the duty of public and other offices towards the public good, they themselves commit the malpractices which gives rise to higher number of crimes.

No matter whatever guidelines are issued to the public authorities, there would always be the presence of maladministration in these departments in one way or the other as the corruption is omnipresent everywhere now even after taking so many measures.

The number of wrongdoers is so huge that the people who want to be honest and doesn't tolerate the things like corruption and other malpractices, can't fight alone with that big bunch because ultimately it causes threat to their life as well. So, to ensure transparency in the system and to empower the watchdogs of the democracy and the administration in India, a strong legislation was required from the side of the Indian Parliament to the citizens so that when they disclose the scams of authorities, they could have some sort of protection with them also and which can protect them from danger to their life, loved ones and their property.



## CASE LAWS ON WHISTLEBLOWERS

**(A brief glimpse of landmark cases which emerged out a great need to enact a particular statute pertaining to the protection of Whistleblowers in India)**

**Satyendra Dubey Case**<sup>11</sup>- Satyendra Dubey was an Indian Engineering Services officers. He was being deputed as Project Director of Golden Quadrilateral Corridor Project of NHAI (National Highway Authority of India)<sup>12</sup>. When he was appointed there, he saw many financial irregularities there. When he investigated the matter he got to know that the Construction Companies are bending the rules for their own profit.

It was a large scam and there was use of worst quality material and in this scam, many big politicians were also involved. He then thought to write a letter to Prime Minister Atal Bihari Vajpayee detailing the financial and contractual irregularities in the project. Even after making a direct request that his identity would be kept confidential due to letter's sensitive content, the letter, despite reaching to the PMO office, it directly forwarded to the Ministry of Road Transport and Highways along with his bio-data also due to which his identity revealed which forwarded this letter to the Deputy head of this project which made allegations on Dubey for the mistake of writing this letter directly to the Prime Minister. After this, Dubey started remaining tensed and ultimately on Nov. 27, 2003, he was shot dead.

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<sup>11</sup> Three get life in Satyendra Dubey Murder Case, The Hindu, March 27, 2010, 16:00 IST, *available at*: [https://www.thehindu.com/newa/national/Three-get-life-in-Satyendra-Dubey-murder-case/article\\_16625349](https://www.thehindu.com/newa/national/Three-get-life-in-Satyendra-Dubey-murder-case/article_16625349). (Last visited on January 26, 2023).

<sup>12</sup> National Highway Authority of India, *available at*: <https://nhai.gov.in/> (Last visited on January 26, 2023).

**Murder of Social Activist Satish Shetty<sup>13</sup>**- Satish Shetty was a Social Activist who lodged a complaint against IRB officials- A Mumbai based land developer who used forged documents to deceitfully grab over 85 hectares of the state-owned land which was kept for constructing Mumbai-Pune Highway.

On the date of October 15, 2009, he filed a cheating case in Lonavala Police Station alleging 13 officials in this case. It was only about 2 and a half months were passed and Shetty was brutally killed outside his house. After that, a CBI committee was established to enquire into the matter who filed a closure report after 7 years of this incident.

**Killing of Karnataka IAS Officer Anurag Tewari<sup>14</sup>**- Karnataka Food and Civil Supplies Commissioner was an IAS officer who was died unnaturally and under mysterious circumstances. His dead body was found in Lucknow and he didn't die because of natural causes. His family had said that Anurag had came to know about a serious scam worth thousands of crore rupees in Karnataka Government. He was finding and collecting the evidences to expose them with cogent evidences but before doing so, he died. Also the autopsy report also revealed that his death was unnatural as there were scars of assault on his body.

**Murder of RTI activist Lalit Mehta<sup>15</sup>**- Lalit Mehta was an RTI activist who worked for National Rural Employment guarantee programme.

He came across social audit of NREGA (National Rural Employment Guarantee Act, 2005)<sup>16</sup>. While conducting the social audit, he came to know that there's huge amount given to the authorities for the appropriate implementation of this act at the grass root level for the employment of the rural people.

He found that the data which they were having was showing much more number than the actual number of the people employed. Also, the forged signatures of the innocent villagers were taken and the job cards were issued even in the names of the persons who either already had a job with them or the persons who were already died. This was all done to maintain a fake employment record and to

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<sup>13</sup> Shoumojit Banerjee, Satish Shetty murder: CBI files closure report after 7 years, The Hindu, April 18, 2018 23:30 IST, *available at*: <https://www.thehindu.com/news/national/other-states/satish-shetty-murder-cbi-files-closure-report-after-7-years/article23590596.ece> (Last visited on January 26, 2023).

<sup>14</sup> IAS Anurag Tewari's Death: Father accuses CM Siddaramaiah of having a 'hand' in murder, Times of India, Mar 8, 2018, 14:53 IST, *available at*: <https://timesofindia.indiatimes.com/india/ias-anurag-tewaris-death-father-accuses-cm-siddaramaiah-of-having-a-hand-in-murder/articleshow/63215837.cms> (Visited on January 26, 2023).

<sup>15</sup> NREGA activists who paid with their lives Lalit Mehta (Jharkhand), A K Gupta, down to earth, 7<sup>th</sup> June 2015.

<sup>16</sup> National Rural Employment Guarantee Act, 2005, *available at*: [https://www.nrega.nic.in/netnrega/mgnrega\\_new/Nrega\\_home.aspx](https://www.nrega.nic.in/netnrega/mgnrega_new/Nrega_home.aspx) (Visited on January 26, 2023).

swallow the huge amount given to them by the government for effective implementation of the act. One day, he was also brutally stabbed to death.

## SITUATION AFTER THE ENACTMENT OF THE WHISTLEBLOWERS PROTECTION ACT, 2014<sup>17</sup>

### BACKGROUND OF THE ACT

We have seen that there are many cases emerged in India which have brought the focus on Whistleblower's safety in India. Approximately all of those cases were related to the misconduct of corruption either directly or indirectly. So, in order to remove the discrepancies and to bring uniformity within the system, the Legislature was compelled to bring such law which would be specifically drafted for the whole and sole purpose of protecting the Whistleblowers only. But, the act of bringing this law was not a one time action or a work of one day. There's also some history behind it.

A bill of protection of Whistleblowers was firstly initiated by Mr. N. Vittal (The then Vigilance Commissioner) in the year of 1993. After that, The Law Commission of India<sup>18</sup> in 2001, brought a recommendation to make Whistleblower's Protection

Law in order to eliminate corruption. Law Commission also drafted a bill<sup>19</sup> for the purpose of addressing this issue in a well mannered structure.

In 2004, after the murder case of NHAI official, the Supreme Court of India issued guidelines to the government to activate the administrative machinery in order to receive complaints from the Whistleblowers and as a consequence, the government notified a resolution named '**Public Interest Disclosure and Protection of Informers Resolution (PIDPIR)**<sup>20</sup>.' This resolution vested the Central Vigilance Commission<sup>21</sup> (CVC) with the power to take an action on the complaints received from the Whistleblowers.

In 2007, Second Administrative Reforms Commission also made a recommendation to the

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<sup>17</sup> The Whistleblowers Protection Bill, 2011, available at:

<https://www.prsindia.org/uploads/media/Public%20Disclosure/whistle%20blower%20as%20passed%20by%20LS.pdf> (Visited on January 27, 2023).

<sup>18</sup> The Law Commission of India, available at: <http://lawcommissionofindia.nic.in/> (Visited on January 27, 2023).

<sup>19</sup> The Law Commission's Whistleblower Protection Bill provisions, available at:

<http://www.legalservicesindia.com/article/1187/Whistleblower-Protection-In-India.html> (Visited on January 27, 2023).

<sup>20</sup> Public Interest Disclosure and Protection of Informer's Resolution, available at:

[http://www.ireda.in/writereaddata/PIDPI%20Resolution%20and%20procedures\(1\).pdf](http://www.ireda.in/writereaddata/PIDPI%20Resolution%20and%20procedures(1).pdf) (Visited on January 27, 2023).

<sup>21</sup> Central Vigilance Commission, available at: <http://www.cvc.nic.in/> (Visited on January 27, 2023).

Legislature that a specific law needs to be enacted for the protection of the Whistleblowers.

## ENACTMENT OF WHISTLEBLOWERS LAW

After analyzing the situation we can say that Corruption is the social stigma which has its deep down strong roots in the Indian society. The lack of adequate protection to the persons reporting the wrongdoings ultimately lead to victimization of the Whistleblower only. After taking into considerations so many recommendations which were being put forth to the Legislation, it was decided to enact a separate law for the protection of the persons who perform their duty towards the nation truthfully.

And, finally the decision of the Legislation went fruitful when in the year of 2011, Whistleblower Protection Bill<sup>22</sup> was proposed. On, December 27, 2011, Lok Sabha approved the Whistleblowers Protection Bill and the bill subsequently got passed by the Rajya Sabha on 21<sup>st</sup> February, 2014 & received the President's assent on 9<sup>th</sup> May 2014.

The Whistleblowers Act, 2014 is having an overriding effect on the Official Secrets Act, 1923<sup>23</sup> and a person can make a public interest disclosure even if it is violative of the latter but doesn't harms the sovereignty of the nation. It means that the provisions of the Whistleblowers Act would be followed in the same way even if the infringes or are with the conflict of the provisions of the Official Secrets Act.

## Features of the Act-

- This act provided a mechanism to investigate the alleged corruptions or wilful misuse of power or wrongdoing, *against the Public Servants*. This wrongdoing could be of any kind i.e. Mismanagement, Fraud or Corruption.
- Under *Sec. 3 of the Whistleblowers Protection Act* states that, a person even a government or non-government person, could make a *Public Interest Disclosure* before the competent authority. Here, the term "Public Interest Disclosure" implies that the disclosure made by any person, notwithstanding with the provisions of The Official Secrets Act, 1923, shall be treated as a disclosure for the public interest i.e. for the public.

The competent authority is defined by the law itself. Under this act, the Central Vigilance Commission (CVC) has been given the responsibility to protect the identity of the complainant or the other

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<sup>22</sup> The Whistleblowers Protection Bill, 2011, available at: <https://prsindia.org/billtrack/the-public-interest-disclosure-and-protection-of-persons-making-the-disclosures-bill-2010-1252/> (Visited on January 27, 2023).

<sup>23</sup> The Official Secrets Act, 1923, available at: <https://indiankanoon.org/doc/61492784/> (Visited on January 28, 2023).

corroborating material or documents.

- *Sec. 4 of the act* states that any disclosure made under this act shall be treated as a public interest disclosure and shall be made before the competent authority.
- *Sec. 5 of the act* mandates the competent authority to conceal the identity of the complainant unless he himself has revealed his identity to some other authority or in his complaint or otherwise.
- This act provides for the adequate safeguards to the Whistleblowers against their Victimization so that they should not face any kind of harm. The only purpose of this act is to ensure protection against the victimization or harassment of a person who makes disclosures or has assisted in doing so and this protection is the responsibility of the Central Government.
- Further, *Sec. 11 (2) of the Act* provides that if a person is being victimized or is having an apprehension that he/she may be victimized due to making a public disclosure, then he/she can make an application before the competent authority seeking for redressal and the competent authority, as deems fit to it, could issue directions to appropriate public authority for the protection of such person to prevent his/ her victimization.
- *Sec. 13 of the act* specifically deals with the matter to concealment of the identity of the complainant as well as the documents or the information furnished by him.
- *Sec. 16 of the act* states that any person who negligently or mala fidely reveals the identity of a complainant shall be punishable with imprisonment for a term which may extend up to 3 years and also to fine which may extend up to 30 thousand rupees.
- The Vigilance Commission is empowered to pass an interim order against that public authority or the public servant, against whom the disclosure is being made so as to prevent any kind of further act of corruption while the enquiry is in continuance.
- *Sec. 20 of the act* provides for the opportunity of filing an appeal to the High Court if any person is aggrieved by any order of the Competent authority relating to the imposition of penalty.
- *Sec. 21 of the act* barred the jurisdiction of the civil courts to deal with the matters of Whistleblowing on which the Competent authority is entitled to decide.

## **WHERE THE LAW STANDS ON WHISTLEBLOWERS PROTECTION ?**

### **India's Whistleblower law is not operational yet**

Although the Whistleblowers Protection Law has been enacted in India after achieving the assent of the President Shri Pranab Mukherjee in May, 2014, still it's a bigger bigger lacunae that it is not in operation yet.

It was reported that there's some amendments which needs to be done in the act and for the same, a Whistleblowers Protection (Amendment) Bill, 2015<sup>24</sup> was also brought into the Parliament. This amendment bill was cleared by the Lok Sabha with majority but the bill lapsed in Rajya Sabha due to the dissolution of Lok Sabha before 2019 General elections. So, somehow the amendment was not been able to get cleared from both the houses.



## Shortcomings of the Whistleblower Law

- The major drawback of this act is that it is only enacted for public i.e. governmental authorities, the private entities are not included in this which disturbs the uniformity of this law as it is not covering every authority in it.
- The next thing is that this act is not at all made enforceable till now. This act provides for the Whistleblowing against the Public Official so executive is also covered under the ambit of this act and for the enforcement of any law, executive is responsible. So, it could be possible that these authorities are saving themselves to fall under any kind of trouble and due to that this act is not operational yet.

The same case is there with the Lokpal and Lokayuktas Act, 2013 which is itself lacking in many provisions like it is itself not at all free from Political influence as the appointment of Lokpal could be manipulated in many ways as there's no specific criterion pertaining to ascertain that who is an 'Eminent Jurist'. This act also didn't provide concrete immunity to the Whistleblowers as somehow or the other, there's always been some influence of either the executive or the Politics over it. Also,

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<sup>24</sup> The Whistleblowers Protection (Amendment) Bill, 2015, available at: <https://prsindia.org/billtrack/the-whistleblowers-protection-amendment-bill-2015-3784> (Visited on January 27, 2023).

it doesn't have any Constitutional backing so it is more difficult to make its enforcement hurdle free. So, by analyzing this, we could join the links and could relate it with the Whistleblowers Law which is also going through the same kind of situation and thus lacking appropriate operational mechanism. As this law is for the executive also, so this could be the reason for its unenforceable condition.

- There is no such provision in the Act which encourages the people for Whistleblowing e.g. some kind of financial incentives etc. As a matter of gratitude for the person who commits public interest disclosure in dangerous situation.

The competent authority under this is very limited i.e. there's only Central Vigilance Commission to look into the complaints.

- There is no specific procedure being mentioned in the act according to which the enquiry process ought to be conducted. This may be because of huge discrepancies as the system would become complex due to absence of any kind of procedure.
- There is no right of appeal available to the complainant if he/she is not happy with the decision of the competent authority. Appeal is allowed only in those cases where some sort of penalty is imposed.
- A person can't complain as an anonymous. There should be a proper identity of that person with the competent authority to whom he is making a complain.
- The Lokpal which is known to be as country's apex anti corruption agency and was established under the Lokpal and Lokayuktas Act 2013<sup>25</sup>, is not included in the competent authority to whom the complain should be made. This is the big shot missed by the legislature as approximately all the cases of Whistleblowing are directly or indirectly linked with corruption only.

## SUGGESTIONS

- I. First of all, this law should be enforced so that its shortcomings could be sorted out after applying it practically and so that the further steps could be taken to improve this law for the ultimate sake of the society.
- II. The next thing is that if we read the Whistleblowers Protection Act carefully, we get to know that there's no definition being provided in the act for the term 'Victimization'. The thing for which this whole act is made is not mentioned in the act. So, if the meaning of this term is not clear then the whole act will lose its meaning & essence.
- III. The term 'Competent Authority' in the act should be amended and should be made more wider so as to include maximum adjudicating authorities in its ambit.

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<sup>25</sup> The Lokpal and Lokayuktas Act, 2013, available at: <https://prsindia.org/billtrack/the-whistle-blowers-protection-amendment-bill-2015-3784> (Visited on January 27, 2023).

- IV. The Whistleblowers Act should be amended and the Private enterprises should also be covered under this act so that nothing should remain excluded from the fist of law as there are so many scams existing in companies and firms also.
- So, if they would not be covered under this law, the objective of this law could not be accomplished completely.
- V. There should be awareness camps and seminars should be organized so that more and more people could be made aware about this law because as we see that most of the people don't even know the meaning of the term 'Whistleblowing'. So, if they are not even aware about the law then how would they contribute in achieving the goal set by this law?
- VI. The right of appeal should be provided in all Whistleblowers cases because it's not necessary in each case that the order given by the competent authority is right to its fullest, it may have some discrepancies also which could be cleared through appeal.
- VII. This act states that an anonymous person's complain could not be considered. But this should not be there. Anonymous complains should also be considered because a person keeps his identity confidential or hidden just to protect himself from harassment. For that purpose, the Special call centres or special complain cells could be made to register anonymous complains also.
- VIII. The Lokpal should also be appointed as the competent authority to take complains of Whistleblowers because it is the highest anti-corruption authority which is already being set up & could play a major role in these cases.

## CONCLUSION

In India, we see that there's lot of corruption and people especially those who are bestowed with authority are using wrongful means to get more and more richer which is ultimately resulting into corruption, fraud and many other misconducts. We studied and analyzed some case laws pertaining to Whistleblowers also through which we came to know that if someone tries to disclose the scams or any misconduct being committed by the authorities or anyone, he is being stabbed to death.

The Indian Legislature has tried to remove this problem from the society by bringing a legislation which till now it is of no use because the law is not in operation yet. So, what we can conclude from this is, we are still standing at the same place where we were. Only passing of a law cannot make any difference, its appropriate implementation is needed to make this law fruitful for the society. Only then the objective of a fair, truthful and corruption free society could be accomplished.

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