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## A Tip of the Iceberg

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Assisted by Rajiv Jai

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A TIP OF THE ICEBERG

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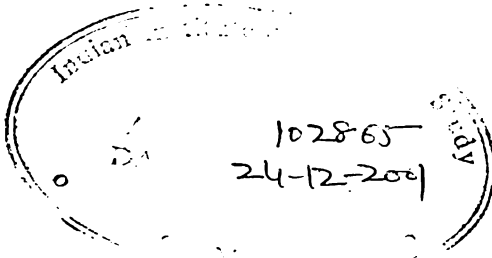
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*Regency Publications*  
NEW DELHI

364.132 025 4

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Library IIAS, Shimla



00102865

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ISBN 81-87498-34-X

*Published by Regency Publications, 20/36-G, Old Market, West Patel Nagar, New Delhi 110 008 and printed at Radiant Printers, New Delhi 110 008, Phones: 571 2539, 574 0038; Telefax: 578 3571*

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## Preface

*Tehelka* has caused an earthquake—though political—of a much larger magnitude and having far reaching disastrous effects than the thus far most dreaded natural disaster in the form of the *Gujarat Earthquake* of January 26, 2001.

*tehelka.com—A Tip of the Iceberg*, the present book, is an attempt to highlight and place before the reader, all relevant information and developments at one place.

It contains nine chapters, and mostly deals with the issues involving the security of the nation, and the cheapness of the men in authority being bought on paltry amounts by fictitious arms dealers.

I have tried to highlight in particular the utter failure of the intelligence agencies; the easy access of the arms dealers (fictitious or otherwise) to the North Block, South Block, and the residences of the Defence Minister, and the President of the Bharatiya Janata Party (Shri Bangaru Laxman); the nexus between the bureaucrats, army officers, the politicians and the middlemen (posing to be arms dealers); the deadlock in the Parliament House by stalling the proceedings for the whole session after the exposure of the video tapes on defence deals; Prasar Bharti's partisan approach by allowing the Defence Minister to speak and at the same time denying permission to the Leader of the Opposition to speak on Doordarshan; wasting huge amounts out of the public exchequer, by appointing a retired Judge of the Supreme Court as Commission of Inquiry to ostensibly find out the truth which the whole world has come to know through the TV Channels; and Prime Minister's address to the nation giving a word to the countrymen that 'I shall work to clean up the dirt, let us get back to work', particularly when the Prime Minister himself has failed to

clean the dirt in his own house—the PMO, by still keeping the tainted officers in his secretariat.

The first chapter deals with corruption at all levels, and the sixth deals with the corruption all around the world. Two chapters have been devoted on the scope, power and utility of the Commissions of Inquiry, highlighting the plight of many Commissions of Inquiry, including the Thakkar Natarajan Commission.

Shri Atal Behari Vajpayee, at the time of accepting the resignation of George Fernandes, said that after the completion of the Inquiry Commission in four months, he may again be taken back in the Cabinet, having the same portfolio. By implication, the Prime Minister has already given a clean chit to George, even before the findings of the Inquiry Commission are known.

The *Indian Express* dated 19.4.2001 carries a very disturbing news. After two PILs (Public Interest Litigation) had been filed in the High Courts of Calcutta and Orissa, the Government tried to explore the possibility of referring the matter to the CBI—the PILs would have come up for hearing the next week—but the idea was shot down by George Fernandes (who still continued as the Convenor of the NDA).... *"The Union Law Minister, Arun Jaitley, is reportedly learnt to have spoken to Prime Minister, A.B. Vajpayee about the idea. The PM reportedly asked Jaitley to consult Fernandes first, who rejected it, even threatened to pull out of the NDA, if such a step is taken."*

The next day the *Indian Express* carried a clarification by George Fernandes saying that he never threatened to pull out of the NDA. But the author of the news—Neerja Choudhury says—"I stand by what I wrote"

Even on the Floor of the House after the session met for the second time, the Government declined to accept the proposal of the opposition to refer the matter to the Joint Parliamentary Committee. So the deadlock continued and no business could be transacted in the Parliament. It is, of course, a very sad state of affairs, and certainly weakens the democratic set up of the country.

From the above approach of the Prime Minister, and the attitude of the former Defence Minister, it is seen that it is George, and George Fernandes alone (being the Convenor of

the NDA) who will decide as to what method is to be adopted by the Government to find out the truth, on the allegations made by the *Tehelka Tape Exposes*. Such type of approach and behaviour at the level of the Prime Minister, certainly is a serious attempt to put a rider on the smooth, uninterrupted, and impartial functioning of the Commission of Inquiry headed by a retired Supreme Court Judge.

Here I am reminded of a similar incident that took place during the period of Prime Minister, Jawaharlal Nehru, when Justice M.C. Chagla was appointed to a one man Commission of Inquiry to go into the matters related to Mundhra Scandal, in which there were allegations against the then Finance Minister, Shri T.T. Krishnamachari. During the course of Inquiry, Pandit Jawaharlal Nehru while addressing a public meeting at Bombay praised T.T. Krishnamachari who was the subject matter before the Commission of Inquiry:

Jawaharlal Nehru passed some remarks during the course of the meeting, which disturbed Justice Chagla very much. Justice Chagla clarified everything through a letter to which Nehru promptly replied back, "I am glad you wrote to me and cleared up this matter, he said. In Chagla's own words: "I suppose that what he meant by this was that the remarks should not be construed as an insinuation against me."

Justice Chagla further writes in his book—*Roses in December* (p. 210). "But something more happened, which struck me as rather unfortunate and uncalled for. It might have been the same day, that Nehru addressed a meeting at the Indian Merchants' Chamber, where it seemed to me, he went out of his way to pay a high compliment to TTK. I cannot help remarking that it was hardly proper when a judicial inquiry was being held involving the conduct of a Minister, for the Prime Minister to pay that very Minister a compliment in public."

To refresh the public memory, I may mention here that the same Nehru had appointed Justice M.C. Chagla, as the Union Education Minister in his own cabinet. I know this personally, because at that point of time I was working on the personal staff of the Prime Minister, and also at the Prime Minister's House. Not only this, before taking an oath of office, Justice M.C. Chagla had stayed for a few days at the Prime

Minister's House (now known as Teen Murti House), and I was deputed to look after his comfortable stay at the PM's House.

And look here, the Prime Minister, Shri Atal Behari Vajpayee, has been giving certificates of innocence not only to the former Defence Minister, but to the officers working in his own secretariat, and that too before the commencement of the proceedings of the Inquiry Commission, concerning the security of the country. Then in the present circumstances, what is the utility of this Inquiry Commission. Moreover the terms of reference of the Inquiry Commission are malafide and target more at the messenger, than the message.

Another chapter in this book is—Bangaru in Bangaru's Defence. After having been caught red-handed accepting wads of notes, he was forced to resign. Not only that, he was completely isolated. Out of disgust and frustration, while addressing the Scheduled Castes/Scheduled Tribes MPs, Bangaru Laxman told them in an unequivocal language that he had been framed by his own party, because at the Nagpur Session he had invited the Muslims and the Christians to join the Bharatiya Janata Party. After having been deserted by his own party, he is now seeking protection from other parties, like BSP and others.

### **Bangaru Accepts Rupees One Lakh Shamelessly**

The way Bangaru Laxman (President of the BJP) accepted wads of currency notes, putting them in the drawer and saying that you can bring dollars also, particularly for striking defence deals that too with the fake arms dealers, is a matter of national shame. To strengthen my viewpoint I quote, what the former Chief of the Air Staff, Air Marshal S.K. Mehra said:

'Look at Bangaru Laxman, he seems so naive—does not even know how to take money. I mean in his office, in his drawer. One does not know whether to laugh at them or kick them.'

The last chapter is titled 'The Views that matter'. In this chapter, I have tried to reproduce some excerpts from the views expressed by eminent writers and columnists, so that

the people at large may be able to know the views of the enlightened personalities at one place in this book.

While writing the book I have dug out material from various sources, and I show my gratitude to all those whose material I have used in one way or the other.

Avtar Singh Sohal, my esteemed colleague at the bar, could not contribute his views, because of the untimely and unnatural death of his life partner, Jaswant Kaur, who met with a fatal road accident near Chandigarh. May God give eternal peace to the departed soul, and strength to Shri Sohal to bear this irreparable loss.

I am grateful to all my friends, who prefer anonymity, who have rendered every help and assistance, in bringing out this book, in one way or the other. The staff of the Indian Law Institute Library, particularly Nimmi Pande and Gagan, deserves every appreciation for their prompt assistance ungrudgingly. My words fall short to thank my life partner Santosh, who has in fact spared me for such type of ventures and adventures. My son, Rajiv, assisted me in this project tirelessly.

Last but not the least, I must give full credit to the publisher and his staff, without whose hard labour, this book would not have seen the light of the day.

I have written this book without fear or favour, goodwill towards all and malice towards none. It will be a matter of great satisfaction and contentment for me, if the readers belonging to all walks of life appreciate this small work as a service to the nation.

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## CHAPTER 1

# *tehelka.com* EXPOSES CORRUPTION AT ALL LEVELS

The latest and most shocking and sensational revelation through tapes by the modern investigative journalists about the shady Defence deals and the corrupt practices at the lowest and the highest level have fully exposed the dishonest and self serving bureaucrats and the politicians out to sell the country. The people of our country have seen on the TV for themselves through these tapes that the country's security can be put at stake, even for small personal gains by way of commissions or kickbacks.

This is certainly a dangerous trend and something concrete has got to be done by public spirited sons of soil to put a halt to such type of unpatriotic, selfish, nefarious and mean activities by the men in power. How shameful it looks, when the country sees the National BJP President Bangaru Laxman, accepting rupees one lakh and proudly saying that even the dollars would do. On the other hand another President of the Samata Party, Jaya Jaitly had the cheeks to deny having done any thing wrong.

George Fernandes' hanging on Defence Minister portfolio, even after the sensational expose, was not justified even for a second. Now keeping him as the Convenor of the NDA does not bring any credit to the ruling party. Prime Minister's statement announcing the appointment of judicial commission headed by a Supreme Court Judge and simultaneously saying that "George" may be appointed Defence Minister after the finalisation of the inquiry commission deprives Prime Minister

Atal Behari Vajpayee the status of a 'Statesman'. His giving a clean chit in favour of his own Principal Secretary Brajesh Mishra is not taken kindly by the people of our country. The legal fraternity is happy that the Chief Justice of India has rightly told the government that no sitting Supreme Court Judge could be spared to head such commission of inquiry having political overtones.

The alleged 'Defence Gate' scandal has sullied the image of the top politicians, bureaucrats and particularly the army, whose officers are shown to have participated in these shady deals. The Hindustan Times of 15th March, 2001 has published the views of the three former chiefs of the defence forces on the fall out from the expose of the deep rooted corruption in the defence procurement system by the *tehelka.com*. These are reproduced below which will abundantly show as to how the security of the country has been compromised, and for a song:

"Former Chiefs of the defence forces are pointing out that the fallout from the expose of the deep-rooted corruption in the defence procurement system by the *tehelka.com* investigative team could have a damaging impact on the defence preparedness of the country.

Former Indian Army Chief, Gen. Shankar Roy Choudhary, recalled how all major decision makings regarding defence procurements came to a standstill in the post-Bofors days.

"The entire modernisation plans of the defence forces came to a halt. No one wanted to take any decision regarding the purchase of weapons, equipment or any other major supplies. We had the money but it could not be spent.

"And the results were evident during Kargil, we had no wherewithal. Some funds were given, in the post-Kargil stage for the much needed equipment but I fear that now everything will go back to the status quo," he said.

**"The Indian Air Force will never get its Advanced Jet Trainer now and more and more young pilots will continue to die,"** said former Indian Air Force Chief, Air Chief Marshal S.K. Mehra.

Another former chief, who did not wish to be named, revealed that he had in fact complained at the highest level about the corruption.

"I have repeatedly held that the procurement systems of the defence need to be looked into. Doubts are raised when you know that you have the money and yet no purchases are being made. I had in fact complained about this. I knew that there was something rotten in the system but I had not expected things to be so bad," he said.

Gen. Roy Choudhary, who was present at the screening of the tapes walked out barely half an hour into the expose. "I was very upset by what I saw. The tapes are very explicit. There is a great outrage within the Army that officers could behave the way it was shown," Gen. Roy Choudhary said.

The last chief of the Army, Gen. V.P. Malik, said, "I am shocked. I can't say anything, I am just watching it all on the news."

Air Chief Marshal Mehra, expressed his disgust at the manner in which the thus far clean image of the NDA Government virtually lost its sheen before the public.

**"They have ruined everything. Especially when everything was going so well. Look at Bangaru Laxman, he seems so naive. Does not even know how to take money. I mean, in his office, in his drawer. One doesn't know whether to laugh at them or to kick them,"** Air Chief Marshal Mehra said.

**"And look at the Army guys. So cheap, falling for paltry sums like Rs. 10,000/-. They should at least make it more difficult to be bought. They have sold out the cheapest,"** Air Chief Marshal Mehra added.

Though he supported the immediate action taken against the senior army officers who have been suspended, he questioned the role of the Raksha Mantri, George Fernandes.

**"How can he sign the suspension orders of the Major Generals with a clear conscience,"** Air Chief Marshal Mehra asked.

In one voice, all the senior officers said that exemplary punishment should be awarded to all the guilty. However Gen. Roy Choudhary expressed a major concern. **"Our military justice system is such that the Army personnel involved will be punished quickly and severely. But those not under the purview of the services, will get away scot-free or with**

**minimal punishment. I hope they also get equivalent punishment,"** he said.

The evil of corruption has sucked the blood of the nation like a blotting paper. Cry my motherland cry!

### **Central Vigilance Commissioner on Video Tapes**

The Central Vigilance Commissioner, Shri N. Vittal, in a statement said that the "Tehelka Tapes Expose" had vindicated the interim report on *defence deals* which was submitted to the Government in the month of August last year. Though he did not disclose the contents of the interim report on defence deals, but from his statement to the media it was quite clear that what the Tehelka Tapes Expose have revealed, is an authentic revelation to a great extent.

Shri Vittal has since submitted his final report on 'Defence Deals' to the newly appointed Defence Minister, Shri Jaswant Singh; it is now for the Central Government to take whatever action is appropriate in view of the recent damaging and shameful exposures through the Tehelka Tapes Expose.

Speaking to the media on this very delicate and sensitive issues, the Central Vigilance Commissioner told that the Commission had perused some 500 files pertaining to 25 defence deals before submitting the final report.

*Hindu* of 2nd April 2001, reports that 'In February last year, the Defence Minister, Mr. George Fernandes requested the CVC to go into every defence deal over Rs. 75 crores since 1989, following allegations of presence of the middlemen contrary to the Government policy of not dealing through them.

### **Corruption Widespread in Revenue Department**

The CVC, referring to the raids on the premises of senior customs officials including the Central Board of Excise and Customs (CBEC) Chief, Mr. B.P. Verma, said corruption was widespread in the revenue departments.

Stating that a case relating to Mr. Verma on the import of a second-hand car had been referred to the Commission and that some punishment had been recommended. Mr. Vittal

pointed out that he had said soon after the Prime Minister announced zero tolerance on corruption that the Revenue Department, including customs and excise, was the 'most corrupt' in the country.

But, he said, "everything in our country starts with a bang and ends with a whimper". Recalling that a Minister of State had earlier protested on his remark about corruption in the Revenue Department, the CVC said, "I think the public perception and what comes out now only shows that what I said was not without basis."

### **Former Director of CBI Calls it Assassination of the State**

The Tehelka Tape Expose is nothing but an assassination of a State, says Joginder Singh, former Director of the Central Bureau of Investigation. When on 13th March 2001, he was called by the authors of the Tehelka Tape Expose, to witness the playing of the tapes in one of the five star hotels, he was reluctant to go there. But on insistence, he agreed to watch the video show for half-an- hour. The half-an-hour turned to one hour and then to two hours, and finally three hours. In Joginder Singh's own words, "I walked out of the show. When Mr. Tejpal asked me as to why I was leaving, I told him that it was both nauseating and disgusting to watch continuous and blatant corruption at all levels. He said that I have been used to seeing too much corruption. I replied that what he had captured on TV video had crossed limits and I did not expect that the matters had deteriorated so much in our polity. *Both the majesty of law and the objectivity of the State, had been mercilessly assassinated by the greedy real life actors.*"

Ordinarily, in the defence deals, where the middleman plays a very vital role, to bring the deal to finality, no legal evidence is available, and thus no one could be hauled up in accordance with the provisions of law. While appreciating the Tehelka Tape Expose samaritans, who were able to bring fool-proof evidence of the offers of kick-backs through the latest technology, Joginder Singh narrated an interesting incident of kick-backs, without creating legal evidence whatsoever.

'An investigation done after one to fifteen years of an alleged offence is hardly likely to yield any legal evidence. If

any experience shows, the more the irregularities the more perfect and loop free will be the concerned government file. In the matter of kick-back, neither the giver demands receipt nor the receiver is willing to give it. Moreover it suits both because nothing is going from anybody's pocket as both are parties to looting the government. When in service, I happened to discuss this matter of defence deals, with a senior official, who had spent half of his life in defence service. Once an agreement is signed for supply of defence items, running into five hundred crores, all the concerned officers of the Defence Ministry had been invited on lunch at a newly opened Delhi Five Star Hotel. My friend who was junior officer, thanked the host, who was middleman for the lunch. The middleman replied, "No need to thank. You are paying for it."

In fact the marvellous job done by the journalists in the Tehelka Tape Expose, is very much praiseworthy, and has indeed failed almost all the intelligence agencies of the Government. On this count alone the Union Home Minister, who poses himself as Sardar Patel, should have tendered his resignation, if he ever felt any moral responsibility of the high office he is holding.

'The dream of a proud, prosperous and corruption-free India had been decimated by the reel life, captured so vividly on the tapes. The only difference was that instead of actors and actresses hired to play their roles and speak the written script, here were babus, both retired and serving, middlemen and fixers, and impostors and political leaders, caught playing their roles for negotiating bribes and kick-backs by the hidden cameras carried by website journalists.'

All those who had been involved in the dirty game have certainly done a great damage to the security of the country and have demoralised the morale and spirit of the armed forces. The list of ministers, bureaucrats, top politicians, serving and retired army officials, including the two Presidents of the National Parties—Bhartiya Janata Party, and Samata Party—is a matter of record. After having been caught red handed through video tapes played all over the world, instead of feeling apologetic the top leadership is shamelessly trying to hide their mean and unpatriotic shady deals which certainly

endanger the security of the country. The people of our country are not such fools as to accept whatever is uttered in defence by various leaders of the NDA, particularly the BJP and the Samata Party, whose party Presidents have been caught red handed in the shady defence deals. As a matter of protest against these shady deals, two of its constituents—Trinamul Congress headed by Mamata Didi, Lok Shakti headed by Ramakrishna Hegde, have parted company from the ruling alliance. Even one of the most vocal ministers, Shanta Kumar (BJP), had demanded the resignation of the President of the Bhartiya Janata Party—Bangaru Laxman at the cost of being called an anti Dalit. Bala Saheb Thackrey also is one of the vocal allies who had demanded the immediate resignation of Brajesh Mishra, and the other coterie of the Prime Minister. The Andhra Pradesh Supremo, Chanderbabu Naidu, says that his party is with the NDA, but certainly wants the truth to come out by way of Commission of Inquiry. On account of the forthcoming elections in the five states, some of the constituents are tight-lipped and have adopted the policy of 'wait and watch'. In fact every constituent of the NDA who is facing the Assembly Elections is at a loss to understand as to what defence would they be able to put before the electorate to bring the voters in their favour. But the people of our country are certainly going to the ballot box in the right direction in case there is free and fair election in the country. If the Prime Minister still wishes to regain his *lost glory and statesmanship*, he should sacrifice the office of the Prime Minister forthwith. This is a million dollar advice that could have been given by this humble son of the soil. Otherwise the doom is written on the wall. Only one has to wait and see.

### Major Defence Deals

The major defence deals entered into by the Defence Ministry are as under:

- i) Sukhoi—30 fighters (180 aircraft);
- ii) M1-17 Helicopter (40);
- iii) T-90 Tanks (310);
- iv) Mirage 2000 H (10 aircraft);



- v) Mig Fighters (18 aircraft);
- vi) Kilo-class Submarine (2);
- vii) Krivak-class frigate (3); and
- viii) Unmanned Aerial Vehicles (six).

Joginder Singh, former Director of the CBI puts a question mark: "Whether all deals are/were above board?"

'The heroism, dedication, needs of defence and selflessness of our armed forces, has been compromised on the altars of Blue Label. Tragically the army top-brass has disgraced itself, with a number of junior officers including some generals captured on the camera for grabbing pay-offs. Among those involved include a Lt. General with the weapon and equipment, and another Major General, dealing with Quality Assurance. This is something which could have been prevented, if the responsibility at all levels, including the Chiefs of the Defence Services and political levels had been consistently enforced.'

### **Union Home Minister Admits Weakness in the System**

According to the reports published in the national newspapers, Shri L.K. Advani, the Union Home Minister has admitted that 'there is a weakness in the system. But without owning a collective responsibility no one is prepared to sacrifice the high office of the ministership. It therefore goes without saying that power corrupts, and absolute power corrupts absolutely. Addressing a joint Press Conference alongwith the former Defence Minister, George Fernandes, Shri L.K. Advani said, "for the first time the government had accepted that the tapes revealed a weakness in the system and its vulnerability at various levels."

Quoting the Prime Minister, Advani told the Press that even Shri Atal Bihari Vajpayee was on record to say that "the episode was wake up call." Addressing the NDA rally, the Union Home Minister told the audience that the "Chief Vigilance Commissioner's report on purchase of weapons since 1989 will be an eye-opener for the country, when it is presented in the Parliament."

## Home Minister Blames Congress for their own Mess up

It is unfortunate that person of the stature and status of the Union Home Minister, Shri L.K. Advani, chose to blame the Congress party to hide their own bungling and mess-up. I quote: "We inherited the system from the Congress, which had ruled the country for 45 years and we cannot change it in three years," he added. The government has treated the *Tehelka Tapes* as a "wake up call" even though it was 'fictitious' and responded immediately by taking corrective measures, he pointed out."

### Advani's Statement Misleading

While speaking at Kochi before the NDA workers, the Union Home Minister said that they had inherited all these weaknesses expressed above from the Congress, and they could not remove them in three years. Let me correct Shri L.K. Advani here. After the revocation of the Emergency in the year 1977, the Janata Party, under the stewardship of late Lok Nayak Jayaprakash Narayan, came into power overthrowing the government headed by Shrimati Indira Gandhi. The Janata Party ruled this country under the Prime Ministership of Shri Morarji Desai. The Janata Party government remained in power for two and half years and Shri Atal Bihari Vajpayee and Shri L.K. Advani, both were in the Union Cabinet headed by Shri Morarji Desai. I happen to know all this because I was then part and parcel of the Janata Party. I had joined the movement of total revolution spearheaded by Lok Nayak Jayaprakash Narayan. I too had gone to Jail for about two years during the emergency period as I had opposed the emergency, and being a Congressman I was sent to Tihar, by Shrimati Indira Gandhi with whom I had been closely associated for about a decade.

The Lok Nayak brought for all of you, Mr. L.K. Advani, a golden opportunity to rule the country for all times to come, but you people miserably failed and lost the confidence of the people, and had to go midway because of your own follies. Though the people gave you a very big mandate discarding Indira Gandhi's autocratic behaviour during emergency, but

soon they were disillusioned, as your government headed by Shri Morarji Desai had one point programme—to take the blood of Indira Gandhi at any cost. And you forgot to do any good work for the people who had pinned high hopes in your government. To cut short, the Janata government fell like a pack of cards because of, its petty quarrels, selfishness, and vindictive behaviour towards Indira Gandhi. Because of your own follies, the people discarded your government and filled the ballot boxes with votes in favour of Indira Gandhi, who again came in power with a thumping majority.

Mr. Advani, let me remind you and refresh your memory, if it has faded away. During the Prime Ministership of Shri Vishwanath Pratap Singh, your party had been supporting his government from outside. Infact you had a great say in the day to day affairs of the government, and by raising the Ayodhya issue, you yourself broke away from his government. And ultimately the government headed by Raja Vishwanath Pratap Singh also fell down, after your party withdrew the support. I know all these events personally, because I had then been very closely associated with Shri V.P. Singh. Mr. Advani, it is your party alone which brought insecurity, and instability in the country. And unfortunately today, when your government is caught napping by the *Tehelka Tape Expose*, you are finding alibis to divert the attention of the people who have all along been very fair to use their ballot in a democratic way. And I am sure, the people of my country, will teach your party a befitting lesson with the power of their vote. Please, for God sake, do not mislead them. Saying that you have inherited all the weaknesses from the earlier governments headed by the Congress Party for 45 years, is nothing but befooling the public at large. Saying that you got any opportunity to rule the country only for three years is blatantly a big lie. People gave you a very big mandate for five years, (after emergency), but you were incompetent to hold on for full term. It may not be out of place to say that a bad workman always quarrels with his tools.

Mr. Advani, therefore, will be well advised not to speak hundred lies, to hide one lie. The Congress Party certainly did not train 'Hon'ble' Shri Bangaru Laxman, President of Bhartiya Janata Party to accept a bribe (which he calls a

donation) of rupees one lakh, and put the same in the drawer within the vision of a camera, and proudly saying 'You can bring dollars also'. Look at the remarks passed by one of the Chiefs of the Defence Forces on the way Bangaru Laxman accepted this paltry amount: *"They have ruined everything. Especially when everything was going so well. Look at Bangaru Laxman, he seems so naive, does not even know how to take money. I mean in his office, in his drawer. One does not know whether to laugh at them, or to kick them"*, Air Chief Mehra said.

Another Defence Forces Chief, General Shankar Roy Chaudhary showed a major concern. I would like to repeat what the General said: 'Our Military Justice system is such that the army personnel involved will be punished quickly and severely. But those not under the purview of the services, will get away scot free or with minimal punishment. I hope they also get equivalent punishment.'

May I ask on behalf of the Generals, and the public at large who are the real masters according to the Preamble of our Constitution, as to what action has the Union Home Minister taken against those who have been directly or indirectly involved, captured through the video tape expose? People of my country are seriously watching the conduct of the government in power, and shall certainly express their feelings through the power of their ballot.

### **Indian and American Politicians**

While comparing the Indian Politicians with the American Politicians, I borrow the views expressed by Prof. N.D. Batra (Professor of Communications, Norwich University) who is a regular columnist for the Statesman. The views expressed by him have appeared in the Statesman, dated 2nd April, 2001.

*"The kind of sting operation carried out in India by tehelka.com has a proud lineage in American muck-raking journalism; the kind of aggressive investigative reporting that has served the USA well since the days of the oil barons and has cleansed up public life by dragging politicians through mud, Watergate, Irangate, and Monicagate, for example.*

Law enforcing agencies in the USA, too, carry out sting operations against suspected drug dealers, but not without

the court's authorisation. The media is under no such legal obligations, if they do, in the larger public interest.

I am not here to defend the Indian politicians who fell victim to a most ingenious machination enacted by India's emerging mass media, the Internet. In the cyber age, when every device sooner or later will have eyes and ears, and will be networked to reach millions instantly via broadband wireless, politicians won't be able to hide their incompetence and misdeeds.

The Tehelka Expose was a timely lesson for them, in the sense that instead of taking kickbacks to run politics, they should ask Parliament to 'decriminalise' political donations, as it has been in the USA. The US Congress is now engaged in campaigning finance reforms to limit the influence of big money in politics. Turning politicians into thieves will not serve the public interest in India. The significance of the Tehelka report, does not lie in the fact that a few politicians have been caught; it is important because it has exposed a serious problem that the Indians refuse to face: Democracy is an expensive form of government."

Political parties have to be financed. Free speech without which there can be no democracy does not come free. Mobilising voters, and motivating them to go to the polls cost the political parties lots of money. Most Indians, like the Americans, are naive in believing that if somehow you take money out from politics, democracy will improve. On the contrary, democracy might collapse for want of sustenance."

### *My Personal Views*

I personally do not share the views of Prof. N.D. Batra in toto, when he says that political donations should be allowed for election purposes. In fact 'Electoral Reforms' have been on the agenda of all the governments for many years; many reports including Goswamy Report have been submitted for favour of necessary action in this regard. But unfortunately, no concrete decision has so far been taken towards the reform in the electoral law. In fact, with the present *Tehelka Tape Expose*, the Prime Minister, Shri Atal Bihari Vajpayee, has admitted that expensive elections have been the main cause of corruption in the political parties. But, Mr. Prime Minister,

the security of the country cannot be compromised at any cost. For God sake let us not demoralise the armed forces; let us not play with their lives; look at the plight of the jawans who are the real protectors of our borders by waking up all the twenty four hours, away from their homes, sweet homes. Those who have been involved in the game of defence deals exposed through the video tape of Tehelka must, therefore, be punished severely, and without any further loss of time. The appointment of Commission of Inquiry to be headed by a retired Supreme Court Judge is just going to be a futile exercise; in fact there is a general impression among the people that in order to sidetrack the real issue and to divert the attention of the people, the government has found out an easy way to silence the people and bury the issue which concerns the security of the nation. Look at the fate of the Liberhan Commission; Mr. L.K. Advani, our Union Home Minister has been summoned to appear before it; but on one pretext or other, he has been avoiding his appearance even at the displeasure of the Commission.

And as regards the electoral reforms are concerned, in order to make them less expensive, political donations is not the right step as suggested by Prof. N.D. Batra, I earnestly feel that there should be state funding so that the poorest citizen, who is capable and eligible to contest should also be able to participate and enter the Parliament and the Legislative Assembly. Then and then only the entry of undesirable element from all political parties could be restrained from these august Houses, which have become by and large an arena of hooliganism and vandalism. Let there be a national debate before a final decision is arrived at for bringing any suitable reforms in the electoral system of our country. By and large, expensive elections are the major cause of kick-backs, bribes, and encourage even the hardened criminals to contest the elections and win them also through their muscle power and money power. Therefore, electoral reforms are the need of the hour, sooner the better. If no immediate steps are taken in the right direction, democracy will have the greatest setback, which may be beyond repair in times to come. All the political parties must take immediate steps in this direction to cleanse the present electoral system.

### Atal Bihari Vajpayee in the Shoes of P.V. Narasimha Rao

'If the bank accounts of JMM MPs finished Rao, if diary entries of a hawala dealer disrupted a dozen political careers, the candid cameras of *tehelka.com* enmeshed Vajpayee's two-year old government in a tangled web of bribes and sordid tale of low level deals. Tehelka's cameras had caught the establishment on the wrong foot.'

Sachidanand Murthy, in one of his articles published in 'The Week' aptly described the fate of the present Prime Minister, Shri Atal Bihari Vajpayee, after the *tehelka.com* exposure in the following words:

"In the mid 1990s, sitting in the opposition leader's place, Atal Bihari Vajpayee would sympathise with the then Prime Minister, P.V. Narasimha Rao, sitting glumly in the Prime Minister's seat, 'I would not like to be in your chair,' a sarcastic Vajpayee would rile the pouting Rao who had no answer for the cascade of Charges from Vajpayee'.

The Prime Minister's dream run has turned into a nightmare as he is confronted with the loss of a trusted senior Minister, a defence scandal which threatened to bring down the government deserting and sulking allies, a melt down in the stock market, a threatened economic agenda, his own party disgraced by a petty bribes, and more importantly of a legacy under a dark cloud.

Everyone within the government agreed that George Fernandes was a man of integrity, but yet wanted him thrown overboard so that the leaking ship could lurch in the dangerous seas. Vajpayee and his advisers were scared that they would be tainted by the *tehelka* brush. Mamata Banerjee wound what she thought was the right issue to project her image before the West Bengal Electorate.

The earthquake which hit the government had their epicentres both in Delhi and in Mumbai. If the economic confidence of the budget crumbled as a criminal bear cartel in Mumbai hammered the sensex out of shape, the political confidence was shattered by the Tehelka Expose of petty greed of the political and military establishments. The NDA edifice crumbled like an Ahmedabad skyscrapers, raising doubts about the NDA's survival".

## **The Tehelka Bribes**

The bribes alleged to have been paid in the Bofors case in the year 1986, were to the tune of Rs. 65 crores. As against this the bribes paid by the Tehelkas were just rupees ten lakhs. Out of these ten lakhs, two politicians took only rupees three lakhs. For the politicians such type of bribes in the shape of donations or otherwise, is not unusual. But the visuals of Bangaru Laxman, BJP President, collecting wads of currency notes and of Samata Party President Jaya Jaitly accepting party donations from self-styled arms merchants in Defence Minister George Fernandes's official residence shocked the whole country.

'The question which haunted Vajpayee was, "if this is what your party leaders do in a fictitious deal, how much do they collect in actual deals?, even though the government insisted that there was no shred of evidence.'

## **Dr. Abul Kalam Sidelined?**

Fingers are being raised on the transfer of the celebrated Missile man—Dr. Abul Kalam Azad. His appointment as Principal Adviser to the government of India and making him to shift from the power centre of South Block, to a corner of the Vigyan Bhavan Annexe, raises eyebrows in many quarters. There is, therefore, a whisper all around that the most useful person has all of a sudden become an unwanted person.

## **Defending the Guilty**

It is unfortunate that a special team has been entrusted with the task of defending the government, in spite of the fact that, the NDA leaders have been caught red handed while taking bribes, may be in the shape of donations as they claim now. Bangaru Laxman and Jaya Jaitly have been captured by the Tehelka Tape Expose cameras in their offices. And the worst part of it is that the residence of the Hon'ble Defence Minister of India was being used for such dirty games, and that too in the Defence Deals—fictitious or otherwise. A team consisting of the newly appointed President Jana Krishnamurthy, Arun Jaitley, Venkaiah Naidu, Pramod Mahajan have been actively



engaged to clean the image of the government which has been involved neck-deep in corrupt practices. But at the same time their own leaders like Shanta Kumar have come out openly against those who have been caught red handed by the tehelka cameras. The people of my country have been watching this tamasha, and the result will come out when the ballot boxes are opened after the five Assembly elections.

'The scamless track record of Vajpayee was besmirched, as the corridors of power were full of questions on various decisions. As instant opinion polls showed, there was initial belief that all parties were corrupt. Even as Vajpayee insisted and got the resignation of Bangaru Laxman and Jaya Jaitly (she was initially reluctant). The government questioned the credentials of the tehelka reports.

'Jaitley (Arun Jaitley) said the "big claims of small-time frauds and cheats", referring to R.K. Gupta and R.K. Jain, had been given wide credence, while Pramod Mahajan insisted there was not a shred of evidence to fix anyone in the government. The defending team, which included Venkaiah Naidu, argued that the self-proclaimed fixers had talked of all kinds of deals in which they had pulled their clout over the Prime Minister's Office and the defence minister, but there was nothing substantial.'

### **I Pity Arun Jaitley**

I am glad the Vajpayee government entrusted him with task of defending the guilty leaders involved in the *Tehelka Tape Expose*, but I am shocked to see his performance, when he misleads the Indian people through his legal acrobats. I myself had the opportunity to watch him on the TV confronted with the Congress representative, Kapil Sibal. He had no answer, when Kapil Sibal had confronted him with one simple question: "Why don't you file an FIR against Bangaru Laxman who was caught red handed while taking wads of notes and putting them in the drawer, simultaneously saying, 'You can bring dollars also'. All this conversation along with his (Bangaru) own photograph sitting in the office, posing to have been reading a so called important document, had been captured through the video tape of the Tehelka samaritans.

Why I sympathise with Arun is that he has been the son of my great friend, late Pandit Maharaj Kishan Jaitley, who had been practising in Delhi courts. I had been sharing a morning cup of tea with him for a couple of years. Secondly, I had been a Law Teacher, in the Faculty of Law, University of Delhi, when Arun was a student of Law in the same Faculty. Not only this, he had been with me in the Tihar Jail during the Emergency for quite a long period. I never expected that he would go astray and would defend the government particularly when it had been caught on the wrong foot.

### **Attorney General of India Falters**

It does not behove a person of the stature of the Attorney General of India, the law officer of the government at the highest place to pre-empt and doubt the credibility of the tehelka tapes particularly when the Government of India has appointed the Commission of Inquiry headed by a retired Supreme Court Judge. His statement 'Gossip is no evidence' is nothing but to put the cart before the horse. At the same time, another legal luminary, Fali Nariman, has said that if Bangaru Laxman felt that he was falsely implicated, he should have filed an FIR against the Tehelka Tape Expose supremo, Tarun Tejpal. In that case the fixer would have been fixed. I do not want to go into more details, as I am adding one full chapter on the futility of the present Commission of Inquiry headed by a retired Supreme Court Judge.

### **A Word of Caution for the Judges**

Belonging to the legal fraternity, I earnestly feel that the Judges all over the country and at all levels may be pleased to take every precautionary measure in order not to be involved in any of such trappings, fictitious or otherwise. Their lordships may be pleased to direct their sons and daughters in the legal profession to be very careful, and while attending to the clients at the residence of the Judges where they are staying, should refrain from calling any client at the residence of the Judges. The best thing, according to my own humble opinion, will be that they do not hold any office at the residence of their

parents, but it would be ideal if they are able to live separately and independently. With politicians it may be a different thing, but with Judges if any finger is raised, it will mar the confidence of the people in this august institution—i.e., the Judiciary.

The present government is not only grilled in the defence deals, it is under serious criticism on the handling of the earthquake victims in Gujarat. The Gujarat government is largely responsible for the deaths of the innocent people on account of earthquake, because most of the buildings were constructed with their connivance and they were hand in glove with the builders' mafia. I had the opportunity of visiting the Gujarat earthquake affected areas, and has added one chapter on the nexus between the politicians, bureaucrats, and the builders mafia. Many lives could have been saved if the buildings had been constructed as per prescribed rules and regulations.

### **BJP Best in Opposition**

The experience of fifty years of politics has shown that the Bhartiya Janata Party, or the Jana Singh (in its original form) had been most successful, whenever they were in opposition. They are, therefore, the best watchdogs of Indian democracy while in opposition. And whenever they got an opportunity to rule the country or support any political party from outside, they have failed miserably, and brought embarrassment for the country as well as for themselves. It will, therefore, be in the best interest of the country that the electorate should be wise enough to give them the status of opposition party, the role which is best suited to them and the country.

### **Tail Piece**

*Small is Beautiful, but Small can be Ugly too*

Small is beautiful, so we have been told over the ages. But the small can be ugly too. The whole nation is talking about Tehelka. They are discussing the magnitude of the mess that prevails in the country. Tehelka is only a talking point. Why

it should have shocked anybody—man in the street or the man who matters—surprises. What is new? Who does not know what is happening around us? Is corruption such a secret of the nation that a Tehelka has to happen to tell us about its ramifications? Or does an outside organisation of Singapore or anywhere else, have to study and tell us that the phenomenon of corruption is among the worst in the world?

... I only want to deal with the least talked about part of the phenomenon. The provocation could be a remark by former BJP President Bangaru Laxman, who said in an interview, "In these kinds of deals with huge amounts involved, why should anybody take Rs. 1 lakh. What is Rs. 1 lakh?"

Yes, what is Rs. 1 lakh? So ask most of Punjabi friends and lament that he has lowered the status of leaders of the national stature. Even state politicians on district level leader will not think of mere Rs. 1 lakh, they add, and wonder what is happening in the world of corruption where things happen on a grand scale. Punjabi friends have a point for they like to think big. My apologies for deviating from the trend and trying to refer to small operations and small amounts of corruption where small is not beautiful. It is not only ugly, it is sad and tragic (Courtesy: *Tribune*)

### **Outburst of Inder Malhotra, a Celebrated Political Commentator**

'Are we becoming a nation of crooks?'

"What kind of a people, society or state are we Indians becoming? Whatever else may or may not be said about the Tehelka tapes, they have shown how porous, corrupt and easily accessible to despicable sleazeballs the entire system of defence procurement is. More chillingly, they have also nailed leaders of the BJP and the Samata Party for happily accepting or expressing their willingness to accept "donations" in black money from fake arms dealers anxious to promote a fictitious defence deal."

Normally nothing is written after the tail piece. But since this view of a seasoned journalist touches the heart of every self respecting citizen, I chose it to be placed below the tail-piece.

## **A Wake Up Call**

It is high time that the people of India woke up, and gave this country a transparent and corruption-free leadership, through the power of the ballot. Let the Rule of Law, and not the Rule of Jungle should prevail.

## CHAPTER 2

# Scope and Powers of the Commission of Inquiry

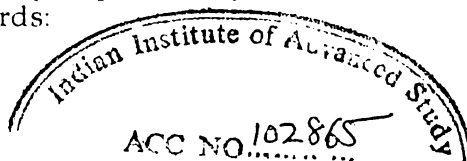
In order to silence the entire opposition and to divert the attention of the people, the Govt. of India has announced the appointment of the Inquiry Commission headed by Justice K. Venkataswamy, a retired judge of the Supreme Court of India, requesting him to complete the inquiry within four months from the date of its appointment. Speaking to the media, the soft spoken Judge frankly admitted that he had never been appointed to head any Commission of Inquiry. This was his first assignment as the head of an Inquiry Commission. But at the same time he told the media that his findings would be fair and impartial and under no circumstances he would be influenced by any political party—ruling or otherwise.

In view of the fact that the bribe takers had been caught and captured in the video tapes which created a fool proof guilt of those who accepted the bribes, may be in the shape of donations (as claimed by them) the exercise of this Commission will be of no use. The Govt. has become a suspect and many eyebrows are being raised on the utility of this Commission.

The facts which are to be found out by the Commission are transparently clear and there is in fact nothing to be inquired into by the commission.

### Scope of the Commission

The scope of any inquiry under the Commission of Inquiry Act has been clearly explained by the Das Commission in the following words:



"The enquiry to be made by the Commission differs from the civil litigation or the criminal proceeding before any ordinary Court of Law. In a civil action there is a plaintiff and a lis or issue between them, which the plaintiff might choose to abandon. In a criminal case, there is a prosecutor and an accused and the charge which the prosecutor may withdraw, with or without the permission of the court by a judgement or order which becomes binding and enforceable as between the parties. In an enquiry under the Act, however, there is no plaintiff or prosecutor, there is no defendant or accused and there is no lis or charge to be adjudicated upon by the Commission by judgement or order binding and enforceable in their purpose.

In short, the Commission is not expected and indeed is not competent to finally adjudicate upon any issue or charge or pronounce any judgement or order which will be binding and enforceable. Its function is only to inquire and report to the appropriate government".

And the Sarkaria Commission explaining the nature, object and scope of inquiry entrusted to a Commission under the Commission of Inquiry Act has observed :

"The function of the Commission is to make a fair, fact finding inquiry circumscribed by the terms of reference and not to embark on a witchhunt. The nature of its proceedings, albeit judicial, do not partake the character of a criminal trial; much less can the respondents before the Commission be relegated to the position of accused persons facing a trial. The findings of a Commission constituted under the Commission of Inquiry Act, have no force *proprio vigore*. Nevertheless, the findings, being the precious end of product of a just, thorough and relentless endeavour to reach at truth and to expose falsehood, *per se* serve a beneficent purpose of immense public importance".

The T.L. Venkataraman Aiyar Commission which inquired into charges against Sh. K.B. Sahay, former Chief Minister and other erstwhile Ministers of State of Bihar, laid down these principles:

"Where the charge is one of corruption, nepotism or favouritism, all that is to be determined is simply whether on the evidence on record, the charge could be held to be made

out. Though the charge has to be established beyond reasonable doubt, in the very nature of it, the evidence must be largely circumstantial. It must nevertheless be clear and cogent and comprehend all the links in the chain."

### **Supreme Court's Observations**

In Ramakrishna Dalmia's case the Supreme Court observed that the findings of the Commission cannot be to the prejudice of anybody, because it has no force of its own.

In *State of J & K v. Bakshi Gulam Mohammed* (AIR 1967 S.C. 122) and in *P.V. Jagannath Rao v. State of Orissa* (AIR 1969 S.C. 215), the Supreme Court observed that the report of the Commission of Inquiry is not binding on the Government. In these circumstances it should be adequate if the standard proof is the same that would be applicable to a civil proceedings even though an issue before a Commission may be smeared with a criminal or a fraudulent charge. (The Commission of Inquiry Act, by K.A. Ramasubramaniam—p.6.)\*

### **\*Utility of the Inquiry Commission**

By and large it has been seen that majority of the Inquiry Commissions held so far, had been consigned to records and the Government failed to take any action on those findings. Even though, by and large the Commissions held so far have made every effort to maintain political neutrality, their investigations have been thorough and impartial, their reports received wide acceptance with practically no criticism (except from indicted parties) either about the manner in which the inquiry was conducted or the fairness of the findings. The approach of most of the Commissions to their task cannot be better summed up than in the inimitable words of Mr. T.L. Vennkataram Aiyer in the concluding paragraph of this report:

"It should be clearly remembered that this is a fact finding Tribunal and has nothing to do with the politics. It has merely to decide whether on the materials placed before it the charges have been established and it cannot affect its conclusions who

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\* The Commission of Inquiry Act, 1952 by K.A., Ramasubramaniam (N.M. Tripathi Pvt. Ltd.)



the party is or what his political affiliations are. That has been my approach in this inquiry and it is from this angle that I have recorded my findings in the fear of God and without fear of man and with goodwill towards all and malice towards none."

### **Views of the Intellectuals**

Here are some excerpts on the views of intellectuals expressed on the fate of the Commissions of Inquiry as appeared in the Illustrated Weekly of India dated the 24th July, 1977:

"In the first two decades of Independence, nearly 165 Commissions were set up. The average life span has been two years. There have been high level inquiries into police firings, communal riots, official corruption and other unsavoury episodes. A survey of the fate of Inquiry Commissions showed that except in a few cases, their reports were consigned to Archives.

Each public inquiry costs a lot of money on extensive travelling and to maintain a large scale secretarial staff. The average expenditure per day has been estimated at Rs. 6,000-. The total expenditure on each Commission may vary from Rs. 50,000/- to Rs. 50 lakhs according to some sources. Can a poor country like India afford to spend large sums of money on Commission of Inquiry, particularly when the government is not bound to accept their recommendations."

The latest Srikrishna Report is the living example, whose recommendations were not accepted by the Government headed by the Shiv Sena and BJP combined. We are not going into the merits or demerits of the Report; we only wish to emphasise this point that no Government is legally bound to accept the recommendations of any Commission of Inquiry. Then why this futile exercise at the cost of public exchequer.

### **Criticism of the Commission of Inquiry**

Besides that it burdens the public exchequer, the judges (sitting or retired) heading these Commissions of Inquiry earn lot of criticism, which certainly undermine the prestige, and reputation of the august institution. For example, Thakkar Natarajan Commission of Inquiry headed by two Supreme Court Judges probably in the year 1987, earned lot of criticism from the eminent jurists and the legal luminaries.

***H.M. Seervai***

Shri H.M. Seervai, wrote an article which was published in the Indian Express of the 30th December, 1987.

Some excerpts: "It is unfortunate that Justice Thakkar and Natarajan of the Supreme Court do not appear to have followed the proceedings of the Lentin Commission which held its sittings in public in Bombay, proceedings which were widely reported day after day.

***V.P. Singh***

In his statement as published in the Times of India, Shri V.P. Singh said:

"The indictment by the Commission is nothing but conviction by legal gagging, done with utter disregard to the canons of natural justice and flouting of all statutory provisions of law."

***Justice H.R. Khanna***

"I feel perturbed when in the sordid game of political mud slinging, sitting judges allow themselves to be used as instruments to malign one party and support another."

***D. Mekay, Vice President, Fairfax***

Speaking to the Telegraph (12.12.87), Mr. D. Mekay, Vice-President of Fairfax said, "The only purpose of Thakkar-Natarajan Commission was to 'stifle, restrict and prevent the investigation of corruption."

***Lt. Gen. S.K. Sinha***

"The Commission has made serious insinuations and indictments in gross violation of the requirements of natural justice."

***Lord Denning***

"In a famous passage, Lord Denning said: Let me say at once that we will never use that jurisdiction as a means to uphold

our own dignity. That must rest on surer foundations. Nor will we use it to suppress those who speak against us. We do not fear criticism nor do we resent it. For there is something far more important at stake. It is no less than freedom of speech itself. It is the right of every man, in Parliament or out of it, in the press, or over the broadcast, to make fair comment, even outspoken comment, on a matter of public interest."

### *V.P. Singh*

Excerpts of V.P. Singh's press report placed on the floor of House:

"The Thakker-Natarajan Report will go down in legal history as a monument of injustice. It will stand out as a singular example of indictment of persons in violation of all canons of natural justice and statutory provisions of law. It is a condemnation without the opportunity of defence."

Security of India is being jeopardised by economic offenders, defence agents and those high ups who are protecting them and not by the honest, sincere and dedicated officers who were trying to book them. These officers could make crores but they risked their lives in the discharge of their duties. The economic offenders could not get a Report that would gladden their hearts more and there could not be a lethal blow to the morale of honest officers."

It is with this background that I have every apprehension if this Commission of Inquiry headed by a retired Supreme Court Judge would have any meaning, when the Government itself is in dock, would ever accept the adverse findings against them. Even the Chief Justice of India was very much reluctant to spare any sitting judge for this type of Commission of Inquiry. They had bitter experience of the severe criticism inflicted on the sitting Supreme Court Judges—Justice Thakkar and Natarajan.

A senior journalist of the Times of India (Rakesh Bhatnagar) rightly predicted that no Supreme Court sitting Judge might be spared for this type of Inquiry, which has political overtones. Justifying his prediction he said; "a sitting judge of the Supreme Court is unlikely to probe the Tehelka tapes alleging involvement of and a powerful nexus between politicians, bureaucrats, army

personnel and middlemen in the country's defence deals. Even when the request is made, Chief Justice A.S. Anand may be reluctant to spare a colleague for the job in view of the experience earlier of two Supreme Court Judges, M.P. Thakker and S. Natarajan who were asked to probe the controversial Fairfax Scam under the Commission of Inquiry Act, 1987.

The Thakker Natarajan Commission was set up by the then Congress Govt.'s order delegating a US Private detective agency, Fairfax with powers to investigate certain economic offences that were alleged to have been committed by some companies. Both the opposition and the ruling parties had felt that the Rajiv Gandhi Government's decision was fraught with dangers and it was not in the best national interest.

### **Supreme Court Judge Lowers his Status than High Court Judge**

In its report, the Thakker Natarajan Commission devoted 13 pages to highlight the perils faced by Commission of Inquiry Act. The Commission noted that it does not enjoy the power to initiate contempt action under the Contempt of Court Act and *its orders are open for a challenge before the High Court.*

In other words a sitting apex court judge conducting the probe in deference to the CJI's request ceases to enjoy the judicial powers otherwise vested in him as a member of the highest judicial authority.

The Thakker Natarajan Commission was under media glare all the time and faced severe criticism. In its report, it noted with 'pain and distress' that the sitting judges had been subjected to "wanton and deliberate character assassination by a section of the media."

It regretted that even the Supreme Court was of little help in saving the judges from such a character assassination:

"The Commission would have sought some solace if the institution to which they belong had taken suo moto cognizance of the matter and extended protection to them, for they had undertaken the function at the desire of the head of the institution who had invited them to discharge these functions."

## CHAPTER 3

# Tehelka Probe—An Exercise in Futility

The Commission of Inquiry headed by Justice K. Venkataswamy, a retired Supreme Court Judge on the Tehelka Expose had started its working on 4th of April at Vigyan Bhavan where it had been provided its office.

Justice Venkataswamy went to his office from where he would be functioning for the probe and saw the arrangements personally. But even before the Commission of Inquiry headed by the Hon'ble Judge started its functioning, severe criticism has started coming from different quarters, which would certainly tell upon the morale of the armed forces in particular, and the public at large in general.

### George on Tehelka Probe

Even the former Defence Minister, George Fernandes is of the considered opinion that this type of probe in Defence Deals can reveal the defence secrets, which might help the enemy country. George has certainly raised very serious point on the security of country, and the Government should give a serious thought to what George has said in his public address at Hyderabad. Here are some excerpts from his address appeared in a national newspaper (Statesman 5-4-2001). "Mr. George Fernandes said Pakistan might know the latest acquisition by the Indian Army, Navy and Air Force if the probe into the Tehelka Expose makes public defence Ministry's "Top Secret Documents".

This apart, one can barely imagine the damage being done to the morale of the country's soldiers who are braving chilly winds and snow to protect the country's borders, he said. It is morale, and not weaponry that makes a soldier fight, the former Defence Minister said at the NDA rally.

Mr. Fernandes further said, that the army has ordered its own Court of Inquiry, the Defence Ministry is conducting its own probe, and a retired Supreme Court judge is in the process of bringing out the truth through the present probe ordered by the Govt.

**"These may bring out in public many top secret documents and Pakistan will be too happy to know what we all have."**

Speaking at the rally he further said that when he had not been given an opportunity to speak for two days in Parliament, the news arrived that soldiers on the front were worried about what was happening with its leadership. "It was then that I resigned despite my cabinet colleagues' and the Prime Minister's objections, and chose to go to the people to tell the truth.

Mr. Fernandes dismissed the tapes as "total lies" and appealed to the people not to believe them. "The truth will be out once the inquiry is over."

He said he had not seen the tapes as he was not in the habit of watching television. But he had read the tapes' transcript five to six times. "They are all lies and untruths and meant to launch a false propaganda."

Mr. Fernandes recalled that he had placed 500 files relating to defence purchases above Rs. 75 crores from 1989 onwards for examination by the CVC and CAG. He said he was always aware that he might have to face this kind of situation.

"I know these power dealers were powerful and were capable of launching an attack on me."

Criticising and launching an attack on Mrs. Sonia Gandhi, Mr. George Fernandes said that she was in the habit of telling lies to grab power. "Earlier she lied to the President in 1999 by claiming to have support of 272 Lok Sabha MPs and is now using Tehelka Tapes to usurp power... who is she (Mrs. Gandhi), who took years to become an Indian Citizen, to teach us nationalism, and call Mr. Atal Behari Vajpayee a traitor?"

He said he had issued an explanation on Doordarshan and sent copies of it to newspapers.

### **George Defends Jaya Jaitly**

Mr. George Fernandes took this opportunity to defend his party President, Jaya Jaitly, and said, 'All Mrs. Jaitly said was that she would give the money to the party's treasurer but added they would have to subject their 'products' to all tests before they are bought. If there was a problem she agreed to put in a word with the Minister, he said and asked if this was wrong.'

### **Public Reaction to the above Statement**

The public perhaps was not satisfied with the above statement made by the former Defence Minister, it became restless, and some of them chose to leave the meeting.

Here we find a big question mark?

I would like to ask Mr. George Fernandes to reply (if he happens to read this book) that how far is it justified for a president of a political party to run its political activities from the residence of a Defence Minister? And how far is it justified to have a dialogue with the arm dealers fictitious or otherwise, by the president of a political party?

I therefore, do not agree with Mr. George Fernandes, when he publicly tries to defend his own Party President, who was hobnobbing with Tehelka expose people, posing themselves as arm dealers. Mr. Fernandes certainly is on a very weak wicket here and it does not behove a defence minister to defend his own party president, who acted against the interest of the security of the country.

### **George also Defends Bangaru Laxman**

It is quite amusing that George Fernandes went to the extent of defending Bangaru Laxman, on whom the whole nation laughs, the way he took wads of notes in his hands, and putting them in the drawer, simultaneously saying, "You can bring dollars also."

I earnestly feel that all his earlier statements made above became clouded and had lost credibility when he chose to defend his own party president and the president of the Bharatiya Janata Party, whom his own party leadership has condemned in so many words.

Let me repeat what Fernandes spoke in defence of Bangaru Laxman; "Mr. Fernandes also gave a spirited defence of the former president, Mr. Bangaru Laxman, who was given cash after being told that it is for the party fund." He is working at that time, he just put the cash in the drawer and continued his work. Does this mean, a deal has been struck?" Mr. Fernandes said.

Mr. Fernandes, I must say that you have put up a very bad defence, to give a clean chit to Bangaru Laxman, former president of the Bharatiya Janata Party.

### **Shanta Kumar Demanded Bangaru's Resignation**

Mr. Fernandes should have realised that even the prominent leaders from his own party demanded the resignation of Bangaru Laxman. Shanta Kumar, a Union Minister of Vajpayee's cabinet is one of them who said in so many words that Bangaru Laxman should resign, particularly when he was seen accepting wads of notes from the Tehelka expose people, claiming them to be the arm dealers.

Of course, understandably the newly appointed president, K. Jana Krishnamurthi lauded the services rendered by Bangaru Laxman and said, "All of us look forward to the day when Bangaru's stand will be vindicated."

### **Air Chief Marshal Mehra on Bangaru Laxman**

Let us see what Air Chief Marshal S.K. Mehra speaks about Bangaru Laxman. "They have ruined everything. Especially when everything was going so well. Look at Bangaru Laxman he seems so naive, does not even know how to take money. 'I mean in his office, in his drawer. One does not know whether to laugh at them or kick them.'"



### **Present Probe has many Drawbacks**

Besides being a danger to the security of the nation, the present Commission of Inquiry has many drawbacks, and will prove to be an exercise in futility. It has earned criticism from many quarters, including almost all the rival political parties. Even the terms of reference of the present Commission of Inquiry are not adequate, and have become a subject matter of great criticism. The Congress Party has also been very vocal in criticising the terms of references of the inquiry to be probed by a retired judge of the Supreme Court.

According to Jaipal Reddy, "The outcome of the judicial inquiry is being stage-managed from the word go." The terms of reference were carefully framed to give a clean burial to the Tehelka website. And according to Shri Jaipal Reddy "it was an inquiry directed more at the website and less on the scandal. He repeatedly made the point that the inquiry would serve little purpose because "it can only inquire and cannot investigate."

The probe excluded the examination of the former BJP Chief, Mr. Bangaru Laxman, and his Samata Party counterpart, Mrs. Jaya Jaitly. "What is worse, it also excludes the examination of the blatant manner in which the defence minister's residence was misused to interact with arms dealers and receive money."

According to the Congress Party, the inquiry should also focus on the manner in which all sorts of people had easy access to sensitive personnel from the defence ministry.

### **V.P. Singh on Tehelka Probe**

The former Prime Minister, Vishwanath Pratap Singh criticised the appointment of a Commission of Inquiry headed by justice K. Venkataswamy which is going to probe into the allegation made through the Tehelka Tape Expose. The Raja of Manda said, "It is obviously a cover up, and an ineffective remedy, just to scuttle the matter."

### **Double Standard**

Speaking at a press conference Mr. V.P. Singh said, Commissions appointed since independence had shown the

tendency of reaching conclusions suitable to the ruling parties. He wanted to know why the double standard of resignation in case of politicians and prosecution in case of defence officials, prevailed.

### **Vajpayee should have Resigned**

Expressing his strong feelings about the so called probe, which according to him was just an eye-wash, the Raja further said that the question was not that of honesty, but alertness, and the Prime Minister like a sentry sleeping at his post, should go. Emphasising his point, he further told the reporters present at the press conference, the Raja said, "I am not giving any prescription but had I been in the position of Mr. Atal Behari Vajpayee and my own hand-picked party president had said half such things, I would have resigned."

### **Need for Setting Healthy Conventions or Precedents**

Vishwanath Pratap Singh was of the considered opinion that the ruling party, particularly headed by a seasoned politician like Atal Behari Vajpayee, should have created a healthy tradition or precedent when his Government had been caught napping, and proved to be most negligent, inefficient, and incompetent as far as the security of this country is concerned. "It is regrettable that nobody is addressing the problems that lead to corruption, everybody is busy removing corruption of others."

As I (the humble author) myself had mentioned earlier in the first chapter for the need of a national debate on Electoral reforms, Mr. V.P. Singh also said that the question like electoral expenditure, transparency, right to information, Lokpal, decentralisation and declaration of assets by Ministers and elected representatives, should be debated and solutions found.

### **A.G. Noorani on Tehelka Probe**

It is not only the political leaders, there are many other persons belonging to different walks of life, who do not favour appointment of any Commission of Inquiry to probe the Tehelka

Tape Expose. They are of the opinion that this probe is going to be an eye-wash and will certainly muzzle the media.

A.G. Noorani, an eminent political and constitutional commentator has come out with a most informative and timely article on the utility and futility on the probe of Tehelka credentials. In his article, he has successfully dealt with the fate of the earlier Commissions of Inquiry held so far. He sincerely hopes that the present head of the Inquiry Commission, Justice Venkataswamy would surely opt out after he goes through the terms of reference of the inquiry. Here are excerpts from his article, published in Hindustan Times of 31st March 2001:

"It is most unfortunate that Chief Justice of India A.S. Anand agreed to nominate Justice K. Venkataswamy, a retired judge of the Supreme Court, to head a Commission of Inquiry on the 'Tehelka.com Expose'. If a sitting judge could not be spared for 'such inquires', a retired judge should not be given such a task either. A retired judge who conducts a political inquiry does no little harm to the prestige of the judiciary, as the Kudal and Jain commissions demonstrated.

### **Judges to Remain out of Political Controversy**

The Judges should not be involved in the inquiries which have political overtones. Such type of inquiries bring bad name to the credibility of the judges, because in such type of inquiries, the judges have to malign one political party and support another. Thakkar Natarajan Commission is a living example in which the sitting judges of the Supreme Court came under severe criticism.

As the head of the judiciary, the Lord Chancellor, Lord Hailsham, strongly opposed a proposal to some legal aspects of Britain's obligations on arms supplies to South Africa to the Privy Council for an advisory opinion. "*Judges must be kept, so far as possible, out of political controversy*", he had stated. Judges are not deterred by cries of the 'political thicket' when they decide cases in courts of law even if judgments have political consequences. But it is not proper for them to undertake the

extra burden of conducting inquiries outside in a highly charged matter between the rival views of two highly political parties.

### **Terms of Reference of the Present Inquiry**

The utterly unprecedented and last term of reference (d) of the Tehelka Commission, announced on 24th March, 2001, boldly proclaims the political nature of exercise; ... "to inquire into all aspects relating to the making and publication of these allegations or any other matter which arises from or is connected with or is incidental to any act, omission or transaction referred to in terms of reference (a) and (b).

These two terms of reference require the Commission to Inquire into (a) the defence deals referred to in the tapes to ascertain whether they conformed to the prescribed procedures and imperatives of "national security", and (b) whether "illicite gains" were made in them "by persons in public office, individuals or any other organisation alleged." These are standard remits, as is (c), which invites suggestions for "action" against the guilty. Not so, remit (d). Note, the notification refers to allegations which received coverage "in the print and electric media."

### **Focus on the Messenger and not the Message**

Unfortunately the terms of reference in the present Tehelka Tape Expose are malafide, and put more focus on the messenger and not the message. Never in the history of Commission of Inquiry Act, 1952, was any Commission of Inquiry asked to probe into the credentials of those who made charges. 'If this move is allowed to pass muster the press will be effectively muzzled.'

"The widely worded remit (d) includes everything except the kitchen sink."

Beginning with the Kairon case in 1962, Commissions of Inquiry have looked into charges by the opposition leaders against men in power; never into "all aspects relating to the making of these allegations."

### **Credentials of the Reporters never Challenged**

In 1962 the British Press went to town after the conviction for espionage of vessel, a clerk in the admiralty. It was alleged that he had escaped security vetting because of "the sponsorship of two high-ranking officials." Prime Minister Harold Macmillan appointed a three member tribunal headed by Lord Redcliff under the Tribunals of Inquiry (Evidence) Act 1922, on which our Act is modelled.

The tribunal analysed some 250 news reports, not all of which were fair. Even so, the probe was restricted to the charges against the head of the admiralty, service chiefs, concerned Naval officers, ministers and civil servants; the security aspect and neglect of duty. The reportage was in issue not the credentials of the reporters.

According to A.G. Noorani, the Venkataswamy Commission of Inquiry is practically instituted with the sole purpose of demanding the sources. This is not at all fair and justified for the ruling alliance to do so. Even such type of inquiry is not in accordance with the provisions of law. I entirely agree with the views expressed by Shri Noorani, and the judge heading the present inquiry must go into the validity, and constitutionality of the terms of reference, before he starts functioning.

"A ruling by the European Court of Human Rights in 1996 which holds such compulsions to be unconstitutional is of high persuasive authority on our courts. On December 4, 1995, Justice M.C. Jain confidently demanded disclosure of sources from a daily.

The Supreme Court's judgement in the Nakkeeran case laid down two propositions: "In the case of public officials, the remedy of action for damages is 'simply' not available with respect to their acts and conduct relevant to the discharge of their official duties. This is so even where the publication is based upon facts and statements which are not true unless the official establishes that the publication was made with reckless disregard for truth.

"In such a case it would be enough for the defendant (member of the press or media) to prove that he acted after a reasonable verification of the facts, it is not necessary for him

to prove that what he has written is true .... So far as the government, local authority and other organs and institutions exercising governmental power are concerned, they cannot maintain a suit for damages for defaming them."

By remit (d) the government seeks deviously to do through a Commission of Inquiry what it cannot in a court of law in a libel case. It is, therefore, unconstitutional.

As Lord Keith ruled in the House of Lords, demand for proof of the truth of its accusations have "the chilling effect" on the press freedom. "Quite often the facts which would justify a defamatory publication are known to be true, but admissible evidence capable of proving these facts is not available."

It is earnestly hoped, that after having gone through the terms of reference thoroughly and taking into consideration 'the freedom of press in India, and the observations made by the apex court in this respect from time to time, he might like to get rid of this type of unprecedented, and unconstitutional probe, which is going to punish only the messenger and the messenger alone, i.e., the media. The Government has thus not come with clean hands by ordering such type of malafide and vindictive probe.

### **CPM Opposes the Judicial Probe**

The Communist Party of India (Marxist) said that the Vajpayee Government, in all fairness quit forthwith, and the judicial inquiry as announced by the Government, is nothing but a cunning cover up.

The Party Leader Somnath Chatterjee is on record to say, "The way to cover up or delay a matter is to set up a judicial inquiry."

Mr. Chatterjee said that the inquiry was meant to ascertain facts. But now, the facts were known and there was no contradiction, he said.

Mr. Chatterjee further said that the expose was only a tip of the iceberg. The Prime Minister was trying to keep his "motley" combination together, he said.

Mr. Chandra Shekhar said that the Vajpayee Government should quit "if it had any sense of honour." Mr. Chandra Shekhar further criticised the manner in which he had accepted

George Fernandes' resignation. First the PM held that the resignation would not be accepted. After the Defence Minister had suspended some officials, the PM accepted Fernandes' resignation. By doing so, the PM had brought disgrace to the office, he said.

### **Justice V.R. Krishna Iyer**

Let me end this chapter with the following observations of Justice V.R. Krishna Iyer.

"It sometimes happens that the judges are used by politicians in power to pull their chestnuts out of the fire by appointing commissions with men in robes to preside. This is regarded by some as a dubious step because the credibility of such reports is in controversy, political artillery from the affected side being invariably turned on the judge. Marginally there is also a peril, that the latest politics of the judge may grow up when he is called upon to inquire into a quasi judicial public issue. With that the politics of the judiciary recessive in the normal process of adjudication, but dominant in inquisitorial procedures and non-judicial postures, the likelihood of less restraint and yielding to inner political pressures cannot be ruled out."

And last word of Justice H.R. Khanna on the utility of commissions with political overtones:

"I feel perturbed when in the sordid game of political mudslinging sitting judges allow themselves to be used as instruments to malign one party and support another."

## CHAPTER 4

# Tehelka and Pradhan Mantri

The Tehelka Tapes Expose has highlighted the shady and unpardonable deeds of the men in power, which endangered the security of the country. Even one who has watched the tapes played on the television must have been shocked to see that how cheaply our leaders, even at the highest level, are ready to be bought, and for a song. It is saddening to see the president of a ruling National Party, Bangaru Laxman, accepting wads of notes, putting them in the drawer, and simultaneously asking for dollars. All this has been captured by the Tehelka video tapes. And the other president of the Samata Party is running a political business at the official residence of a Defence Minister, who still is the convener of the National Democratic Alliance.

And look at the audacity of the top leadership, they are busy in giving the guilty, certificates of innocence, and assuring that the Defence Minister will again adorn the same office, let the inquiry headed by a Supreme Court Judge is over after four months. They are crying at the top of their voice that the visibly guilty persons having been captured through the tapes, are innocent, at the rallies so far they have been able to hold. But to their bad luck, even their allies had distanced from these rallies, which ultimately proved to be 'a tain tain fish affair' and had to be stopped forthwith.

### War of Vindictiveness

Not only this, now the old files relating to Defence Deals right from 1989 to 1998 are being dug out, so that the previous



governments could also be exposed in the defence deals. This type of witch-hunting will not take us anywhere, except to the doom, because it will further weaken the security of the country and will be demoralising the jawans fighting at the borders.

In fact war of mudslinging, and street-fighting has started in a very big way. Every party is trying to show their clean image before the public, that it is their party alone which is clean; and all other parties are good for nothing, and are not able to rule the country. Shockingly such type of a very serious matter which, no doubt concerns the security of the country is being politicised by the shortsighted politicians. The dirty and mean politics of mudslinging and street-fighting must end and forthwith.

### **Serial Pradhan Mantriji**

Zee Television has started a serial—Pradhan Mantri—(to be telecast every Friday at 10.00 P.M.)—which shows that how corruption has entered the corridors of power. The serial also shows that the jawans were not supplied the latest and modern weapons in the Kargil war. And the government chose not to announce the exact number of casualties in the Kargil war. The serial further clearly tells that the Pakistan Army had been equipped with the latest and modern weapons, as against this our Army had not the modern weaponry, on account of which our jawans though fought brilliantly, but had to die in good number facing the enemy with whatever was available with them.

Here I quote the revelations made by the Chief of the Defence Services on the plight of the jawans fighting at the Kargil war:

### **Corruption in the Army**

**“Spycam to have damaging Impact”**

Former Indian Army Chief, General Shankar Roy Choudhary recalled how all major decision-makings regarding defence procurements came to standstill in the post-Bofors days.

*"The entire modernisation plans came to a halt. No one wanted to take any decision regarding the purchase of weapon, equipment or any other major supplies. We had the money, but it could not be spent."*

And the results were evident during Kargil, we had no wherewithal. Some funds were given in the post-Kargil stage for much needed equipment, but I fear that everything will go back to the status-quo," he said.

"The Indian Air Force will never get its Advanced Jet Trainer now and more and more young pilots will continue to die," said former Indian Air Force Chief, Chief Air Marshal S.K. Mehra.

Another former Chief, who did not wish to be named, revealed that he had in fact complained at the highest level about the corruption."

Pradhan Mantriji, do watch the serial—Pradhan Mantri—and also read the above statements of the Former Chief of the Defence Services, and let the people know what action your government has taken so far to equip the armed forces of all the wings with modern equipment. And who is responsible for the large number of casualties in the Kargil war because of lack of supply of modern equipment, in spite of the fact that the Chief of the Defence Services had been reminding the government for its urgent need.

The TV serial also shows as to how bags of money are sent to the Ashram of a Swamiji for safe custody, and how after Tehelka expose the Prime Minister's resignation is being demanded. Not only this, a deputation also meets Rashtrapatiiji requesting him to form a national government.

Even at a meeting of all the leaders from different states, the Prime Minister was elected. It was also shown that none of the old leaders was elected as Prime Minister, as all were shown to be corrupt in one way or the other. So a choice fell on a very new face, young and energetic. The serial is quite interesting, informative and worth watching.

### **Corruption in Every Field**

Mr. Prime Minister, it is not only the Defence Ministry, where corruption is found in abundance; it has rather entered every

field of life, which has undoubtedly endangered the security of the nation. If no immediate steps are taken, things will worsen beyond repair, and the future will be bleak in terms of our National Security.

The Tehelka Tapes have brought a political earthquake in the country, and have exposed every person right from a babu to the highest bureaucrat, and the top politician. But the mafia also has spread its tentacles breeding corruption all around, and bringing the security of the country in jeopardy. Even the recent earthquake in Gujarat had witnessed the nexus between the builder, bureaucrat and the top politician without caring for the security of the nation, property and lives of the lakhs of people, of that state. Many lives could have been saved in the Gujarat earthquake calamity, if timely action had been taken by the Gujarat Government headed by Keshubai Patel. Mostly the substandard buildings were fallen, which were built without any prescribed rules and regulation in active connivance with the bureaucrats and the top politicians.

### **Pradhan Mantri Addresses the Nation**

When the whole opposition did not allow any debate on Tehelka Expose inside the Parliament for a number of days, the Prime Minister chose to address the nation through Doordarshan on 16th April, 2001.

Mr. Prime Minister, while addressing the countrymen, you assured the people to cleanse the political life, as also to cleanse your administration by bringing wide range reforms. And I quote:

"I shall spare no effort in this regard. You have my word. That I shall do everything towards ensuring these wide-ranging reforms. I shall get to the bottom of the allegations which have been made; I shall work to clean up the dirt that has come into view; I will ensure that all this is done in such a way that security of the country comes out stronger."

*(The whole address of the Prime Minister is reproduced in the book at Appendix I)*

Unfortunately the Prime Minister has already given a clean chit to all those against whom he has assured the countrymen 'to get to the bottom of allegations.'

Here are some apprehensions which haunt the countrymen on the bonafides of the assurances given by the Prime Minister, Shri Atal Behari Vajpayee.

1. Why the Prime Minister, till this day, has not eased out the officers of the PMO, against whom serious allegations have been made?
2. Why George Fernandes, former Defence Minister continues as the Convenor of the National Democratic Alliance?
3. Why the government blacked out the Tehelka Expose on the Doordarshan?
4. Why the former Defence Minister, George Fernandes was allowed to address the nation on Doordarshan?
5. Why the Leader of the Opposition (Sonia Gandhi) was denied permission to speak to the people through Doordarshan?
6. Why is the utility of the ongoing Commission of Inquiry, when the whole nation knows the truth duly exposed by the [tehelka.com](http://tehelka.com)?
7. Why legal proceedings have not been initiated against all those who have been caught red-handed through the cameras of [tehelka.com](http://tehelka.com) smaritans?
8. When the former Defence Minister has said that the defence secrets will be leaked out, which will help Pakistan in particular, then why the Government does not wind up the present Commission of Inquiry?
9. Why the Government is running away from referring the whole matter to the Joint Parliamentary Committee, as demanded by the opposition?
10. Why some of the allies have deserted the National Defence Alliance, after the [tehelka.com](http://tehelka.com) Exposure?

Pradhan Mantriji, rise to the occasion, face the bitter truth; act in the right direction; and restore the confidence of the people, which has been shaken through and through.

## CHAPTER 5

# Tehelka—NDA and the Congress

[Khisiani Billi Khamba Nochey]

The Hindu of 7th April carries a news that the Congress has accepted the challenge of the Prime Minister, Atal Behari Vajpayee, to treat the forthcoming Assembly election as a referendum on Tehelka Tape Expose disclosures.

‘Speaking justice in People’s Court against Congress.’

Speaking at Bangalore yesterday, the Prime Minister while referring to the coming Assembly polls, had said that the NDA was seeking justice in the Tehelka issue in the “people’s court.”

“We challenge him to stick to his words and if the results are not in favour of the NDA, he should pack his bags,” the Congress Spokesman, Mr. Jaipal Reddy, said.

In the same newspaper, there is another news in which “the BJP seems to have once again changed its mind on holding of National Democratic Alliance rallies in response to the Congress challenge after Tehelka Expose.

Mr. Vijay Kumar Malhotra announced that there would be no more rallies on the issue as the Congress had “run away” after declaring a political war. Since there was no challenge and no issue, the NDA leaders would be meeting again to redraw their strategy, he said.

And a seasoned BJP leader Venkaiah Naidu says, “All NDA rallies defending the Government on Tehelka expose had not been called off. Only the phase of the Tehelka meetings was dropped in view of the apparent unwillingness of the

Congress to “take the fight to the streets.”

One fails to understand, is the NDA only responsible and accountable to the Congress Party, or are they going to have bouts only with the Congress, and none else? Have the NDA no obligation and accountability to the people who elected them and gave them the opportunity to rule the country for full term?

According to me, NDA is fully accountable to the people, who are the real masters in a democracy. They must explain to the people, as to how did the fictitious arms dealers reach the BJP President, who happily accepted wads of notes to the tune of rupees one lakh and put them in his drawer, the dramatic scene duly captured by the Video tapes. And why BJP’s own Union Minister, Shanta Kumar demanded a sack of his own President, Bangaru Laxman. Even a very Senior leader and former Chief Minister, Bhairon Singh Shekhawat is on record to say; “Dirt should not be put under the carpet, and must be thrown out, whereas Shanta Kumar said, “Bangaru Laxman’s act is indenfensible, and the party cannot sink with it.” Congress or no Congress, BJP owes an explanation to the people of the dirty act done by their own President, Bangaru Laxman.

The Prime Minister, Shri Atal Behari Vajpayee, had said, “Blaming the Media wouldn’t help if there are some weaknesses in the system.”

In fact, the question which might be haunting Vajpayee is, “If this is what your party leaders do in a ficticious deal, how much do they collect in actual deals.”

It is not only the Congress, all other opposition parties have condemned the ruling NDA Government after having seen the dirty and unpatriotic games played by their leaders, through the Tehelka Expose Tapes in defence deals. The BJP led government is accountable to 100 crore people of the country whom they are supposed to represent, and look after their welfare from all points of view.

### **Birth of Lok Morcha (People’s Front)**

The turn of events in the wake of the Tehelka Tapes have shown the ruling—BJP led government in poor light. The

Tehelka Tape Expose gave a golden opportunity to all the opposition political parties to come together and fight the ruling NDA unitedly. On 15th March, 2001, a day after the defence deals scandal broke, a group of senior leaders of CPI (M), Samajwadi Party, Rashtriya Janata Dal and Janata Dal (S) announced the formation of the Lok Morcha, or the People's Front.

Missing from the new formation were some erstwhile "indispensable" regional parties like Asom Gan Parishad, Telugu Desam Party, Indian National Lok Dal, and Bahujan Samaj Party—all of whom have already formed new political equations. On top of it the BSP Chief, Ms. Mayawati, described the People's Front as an optimistic alliance, which was aspiring to "usurp power" at any cost.

The announcement of the revival of the People's Front was made at Mr. Mulayam Singh Yadav's house in the presence of CPI(M) General Secretary, A.B. Bardhan, Janata Dal(S) Leader Madhu Dandavate and Republican Socialist Party Leader Abani Roy. 'It was reminiscent of what former Prime Minister V.P. Singh had done. After a long hiatus from politics, he had taken an initiative some time back for the third Front's resurrection.'

The People's Front emerged to lend its voice to the aspirations of the people for political stability. Of course, how far this front is able to muster support of the people, is to be tested in the coming Assembly Elections.

Here is a recipe given by a learned hand. "The Leaders who finally take the People's Front forward will need an acceptable face with a broad appeal if they are to be taken seriously by the electorate. For instance, former Prime Ministers I.K. Gujral, H.D. Deve Gowda, Chandra Shekhar and V.P. Singh are likely to prove acceptable. But expecting them to join of their own accord may amount to expecting too much. Till, therefore, a more rigorous leadership is thrown up, the People's Front will remain a Chimera." (*The Pioneer* dated 5th April, 2001.)

Speaking on the utility and the importance of the Lok Morcha (People's Front) the CPI (M) General Secretary, Shri Harkishan Singh Surjeet in an interview with the Hindu (20.3.2001) termed the Congress declaration unconvincing and felt that it should prove its sincerity on the question of

forming a coalition and fighting economic policies of the NDA Government. The Lok Morcha would soon emerge as a “powerful force”, which would channelise the resentment of the people on the economic policies of the BJP led government.

To a question posed by the Hindu correspondent—‘How serious do you think is the congress about forming alliance with other parties to provide an alternative to the BJP? The CPI has welcomed it ... Shri Surjeet replied. “The Congress has realised that it cannot have the monopoly of power. The vacuum created by its exit from power has been filled by the BJP. But we have yet to see how serious they are about it. Of course, the Congress has come out of the old rut where it said it did not want to share power. They have shifted from that position. But how sincere are they? I mean their stand on this aspect is not commensurate with the understanding of the left.

To a question ‘Will the Lok Morcha be an agitation Platform or a political one’, Surjeet replied—‘Both. Because unless an alternative is shown, you can’t show a way out to the people. And you see, certain common issues are agitating the minds of the people. Some organisational set up is necessary to channelise their resentment. And to a question, “How does Defence Scam figure in these calculations?” Shri Harkishan Singh Surjeet replied—“The main thing is the security of the country. This (the *tehelka.com* expose) has shown that any undesirable element can enter the deepest layer of our defence establishment. It also shows that the BJP and its allies are vulnerable to offers of the kind made by those who tried to expose what is happening in the defence establishment, purchase and all.

Now the BJP is trying to cover it up. The Prime Minister says a retired Judge will be asked to prove it. He is trying to defend his Government after Mr. Bangaru Laxman (former BJP President) resigned, and worse, after re-electing Mr. George Fernandes Convenor of NDA, in fact declaring that he is their symbol. Then what is the meaning of saying that there should be a code of conduct for partymen? Mr. Vajpayee is also, trying to find a way out through the mechanism of a confidence vote in Parliament. I don’t know if everyone in the NDA will vote for him. It will be a test who supports and who is willing to fight it?



### **Criticism from their own Sangh Parivar**

It is not only the Congress, or the opposition who have criticised the functioning of the NDA Government headed by Shri Atal Behari Vajpayee, the Sangh Parivar came out openly against the PMO.

Pankaj Vohra in his regular column-Between us-(Hindustan Times of 25.3.2001) writes, "In his first comments which were later retracted, Mr. Sudarshan made no secret of his unhappiness over the manner in which the government had been functioning. Virtually endorsing the demand made by a section of NDA leaders, Mr. Sudarshan had sought the removal of the 'extra constitutional' authorities and 'incompetent' officials from the PMO and blamed them for the scam.

It is another thing that the RSS Chief, whose reaction in the media have been likened to those of Cricket-Board Secretary, J. Lele, subsequently attempted to disassociate himself from the remarks on the plea that they were made in a general way.

The retraction took place because the PMO reacted to the charges describing them as totally baseless and unfounded and top functionaries of the Sangh Parivar impressed upon Mr. Sudarshan that his utterances would lead to incalculable damage and may be exploited by the opposition parties.

Incidentally, Mr. Sudarshan had declined to comment when newspapers had tried to draw a parallel between the Prime Minister's foster son-in-law Ranjan Bhattacharya and late Sanjay Gandhi as extra-constitutional authorities. His only response was that those, "who are not accountable to the people should be kept away from power."

The *tehelka* exposures have precipitated a political crisis within the BJP whose moral high ground has taken a beating in view of its then President Mr. Bangaru Laxman accepting rupees one lakh from two correspondents masquerading as arms dealers. A silent debate waging in the BJP leaders notwithstanding the facade of unity is that their party is no longer the party with a difference.

There is also a realisation within the BJP's rank and file that charges of corruption had always been levelled against Congress Leaders from time to time. Even in the Bofors case, the charges against any political leader have not been

established so far. But in the case of the former BJP President, the entire nation saw him accepting wads of currency notes and keeping the same in his desk drawer.

## **Double Standards**

The BJP which claims to be an organisation adhering to the strict principles of discipline in every walk of life has been exposed through and through. And in fact they have no legs to stand before the people. The time of test is not far away; they have to face the music, rather the wrath of the people in the coming Assembly elections. Every day they have been shifting their stand as it suits them. But the democracy in this country has deep roots; they cannot run away from the enlightened public gaze.

Their image has become indelible and may not be easily erased from public memory, even though the Doordarshan has not televised the tehelka tapes. The Doordarshan after all reflects the double standards which have over a period of time become synonymous with the BJP.

While on double standards one needs to know why a party, which has unanimously elected Mr. Laxman as its President last year; ensured that he did not attend the ongoing meeting of the national executive. True that his presence would have been inconvenient for several top leaders, but at least he could have had the opportunity of presenting his point of view before the BJP's top decision making body.

## **A Very Strange Approach**

The BJP leadership is completely confused; there are differences of opinion within the party; they do not know whom to blame, and whom not to blame. Everyday they come out with a different strategy, and blame the Congress for all their own sins. One has to wait and watch patiently as to how long they would be able to run away from the scrutiny of the people. They are certainly on the wrong side, and have been caught napping.

Pankaj is right when he says that exposures have also evoked strange responses from several top BJP leaders who have embarked upon exercises to divert attention from several issues which have come to the fore following the controversy.

For instance, Union Home Minister, L.K. Advani has categorically ruled out the resignation of the Government in view of the NDA majority in the Lok Sabha. No one has ever doubted the numerical strength of NDA. If questions have been raised, they have been in respect of the moral high ground of the BJP.

### **Intelligence Failure**

Questions have also been cropped up regarding the ability of our intelligence gathering outfits which directly come under purview of the Home Ministry.

### **Principles of Propriety and Natural Justice Ignored**

The approach of the government regarding the exposure has been very strange. Instead of first ascertaining the extent of involvement of various characters who figure in the tape, the government has initiated action against an official who is suspected to have helped one of the tehelka reporters.

In fact if principles of natural justice have to be followed, it is the accused who should be probed first, and not those who have helped to bring them to book. Declaring a war against any particular party, Congress Party in this case, is not the right approach, Mr. Prime Minister.

### **Majority in the House does not Exonerate the Sins Committed against the security of the Nation**

The ruling alliance of NDA very proudly says that they are proud to face no confidence motion in the House. Mr. Advani is shouting at the top of his voice that the government is always ready to face the no-confidence motion in the House, simply to hush up the real matter involved, i.e., the security of the nation. The question is not of numerical strength, the question is of corruption; the question is of the security of the country; the question is of morale of the armed forces protecting the borders of the country away from their homes. Can any government compromise the security of the country by hobnobbing with the so called fictitious arm dealers accepting

paltry amounts for selling the country, and for a song, even if it has a majority in the House. Just to cover up your own unpatriotic approach, you have started blaming one party or the other without any justification.

. Borrowing the words of a former Chairman of the Public Accounts Committee Mr. Era Sezhian, the Tehelka tapes have revealed the vulnerability of the ruling parties and the government officials to conspire with the middlemen to strike shady deals.

Corruption has distorted the legitimate economy and made the lives of suffering millions more miserably by depriving them of the benefits of social welfare schemes, relating to poverty alienation, education, employment, housing, health etc. Still the people suffering under the mischief of corruption in day to day life were so much infuriated that when corruption touched the national security, and defence preparedness that made Krishna Menon of the Jeep Scandal in the sixties resign, and changed by poll the Government of Rajiv Gandhi in the Bofors deal of the eighties.

*Though the Defence Minister and the Prime Minister deny any involvement in the entire episode covered by the Tehelka it has come out beyond any doubt that their Party Presidents have taken money—call it donation or bribe, whether in rupees or in dollars—at the rate of two percent or three per cent. A question may be asked that without a deal or without actual purchase of defence material, there is no room for corruption. True, murder has not been committed; but conspiracy to commit a murder has taken place. It is a basic tenet of law that conspiracy to commit an offence whether acted or not is punishable in the same manner as if the conspirators had committed such offences.*

The ruling alliance may be able to get the confidence of the majority inside the House of the people. What about the people outside, the real sovereign? The majority enjoyed by Rajiv Gandhi in Parliament did not help him to sustain the confidence of the people outside.

It is clear from our experience in respect of the Bofors deal and bank scam, that the debates in the Parliament and reports of Parliamentary Committees will not solve the problem. The leaders of BJP and the Samata and others now in Government cannot afford to forget the line, they, while in opposition took on the reports of shady deals of the previous governments.

The central issue is not Bangaru Laxman, Jaya Jaitly, George Fernandes, Brajesh Mishra or Ranjan Bhattacharya. It is the faith that the people had reposed in Vajpayee. If people lose faith in a man who held together a coalition of 24 parties by the sheer strength of his stature, who will they have faith in? To that extent, Vajpayee's tragedy is India's tragedy."

In the past too, all powerful Principal Secretaries have tended to rule politicians on the wrong way. But when the outcry came, Jawaharlal Nehru had to get rid of his special assistant, M.O. Mathai who used to make Krishna Menon stand before him, P.N. Haksar, who was the brain behind Indira Gandhi's Garibi Hatao and bank nationalisation initiatives, had to resign when he came in conflict with Sanjay Gandhi.

"Politically it is not possible for Vajpayee to brazen out of the situation like Rajiv Gandhi in 1987. The country has entered the TV age, and it will take a long time to forget the image of a Bangaru Laxman grasping a wad of notes and stashing them away in a drawer. The public shock and disgust is more palpable than it was in 1987.

"Rajiv Gandhi got away with it since he headed a single party government with more than 400 Congress Members in the Lok Sabha. But then it ultimately devoured his government. This is not the case with Vajpayee. He has not only to content with 23 allies, all of whom have their compulsions, but his own party and a hostile Sangh Pariwar."

### **A Failed Swayam Sevek**

I shall make an appeal to the Prime Minister and the Home Minister to kindly peruse a news (Hindu 17-3-2001) published under the caption "Tehelka tapes appear to be true"-says RSS- in which they labelled the BJP President, Bangaru Laxman as a "Failed Swayam Sevak", and I quote, "The former BJP President, Mr. Bangaru Laxman was today described by the RSS as a "failed Swayam Sevak" who had admitted to taking money and had resigned, even as the parent organisation of the Sangh Parivar warned of "impending financial disaster" which is "sure to overtake the country" if the Vajpayee government failed to take firm measures. The RSS expressed

the view that the Tehelka establishes the facts and identify the guilty."

### **Home Minister L.K. Advani**

Speaking to the reporters at Kochi, L.K. Advani, the Union Home Minister frankly admitted that "the Tehelka Tapes" revealed a "weakness in the system", and its "vulnerability" at various points."

### **Ram Jethmalani on *tehelka.com***

While speaking to the Times of India, the former NDA Union Law Minister, "expressed deep regret over the allegation of kick backs in defence deals exposed by *tehelka.com*, and said it was high time Prime Minister Atal Behari Vajpayee got rid of his "motley crew of incompetent and corrupt people."

Vajpayee could still amend his past mistakes by "giving the boot to his set of corrupt advisers." It is not too late for the PM. He should take lead in initiating action against all those guilty and get out of this mess," Jethmalani said.

Mr. Prime Minister, this is not a cricket match between two parties (BJP and the Congress); it is a question of corruption; it is a question of kick backs in the defence deals, it is a question of the integrity and security of the country, it is a question of the morale of the Jawans fighting at the borders to protect every inch of their motherland; and it is a question of the credibility of the political leadership which is at stake. Under such circumstances, when your top leadership is caught red-handed (duly captured by the video tapes) accepting wads of notes, it does not seem appropriate for the NDA Government to pick up holes, and blame one party or the other (particularly the Congress Party in this case) to justify their own unpatriotic and unwarranted behaviour.

For God sake, Mr. Prime Minister, I, as an humble citizen beg of you to kindly wind up the present Commission of Inquiry, admit the mistakes in the system; take all the political parties together, and as a true statesman address the real issue, facing the country, and find out solutions to cleanse the present political system, so that such type of incidents do not recur.

It would be ideal, if you punish the guilty, particularly those who have been caught red handed accepting bribes (duly captured by the Tehelka tapes), and ease out all those who are alleged to have been associated with these murky affairs, may be they belong to your own Secretariat.

On the one hand, Mr. Prime Minister, you are seeking cooperation from all the opposition political parties and on the other you are referring a simple letter written by Dr. Subramaniam Swamy making allegations against the leader of the opposition (Sonia Gandhi) to the CBI for investigation. Such type of vindictive attitude adopted by you, and your government, will certainly dwarf your personality, status and stature.

I do not carry any brief either for Mrs. Sonia Gandhi or any other political party. I am writing all this, as a humble son of the soil, who is equally interested in the welfare, integrity and above all, in the security of the country which has certainly been endangered by the men in the corridors of power.

## Tehelka: Missing the Donkey

(When the finger points to the moon, the fool looks at the finger)

The Central Vigilance Commissioner, Shri N. Vittal has pointed out the places, and the departments where corruption exists in abundance. And in a statement he said that the "Tehelka Tapes Expose" had vindicated the interim report on Defence Deals which was submitted to the Government in the month of August last year. He has already submitted the final report on the Defence Deals to the newly appointed Defence Minister, Shri Jaswant Singh. Our country is proud of such type of the dedicated and patriotic souls, who perform their duty without fear or favour.

I have come across an article, written by Shri Vittal (published in The Economic Times 7.4.2001), under the Caption—"Tehelka: Missing the Monkey". This is one of the best articles I have come across, and must be read by the public at large. I, therefore, in the larger public interest reproduce below the full article, written by Shri N. Vittal: In the Tehelka Expose are we going to look at the moon, or the finger?

"There is a well-known story about Mullah Naseeruddin. The Mullah used to be a smuggler and the customs authorities also knew that he was smuggling but they could not identify what was being smuggled. Every time when the Mullah crossed the borders with donkeys laden with bags, the customs authorities used to check the bag which was only full of hay. After the Mullah retired from the smuggling business, the customs authorities asked him what was the product he was



smuggling all along. "I was smuggling the donkeys", the Mullah laughed.

In all the hue and cry that raised in the media and the country about the *tehelka.com* revelations, the donkeys seem to have been missed by many. Or even if they have been noticed, there is a discreet silence maintained. The real reason behind all the noise that is being made about the Tehelka episode is that this is an excellent example of the violation of the eleventh commandment: "Thou can violate all the ten commandments but Thou shall not be found out".

What has happened in the Tehelka episode is a clear and dramatic violation of the eleventh commandment. Our democracy is based on black money. Black money is the oxygen for corruption, corruption is the oxygen for black money. Every political party needs money and depends on the black money. But a fiction is being maintained by an unwritten understanding amongst all concerned in the game about integrity in public life. Every political party is keen to fight and remove corruption from the other parties.

I was asked a question in the BBC programme 'Question Time India': "What would have Gandhiji done if he was alive today in the case of Tehelka expose?" I said that Gandhiji would have immediately undertaken a fast unto death and would have forced all of us to do a self-retrospection so that this incident itself becomes a turning point for better probity in public life. Applying the Gandhian strategy, I would suggest that we should use the Tehelka opportunity to move towards better probity in public life. Even the prime minister while addressing the nation characterised the Tehelka revelations as "a wake up call".

Corruption in our system is the result of a vicious cycle which involves political corruption, bureaucratic corruption, business corruption and criminalisation of politics. The first step to be taken to come out of this vicious cycle is to focus our attention on the black money and try to rid the country of this menace. I had detailed a programme in my article published under the title, "The black money trap" (ET, 27 January 2001). This should be the starting point of the cleansing process.

Criminalisation of politics can be avoided by at least implementing the Delhi High Court's directive to the Election

Commission that every candidate in an election should disclose the full facts about his criminal record. If the government really wants to fight corruption accepting the Delhi High Court's directive will send the right signals throughout the country. I would go to the extent of suggesting that if any charges have been framed against any candidate in any court of law, he should not be permitted to contest the election till his name is cleared. Legal experts would say that this is unfair because this will amount to treating the framing of the charges itself as proof of the guilt. The CBI pursued vigorously Mr. V. Krishnamurthy for seven years. He was insulted and also harassed. But at the end of seven years, Krishnamurthy was discharged because the court could not find enough *prima facie* evidence to frame charges against him.

If a court can find sufficient grounds to frame charges, *prima facie* at least there is a case. If we really want to impose probity in public life, why not we bring in this standard instead of indulging in legal quibbling? We know cases where persons who have openly confessed in public that they have taken money in the Hawala case have been discharged. We also find politicians convicted in a criminal case for three years trying to build up a case that till they are finally convicted in the court after exhausting all the appeals, they must be permitted to contest elections. The appeal process may last for ten, twenty or even thirty years! We can be ethical or we can be strictly legal and at the same time mouth inane cliches about the need for ethics and zero tolerance of corruption.

The nexus between the corrupt politician and the corrupt bureaucrat should be broken. The system that has been introduced for selection of the Director, CBI under which a committee under the chairmanship of the Central Vigilance Commissioner recommends a panel of names and the person appointed is assured of a fixed tenure of two years should be introduced for all sensitive posts right across the government spectrum, public sector undertakings and the banks. This would institute a system by which the nexus between the corrupt politician and the corrupt bureaucrat is broken. It is not necessary to involve CVC in all these exercises for the selection panels. What is needed is the implementation of the principle of neutral objective selection committees for selecting

the panel to man all sensitive posts in government organisations, public sector, public sector banks, etc.

If all the claims about moving towards a better probity in public life were to be implemented, these three simple steps would be adequate. Otherwise we will have any number of *tehelka* type exposes, which of course will provide enough opportunities for judges to inquire, media to go to town and politicians to deliver sanctimonious lectures and indulge in the continuous game of one-upmanship. The Buddha says: When the finger points to the moon, the fool looks at the finger. In the *tehelka.com* expose, are we going to look at the moon or the finger?

## CHAPTER 7

### Bangaru in Bangaru's Defence

Seeing that many of Party Leaders were not coming to his rescue, Bangaru Laxman himself came out in his own defence. Of course, it is reported that he contacted some Dalit Leaders to come to his help, and some of them did respond favourably. And, therefore, some of the BJP Dalit Leaders came out openly against their own leaders who criticised the disgraceful act of Bangaru Laxman. About four dozen BJP M.P.s belonging to the Scheduled Castes and Scheduled Tribes impressed upon the leadership not to dump Bangaru Laxman. It was on this type of pressure, that the new President, Jana Krishnamurthi came out with a statement that he is looking forward to the day when Bangaru stands vindicated and found as an innocent victim in a web of conspiracy. And I quote, "Stepping up support for disgraced Bangaru Laxman, Party Chief K. Jana Krishnamurthi to take disciplinary action against Public Distribution and Consumer Affairs Minister Shanta Kumar for his remarks against Laxman.

#### **SC/ST Morcha against Shanta Kumar**

Led by BJP SC/ST Morcha President Ram Nath Kovind, M.P., the Dalit Leaders urged Krishnamurthi to restrain Shanta Kumar, saying it would send a wrong message, to the rank and file, particularly those belonging to the weaker sections.

They said Shanta Kumar who is seeking Laxman's expulsion as well as his resignation from the Rajya Sabha, had no business to attack the former BJP Chief in public when the

party leadership had defended him and decided to wait for the verdict of the Judicial probe into the Tehelka Controversy.

Shri Shanta Kumar had sought the resignation of Laxman from the Rajya Sabha at the BJP National Executive. Again he had told reporters that the BJP cadres were upset that a single person's conduct has brought disgrace to the party and the Prime Minister.

This is the third time that the Dalit BJP leaders have come out in support of Laxman, who was the first Dalit Leader to occupy the top position.

With 45 MPs belonging to SC/ST out of the total of 182, the BJP leadership is under pressure not to dump Laxman, who resigned after the Tehelka tapes showed him accepting money.

On March 19, the SC/ST Morcha Leaders had met former BJP Chief Kushabhau Thakre to protest against the treatment meted out to Laxman and sought assurance about his rehabilitation if the judicial probe cleared him. Earlier the Morcha Leaders conveyed their feelings on the issue during a training camp held at Indore.

In his first Presidential address to the BJP National Executive, Krishnamurthi sought to redress grievance by praising Laxman. He said the party looked forward to the day when Bangaru stands vindicated and found as an innocent victim in a web of conspiracy. He also assured the BJP conclave that once Laxman came out of this "Agnipriksha", his services were sure to be fully utilised.

In his first interaction with the media today, he reiterated BJP's commitment to Laxman's "Nagpur message", which called for expansion of the party's social base among Dalits, tribals, and minorities. He said the Nagpur message was part of Laxman's first Presidential Address.

### **Laxman Pleads not guilty**

The cruel Tapes of Tehelka caught Laxman, the first Dalit President of the BJP, accepting wads of currency notes to the tune of rupees one lakh, sitting in his office, while going through the important documents. But Laxman smells a rat, and says that he had been framed and implicated in the "conspiracy" and felt that the detractors could be inside the party.

In an Interview to Zee TV, he said these people did not like his rise to the top in the party.

Recalling that he had humble beginning, and as a Dalit he came a long way to reach the position. Mr. Laxman said his detractors did not like Muslims and Dalits flocking to the party following his Presidential Address in Nagpur.

To a question, whether he regretted having received money from the portal representative, the former BJP Chief said, "After all no party functions without public donations. I received the money in good faith for the party.... I have no regret. Now that I am being fixed, I regret". *He immediately informed the party treasurer, sent the money to him the next day and asked him to send a receipt to the donor.*

On the charge of receiving bribe, Mr. Laxman said if somebody came and offered money for party fund, it could not be described as bribe, but if he had asked for money it would have been treated as one. (courtesy PTI)

### **Party within to be Blamed for Conspiracy**

From the above defence which the former BJP President, offered, makes the things very clear, that it is neither the Congress, nor any other source or agency, which is to be blamed. The BJP inner circle has been very much annoyed with him, because he encouraged the Dalits and the Muslims into the Sangh Parivar. And that was the reason, that a conspiracy had been hatched by the hard core in the Sangh Parivar, to ease him out through dubious methods.

### **Bangaru Tones down his Stand**

After the statement that Bangaru Laxman made, wherein he blamed the hard liners in the Sangh Parivar for his exit, later on, surprisingly, he toned down his stand against his party and changed his stand tactically in another detailed interview which he gave to Indian Express, as published on 20-3-2001. Look at the change of the stand of Laxman within three days of his earlier statement. Sankersan Thakur was the senior journalist, who interviewed the former President of the BJP, Bangaru Laxman.

- Q. It is also being said that hardliners within your own party and the Sangh Parivar had turned against you. They were unhappy with your encouragement to Dalits and your wooing of Muslims.
- A. I do not deny that there were differences within my party and organisation on this approach, but I do not believe I have been fixed by my party.
- Q. So why isn't the party standing behind you? Why did you have to quit if you are saying you are clean?
- A. There was actually no need for me to resign. My conscience is clear. But the tapes created a sudden surcharge, they stunned everybody including me. Then there was spiralling media hype and political pressure on the government and the party.
- Q. How Does it feel to be the man who in the public eye, has come to symbolise political corruption, a man filmed picking up a bundle of notes? Could you describe what was going through your mind when you first saw the tapes?
- A. It was mumbling. I was totally dismayed. It left me cold for a while, you see, these people had come to me a long time ago, and I had forgotten all about them. Then somebody called me that afternoon, shortly before the tapes were released, to tell me that there is something on me in it. I could not imagine what it could be. It was only after I saw those shots that I remembered these people. It shook my faith in the people I meet everyday; specially my faith in journalists. They came as fake people with fake names and identities and they came with ulterior motives. Can journalists do that, I thought? Is it right?
- Q. You accepted money. Was that right?
- A. That was for the party. What was I to do? Political parties do accept donation from sympathisers. These people approached me as NRIs wanting to make huge investments in the country and help the economy. They talked about investments and civil aviation and power and in between they also slipped in this thing about thermal cameras. They also said they were BJP sympathisers and wanted to donate some money for the party. So I took it.

Q. But something must have made you think their claims were credible. What was it? Did they come through as people you know?

A. My practice normally is never to say no to people wanting to see me. I am amenable, they came in and then they made all these proposals.

Q. And you were taken in?

A. They cheated me. I feel cheated. I met them because in public life, you have to meet all sorts of people, you cannot bolt your doors to the world.

Q. The money is accepted by politicians to facilitate defence contract.

A. But there is no deal here, no contract, no favour done to anyone. They do not reveal anything about the arms business and the political establishment. These were fake people with fake proposals. The result of all this also has to be fake. The tapes give you no idea of how a real deal is struck. They have not hit at a real single arms dealer. In my case, I was accepting a donation for the party, it was not in return for anything, there was no quid pro quo. All this is fake.

Q. Why such an elaborate fake?

A. It is a multi-pronged conspiracy which will be laid bare by the inquiry. There are forces that want to destabilise the government, there are forces that want to scuttle my career and, of course, the owners of *tehelka.com* were also interested in booting their own financial prospects on the market. Tehelka should be thoroughly probed. If the scope of the inquiry announced by the Prime Minister does not cover them, another one should be instituted to uncover the background of Tehelka people, and why they became the instrument, of this conspiracy. They must be exposed."

After analysing these two contradictory statements of the former BJP President one feels that Bangaru Laxman has not been properly advised by any legal expert. If he had taken the legal advice of Shri Fali S. Nariman, Senior Advocate, and a Member of Rajya Sabha, he would have registered a case of cheating against the Tehelka people immediately. In Fali's



language, in that case the fixer would have been fixed. I reproduce below the free legal advice given by Shri Nariman as published in the Indian Express:

**I disagree that post-Tehelka we should have privacy laws. Help keep the media teeth in place even if they sometimes bite the innocent.**

**Tehelka Taught Establishment a Lesson but let's not get Carried Away**

*Fali S. Nariman*

"Commenting on the conduct of politicians in Britain, an independent Member of its Parliament said: "The emphasis must now be to restore trust in public life; my goodness we have a long way to go." Last week, the London Times reproduced this statement as its Quote of the Day! After the revelations of the Tehelka Tapes, we too have a long way to go. We can start by first cutting out the cant and hypocrisy that besets public life in India.

Consider this. If, on receiving the infamous wads of notes, its famous recipient had promptly filed an FIR at the local police station, he could certainly have fixed the fixers! Offering a bribe to a public servant is, and always has been, for more than a century, a criminal offence in this country. But he did no such thing. And the saddest part is that those who offered the money were so dead-certain he would not: otherwise they would not have dared to approach him-Reputations (good or bad) have a tendency to circulate, fast-forward.

The Tehelka Tapes have demonstrated what a large number of people have so long suspected but never been able to prove: rumours about sleaze in defence and other deals have not been grossly exaggerated.

The truth is that the Establishment (this Government and all previous Governments) have had it coming to them for years. People in authority were getting too confident, at times even arrogant and hopelessly out of touch with reality and with the groundswell of adverse public opinion. The

fallout of the initial expose in the Tehelka Tapes has had its effect; it has dinned into those in authority the lesson: "Howsoever high you be, you must never lose touch with public perceptions." It is an important lesson.

The major problem about governance in our country has been the enormous divide, the wall of separation, between the governed and those who govern. We inherited this: over two hundred years of Mughal conquest followed by more than a century of British domination. But it is not a characteristic only of British Rule: It is true of all bureaucracies everywhere. ..."

## CHAPTER 8

# Tehelka—A Tip of the Iceberg (Corruption all Around)

It goes without saying that corruption in public life has been seen from the very inception of human civilization. But it has taken an ugly shape for the past few years, and has reached the highest level of our society. This evil of corruption which has now become a cancerous disease has become a matter of great concern, as it has spread its tentacles in all directions. It starts with the greasing of a Chaprasi, (peon) and halts only at the level of a top bureaucrat and a minister. The impression in every man's mind now is that the wheels of the Government, (headed by any political party) will stop moving, if the corruption were to stop. Unfortunately, Indian people, by and large, have come to accept corruption as a necessary evil. But there is a silver lining also. Even today, the self-respecting Indians shall strain their nerves, when any corruption scam comes to their notice. And whenever any such corruption scam is publicly exposed, there are people who vigorously howl in protest.

### **Different Forms of Corruption**

Defining corruption is not an easy job, it does not always involve monetary considerations. There are indeed various kinds of corruption, and it is difficult to spell out all forms of corruption.

J. Nye, a political scientist, in his paper "Corruption and Political Development: A Cost-benefit analysis" defined corruption

as a behaviour which deviates from the formal duties of a public role (elective or appointive) because of private-regarding (personal, close family, private clique) wealth or status gains (which) violates rules against exercise of certain types of private or regarding influence.

And another French scholar Y. Meny has given four characteristics of corruption. These are:

1. The violation of rules and norms associated with what is perceived to be general interest (or public ethics) in a political society at a given time;
2. In the course of a secret exchange among political society at a given time;
3. With the (anticipated) consequence of providing individuals or groups with resources of access and influence in the process of political and administrative decision-making that are superior to those available in the (normal) course of open dealings;
4. Eventually resulting intangible benefits, material or otherwise for the party or parties involved in the transaction.

According to Michael Johnson: "Corruption can help preserve objective irregularities in two ways by facilitating the unequal appropriation of wealth and privileges and by inhibiting changes which could threaten existing advantages."

In fact it needs two sides to complete the act of corruption. On one side is a person with power to influence the decision-making process and on the other side a person willing to corrupt him by offering material or non-material inducement so that the decision is favourable to him. Corruption, therefore, has far reaching influence on almost all aspects of the society—economic, political, culture and moral. Susan Rose-Ackerman who has earned great fame for her study on the concept of corruption is on record to say: Corruption is never more than a second-best solution. Its very illegality produces inefficiencies since resources are wasted in keeping transactions secret and in enforcing arbitrary system. A system which overlooks corruptions in areas where it is economically justifiable may find in time that corruption has spread to all aspects of the government structure. If trust, honesty, and altruism are valuable

traits in some areas of life, they may be impossible to preserve if dishonesty is openly tolerated elsewhere”.

All over India syndicates have become law unto themselves. Even in smaller towns and rural areas, muscle-men have become the order of the day. Hired assassins have become a part of these organizations. The nexus between the criminal gangs, police and bureaucracy and politicians has come out clearly in various parts of the country. The existing criminal justice system, which was essentially designed to deal with individual offences and crime, is unable to deal with the activities of the mafia; the provisions of law in regard to economic offences are weak; there are insurmountable difficulties in attaching/confiscation of property acquired through mafia activities”.

He illustrated his contention with the example of Iqbal Mirchi of Bombay who was till the 1980s, just a small vendor of smuggled liquor and cigarettes, but during 1989–93, he acquired real estate worth crores of rupees, opened multiple bank accounts and established a net work of smuggling paying lakhs of rupees to his agents. Either he was ignored or patronised by the concerned enforcement agency, facilitating his flowering with a full fledged mafia don. At present, there are numerous Mirchies all over the country. If anyone of these dons is investigated, the entire patronage enjoyed by him and his linkage will come to light. The Director of Intelligence Bureau was more candid in what he told the Vohra Committee: “There has been a rapid spread and growth of criminal gangs, drug mafias, smuggling gangs, drug peddlers and economic lobbies in the country which have, over the year, developed an extensive network of contacts with the bureaucrats/Government functionaries at the local levels, politicians, media-persons, and strategically located individually in the non-state sector. Some of these syndicates have international linkages, including the foreign intelligence agencies”. Then he went on to give the following concrete examples:

- i. In certain states like Bihar, Haryana and U.P. these gangs enjoy the patronage of local level politicians, cutting across the party lines and protection of government functionaries.
- ii. The big smuggling syndicates having international linkages have spread into and injected the various economic and

- financial activities. These syndicates have acquired substantial financial and muscle power and social respectability and have successfully corrupted the government machinery at all levels and yield enough influence to make the task of investigating and prosecuting agencies extremely difficult; even the members of the judicial system have not escaped the embrace of the mafia.
- iii. Certain elements of the mafia have shifted to narcotics, drug, and weapon smuggling and established narco-terrorism net works especially in the states of J&K, Punjab, Gujarat and Maharashtra. The virus has spread to almost all the centres of the country; the coastal and the border states have been particularly affected.

The Bombay blast case and the communal riots in Surat and Ahmedabad have demonstrated how the Indian underworld has been exploited by the Pakistan ISI and the latter's network in the UAE to cause sabotage, subversion, and communal tensions in various parts of the country. Their intensive linkage with various groups, agencies, political circles, business sector and the film world was also established.

### **Mafia Running Parallel Government**

He also emphasised that the mafia was running a parallel government in the country and the constitutional state apparatus was losing its relevance or becoming impotent ... the mafia dons render valuable help to politicians by bringing back and laundering their kick backs collected in foreign currency outside the country. The Jain Hawala case shows the mechanism quite clearly, the fact that it is just the tip of the iceberg.

### **Mafia in Japan**

In 1992, the Japanese government woke up to the problem of money laundering by the mafia. It brought into existence a law authorising district authorities to identify and declare those persons as shady characters who used to hang out together as boryoku dan [violence groups]. They included their threatening

behaviour, past criminal records and membership of a hierarchical organisation.

"Being a Yakuza [gangster] is a legitimate profession in Japan. The gangs have their headquarters with their names on polished brass plates.... Their main source of revenue is from trafficking in stimulants, especially crystales mathamphetamine [known as ice]. American narcotic agents reckon that 90 per cent of the ice on the streets of Hawaii is smuggled in by the Japanese Police and other law enforcement agencies to check the activities of the mafia. The mafia in Japan has close links with business, politics and bureaucracy and this nexus is quite powerful.

### **Film Industry and the Underworld Don**

A spate of attacks on film producers and directors in Mumbai, which have resulted in the deaths of Mukesh Duggal and Gulshan Kumar has underlined the power of the mafia. The industry's close nexus with the underworld has come home to roost and the attacks and blackmail have assumed alarming proportions. (Hindustan Times, August 14, 1997)

"Sometimes the film people are caught in the inter gang rivalry. For example Mukesh Duggal who was close to Chhota Rajan Gang was supposed to have been gunned down by the Chhota Shakeel gang, allied to Dawood Ibrahim, "It is a well known fact that the industry has lapped up finances provided by Sheikhs and the underworld dons. Dawood Ibrahim's younger brother and Ibrahim Kaskar showed a particular interest in the films for the glamour and girls. Films also become an avenue for investing extortion money.... The casting couch with respect to the success of several heroines is not myth, thanks to this nexus. It led to a situation where Raj Kapoor's heroine Mandakini gave birth to a son reportedly from Dawood Ibrahim. She was later provided with a farmhouse at Bangalore. Several other heroines have had to travel to Dubai as and when required. There is ample evidence of these visits in the CBI records. (White Collar Crimes: Girish Mishra, B.K. Pandey p. 284)

## **Mafia: A Major Force in the USA**

The power of mafia has been demonstrated again and again in the USA. Its hand in the physical elimination of President John F. Kennedy and later his younger brother, Robert Kennedy has been established, and this shows that it does not tolerate inconvenient politicians, while helps and promotes helpful ones. Every one acknowledges now that the mafia is a major force in American life and no politician can afford to ignore this.

## **Drug Trafficking**

Contributions to political leaders, regular passports to officials, holiday and birthday gifts were used to buy protections, and in the course of time, a powerful nexus came into existence, which put Stern beyond the arm of law-enforcing agencies. One disastrous long-term result was the spread of cynicism among the people at large. They lost trust on politicians, it was futile to expect anything good from them.

A report on Mexico's drug mafia says that at least 30 percent of the magistrates at lower levels, who try drug traffickers have been corrupted while others are frightened with the threat of their physical liquidation and hesitate to follow the law. In Peru, even a curiouser thing than that came to light during the second half of 1996. Demitrio Chavez Penaherrera alias "El Vaticano" a top drug trafficker of the early 1990s, was convicted and jailed in 1994 for collaborating with the shining path Terrorists. He was held at Naval Base, in a top security cell. In August, 1996, he was made to stand trial for drug-trafficking and during the course of his trial, he revealed that in 1991-92 he was paying \$ 50,000/- a month to Valdimiro Montesinos, a top intelligence adviser of the government in order to have trouble-free drug-carrying flights into Columbia. Montesinos had been very close to President Alberto Fujimore and helped him disband the congress and suspend the constitution in 1992 in what came to be known as "self-coup". It needs to be underlined that the Peruvian Congress in which the ruling party had the majority rejected the demand for an investigation in the bribery by the drug-trafficker. In this context it needs to



be remembered that 174 kg of Coca paste was discovered from a former Presidential plane, followed by the discovery of 100 kg of Coca paste on board of two navy ships, one of them in the Canadian port of Vancouver. It came to light that there was nexus between drug-traffickers and the army. Between 1990 and 1996 around three hundred Army men were investigated or charged with helping drug-trafficking. The poorly paid army men and impoverished peasantry depend on coca-trafficking for supplementing their incomes. The involvement of politicians is also there to protect and facilitate drug trafficking.

In Italy there erupted a big controversy relating to handling of financial crimes. Francesco Greco, a Milan based prosecuting magistrate who has specialised in financial crimes along with his colleagues is concerned with three proposals being discussed by a Parliamentary Commission called the bicamerale. The first is that the roles of Italy's prosecuting magistrates and the judges should be separated. The second is that massaging company accounts [which has led to many convictions] should become a civil rather than criminal offence. The third is to modify Art. 513 of the Criminal Procedure Code, so that a statement will not be allowed as evidence if the witness refuses to repeat in the court. Magistrates say that changing rules now would slow down trials and because of a statute limitations hundreds of defendants in corruption cases would not be prosecuted.

Greco has been supported by a number of prosecutors in Milan and Palermo. It is widely believed that the growing pressure of the mafia on the politicians has led to these three proposals which will bring a great deal of relief to mafias. It is not surprising that both the Government and the opposition are in agreement on these proposals.

The Mafia spreads its tentacles, opportunities to operate illegal markets give rise to or strengthen existing mafia groups. In the USA prohibition gave birth to and strengthened mafia groups. In the present day Haryana too the same thing has been happening. An illegal market for Alcohol was created then in the USA and is flourishing now in Haryana. Operation in illegal markets generate huge amounts of cash with which the police, the bureaucracy and politicians are bribed.

It has been established that by the early 1980s the various socilian mafia groups or families were supplying around 80% of the total heroine demand of the New York market using morphine base from Asia treated in clandestine laboratories in and around Polermo.

Another important activity of the mafia is running Italy's pirated goods industry which is supposed to next only to that of Thailand in terms of total support.

It is well known tactic that the mafia must terrorise and demoralise law enforcement agencies. It is not very easy to fight out the mafia, especially in the prevailing conditions in our country. In a situation where the state has abdicated its power and courts are so overburdened that justice has not only become expensive but very difficult to get without long delays. In places like Patna, people have no alternative but to go to a Dularchand Yadav to get their illegally occupied houses and land vacated. And I quote from the Economist Feb.26, 1996. "Combating this kind of mafia activity first means preventing collusion between mafiosi and politicians. It also means reducing the opportunities for organised crime to provide public services. If the state is weak and official property rights are ill-defined [as they are say in Russia], mafia groups are arguably filling a demand for stability and effective rule of law. Controlling their influence requires more effective government."

### **Drug Mafia in Cambodia**

In Cambodia, the mafia is said to have an unrestrained access to govt. places, helicopters, army transportation facilities, navy boats and even soldiers to smuggle out heroine and some of the same military units involved in drug-trafficking have been implicated in political violence, pointing to dangerous close links between crime syndicate and political figures.

The mafia does not want peace and stability to return to Cambodia because a strong state and the rule of law are perceived to be inimical to its interest. A confidential Report to Cambodia Interior Ministry stated that as many as 19 out of 29 banks located in the capital were suspected to be engaged in the business of cleaning tainted cash. Cash in dirty American Dollars could be easily unloaded at Restaurants, Casinos, night

clubs, and such other places owned and controlled by mafia. And no body had the guts to raise a finger for fear of being eliminated.

### **Thailand**

In Thailand the mafia is very much entrenched. In 1991, there were seven jao pho or big brothers who controlled most of the organised crime in the country. They derived enormous incomes from gambling, prostitution, heroin and logging. An important feature of the mafia in the Thailand is its close links with the police. In fact a number of policemen are a part of it, and they not only protect it but they themselves participate in its activities.

### **India**

A look at Mumbai mafiosi or the animal husbandry of Dhanbad mafiosi of Bihar shows they live in mansions, travel in luxury cars, stay in posh hotels, fly by air, or travel by the A/c coach, get film actresses to entertain them and they do not desist from displaying their wealth.

The present day mafiosi develops friendship with important political leaders, funds the activities of political parties, and pliable politicians, and at times himself enters and occupies important position in political parties. How Italian mafia came to "conquer" the Christian Democratic Party is quite instructive and may help us to understand the growing influence of the mafia on certain political parties in India.

### **Builders Mafia**

The recent earthquake in Gujarat has exposed the nexus between the builders, bureaucrats and the top politicians. Many lives could have been saved if the buildings had been constructed as per prescribed rules and regulations. The latest resignation of the Gujarat Minister concerned incharge of looking after the relief operations, establishes the utter negligence, callousness, and most delay oriented relief work in

the quake hit areas including Bhuj, Anjar, Bhachao, Rapar, Kutch, Ahmedabad, Gandhidham etc.

### **Former Chief Justice Gujarat High Court Speaks out his Mind**

The former chief justice of Gujarat High Court, Justice B.J. Diwan, in his talk to the outlook [published in the issue of 19th February, 2001] burst out and said "it would be interesting to see how many of those buildings that came up after the state Government's order raising the floor space index have collapsed. The mafia has completely taken over this government's machinery.... Take deterrent action against all the officials involved. Can you just go on adding storeys without tacit support and understanding of municipal and civic authorities?"

The nexus between the builders, politicians, and the bureaucrats, who should be held responsible for the lives and properties of thousands of the unheard, unsung victim's of this quake fury has been given below.

"...But politicians cannot do much without the assistance of conniving bureaucrats. Leading the pack is the state Chief Secretary L.N.S. Mukundan himself and a number of other Senior officers, some of whom are facing charges of defalcation and corruption in other cases. Education Secretary Anand Mohan Bhardwaj; Sanjay Gupta, Managing Director of the Gujarat Petrochemical Corporation—S.K. Nanda MD of Gujarat State Finance Corporation, Ravi Sexena, MD of Gujarat State Infrastructural Development Board, and State Industries Commissioner, Kirti Shelat—all are reportedly keen supporters of builders lobby and the new fly by night operators who have sprung up in the last decade. And tentacles are spread wide. Delhi Development Authority Chairman, P.K. Ghosh a Gujarat Cadre IAS Official, has already introduced a successful Gujarat based builder, Labh Constructions on Delhi Circuit, which already has several suspect developers doing the round. Also connected with the builder lobby is Bhupendranath Chudasama, Chairman of the Sardar Sarovar Project and a political appointee.... "Fifty four top bureaucrats of the IAS rank including Mukundan, and same from the IPS decided to break the rules and presented patently false Affidavits before

the court. When the court did not agree, they went to the CM, who was in no mood to grapple with the High Court and told his officers off.... Well placed sources say that the list of those involved is much longer and only a genuine investigation can bring out all the names.'

Here is a list of those with real estate interest out across party lines and includes government officials as well [outlook, February 19, 2001 p. 19].

### **Cabinet Ministers**

Vajubhai Wala	Finance Minister
Narottam Patel	Water Resources Minister
Haren Pandya	Home minister
Gabhaji Thakore	Minister for OBCs
Babubhai Bokhiria	Minister for Fisheries and Civil suppliers.
Parmanand Khattar	Urban Development Minister
Purushottam Solanki	Minister of Labour and Employment
Bharat Barot	Minister of Technical and Higher Education
Ashok Bhatt	Former Minister of Health and Civil Supplies
Jairam Vyas	Former Minister

### **BJP Men Heading Public Sector Corporations**

Bhupendrasingh Chaudasama	Chairman Sardar Sarovar Project
Surendra Patel	Chairman of Ahmedabad Urban Development Authority
C.R. Patil	Chairman, Gujarat Alkalies and Chemicals
Gangaram Tapu	Former Chairman, Gujarat State Handloom Corporation

### **BJP MLAs**

Madhu Shrivastava	MLA Baroda
Jethbhai Parwar	MLA. Panchmahal

Karsan Dhula	MLA, Kitiyana
Jairaj Jadeja	MLA, Rajkot
Kantilal Amrutia	MLA, Morvi

### **BJP Kith and Kin**

Bharat Patel	Son of Chief Minister Keshubhai Patel
Manuji Thakore	Son of Gujarat Minister for Labour and Employment
Bhima Dhula	Sarpanch and brother of BJP MLA Karsan Dhula
Atul Barot	Brother of Technical and Higher Education Minister Bharat Barot

### **Congressmen**

Siddharta Patel	Son of former CM
Naresh Rawal	Chief whip of Congress in State Assembly
Narhari Amin	Former Deputy CM
Amarsingh Choudhary	Former CM

### **Bureaucrats**

L.N.S. Mukundan	Chief Secretary Gujarat
Anand Mohan Bhardwaj	Secretary education
Sanjay Gupta	Managing Director Gujarat State Petrochemical Corporation
S.K. Nanda	MD Gujarat State Finance Corporation
Ravi Saxena	MD Gujarat State Infrastructural Development Board
Kirti Shelat	Industries Commissioner Gujarat

Outlook investigation reveals that the Gujarat Finance Minister has close links with Rakesh Shah, the builder charged in three cases of culpable homicide not amounting to murder [section 304 of the Indian Penal Code]. The cases were filed

after buildings put up by his company collapsed, leading to large casualties. The Ahmedabad police has registered 55 cases against a number of builders. Of them, Rakesh is the biggest.

Admits one official: The minister's links with the builder are well known. We are under pressure to spare him but the circumstantial evidence against him is so vast, we had no option but to act." The question is, how much longer are the authorities- themselves no angels-going to protect Shah? Forensic experts, municipal authorities and rescue workers examining the debris of Shah's collapsed buildings discovered that the base pillars of these had not been set deep enough, recycled steel used, the cement to sand ratio was virtually non-existent and every possible deviation from the original plan was done deliberately.

Investigations by outlook reveal that literally a quarter of the Gujarat cabinet are backers of land sharks. Apart from Vajubhai Wala, the other political heavyweight turned-builder is water resources minister Narottam Patel. According to preliminary inquiries, he has been linked to Girish Patel, another big builder charged for negligence and culpable homicide in two cases filed last fortnight in Girish's case too, the structures he built were found unstable, there was no preliminary checking of the soil to examine whether it was stable or not, building bye-laws were flouted with impunity.

Sources say the corruption begins at the very top. Chief Minister Keshubhai Patel's son Bharat Patel is regarded as one of the biggest property developers in the state and runs a flourishing multi-crore business, with able assistance, no doubt, from papa and close men. And the irony of it is that Keshubhai himself rode to power on a strong anti corruption plank. Officials here do not rule out the involvement of other members of the cabinet and it's a long list. Home Minister Haren Pandya reportedly backs a former policeman, now a builder. As do Gabhaji Thakore, minister in charge of OBC affairs, Babubhai Bokhiria, fisheries and civil supplies minister, urban development minister Ashok Bhatt, labour and employment minister Purushottam Solanki—himself once booked for rioting by the Srikrishna Commission in Mumbai—higher and technical education minister Bharat Barot, their close kith and kin and a clutch of top BJP politicians who head state government

undertakings and who until fateful January 26 made no bones about their connection with the powerful builder's lobby.

### **Tip of the Iceberg**

Tehelka, has taught the nation many lessons, and even the Prime Minister of India has given a wake up call to the countrymen. L.K. Advani also admits some weaknesses in the system. In the above exposures, we have seen that there is a strong nexus between the bureaucrat, the mafia and the politician, and if these stone walls are not demolished, and well in time, there is going to be a great danger to the security of the motherland. Unfortunately this cancerous disease of corruption, graft and bribe, has spread its tentacles in the defence deals in which many army officers have also been involved right from a babu to the high-ranking army officials. The time has come for introspection, and instead of washing dirty linen on the streets, the political parties will be well advised to act in a positive direction, and save the country from these demons.

### **PMO, the Power of Centre**

Over and above all this, what is more disturbing is the shifting of the power centre in the PMO (Prime Minister's Office). Kuldip Nayar, a Member of Rajya Sabha, and an outstanding journalist has rightly suggested the disbanding of the PMO. Kuldip Nayar has been an Information Officer in the Press Information Bureau for many many years, and having been closely associated with almost all the Prime Ministers, his suggestions are worth taking serious note of.

His analysis is based on the working of the office of the PMO right from the days of Pandit Jawaharlal Nehru, till the present government headed by Shri Atal Behari Vajpayee.

I too had the good fortune of having worked very closely with the first two Prime Ministers, Jawaharlal Nehru and Indira Gandhi for about a decade. And I do agree with Kuldip Nayar, to a large extent, that in Jawaharlal's time the PMO, by and large, had not that big role to play in the affairs of the country. We had then very powerful secretaries in the Ministry of



External Affairs—Girija Shankar Vajpayee, M.J. Desai and S. Dutt. Of course, there was a dirty fish, M.O. Mathai, who exerted lot of influence in the PMO, being the Special Assistant to the then Prime Minister. But Jawaharlal's status, stature and personality overweighed Mathai's shortcomings.

I have gone through each and every word of what Shri Kuldeep Nayar has written in his article, titled: 'Disband the PMO' duly published in the Indian Express of 27th March 2001, and I with great humility, and in the larger public interest take the liberty of reproducing it below:

### **Response to Tehelka has Shades of the Emergency**

#### **Disband the PMO**

The Prime Minister's Office is behaving like a copy girl who is affronted over Whistle. It is not even a cat-call. Over the years, the PMO has become the centre of power. It is a mini-government, with a separate official even for foreign affairs. It has no constitutional sanction. Still, it continues to thrive. The PMO first acquired muscle in the mid-60s, when Lal Bahadur Shastri was prime minister. Ever since, it has been growing from strength to strength under a succession of prime ministers. This was particularly so when Indira Gandhi ruled the country. For her, the PMO came in handy during the Emergency. By then it had gained control over all the levers of power. Prime Minister Atal Behari Vajpayee, who was a victim of the Emergency, should have dismantled this giant machinery. But he didn't choose to do so because it enabled him to control the running of the entire government. In the name of assisting the PM in coordinating the functions of different ministries, the PMO has reduced most wings of government to mere instruments that carry out its orders. Such functioning is understandable in an authoritative set-up, not in a democratic one.

For the first time in its history, the PMO has lost its cool following the 'aspersions' cast on it by the Tehelka expose. Two officials from the PMO held a press conference nearly a week after the controversy surfaced to issue a denial.

They could have done this on the very first day. Journalists have been chided for not observing ethical values. It is not understandable how. They reported what they saw on television screens. Should they have skipped the names of officials who were mentioned in the conversation regarding the defence deals that were recorded?

And the allegations do not become 'baseless' just because they are dubbed so. Some independent agency had to look into them. No government has ever admitted its mistakes or lapses. Vajpayee did well by ordering a probe into the transaction which *Tehelka* revealed. Will the probe cover the PMO?

"We do not get involved in intercorporate wars," says the PMO. This is a serious statement, which the topmost agency of the government has made. Journalists are not even aware of 'wars'. They would like to know who is shooting whom and why the government is a silent spectator? In fact, the charge against the PMO is that business lobbies exert influence on it. How is it distant from the corporate world and from the 'wars'? No less a person than E.A.S. Sarma, a bureaucrat of impeccable integrity, has said in a press interview that some powerful business houses are forcing economic decisions on the ministry through the PMO. The authority, as he says, is with the Cabinet. "The troubles begin when the PMO fails to respect the role of the Cabinet and the Cabinet secretary."

These words are not that of journalists but that of a former colleague of the officials serving the PMO. Why has not Sarma been sued for slander? The statement that all decisions are taken by the cabinet is neither here nor there. Of course, cabinet approval is necessary. But the charge against the PMO is that it manoeuvres the decision. It is no longer a secret that a group of ministers is constituted by the PMO to by-pass a particular ministry whenever required. One secretary has even complained in writing that his ministry had been bypassed. One vainly looked for some explanation at the press conference. The Opposition's behaviour is equally ludicrous. It is not questioning the

Frankenstein that the PMO has come to be. It is demanding the resignation of some officials as if everything will be all right after that. The PMO has to be disbanded. It is apt to be misused once such a body exists. It is inherent in the act of concentrating power.

India's first prime minister, Jawaharlal Nehru, had only one secretary. Those were the formative years. He could have issued instructions from his office. He was also a hero of the freedom struggle. His word counted. But he saw to it that the ministries would function and take decisions on their own. Had the Tehelka disclosures made the government think about the evils, which have crept into the system, they would have served their purpose. But the reaction has been different. There is an effort to belittle the commendable job the website has done. The question of authenticity has been brought in. Even motives are questioned.

Indeed, it is tremendous scoop, which does not lose its importance just because the Opposition, particularly the Congress, has politicised it. Only the probe will tell us whether the picture of the BJP chief taking a sheaf of currency notes is real or not. Similarly, we would come to know who was telling the truth. These things are reprehensible enough. But the worse is the manner in which Tarun Tejpal of Tehelka is being harassed. From his account, it appears that the Emergency days are back. He told me that the income-tax department and the Company Law people were after him.

This was precisely that Sanjay Gandhi did to settle scores with opponents. Vajpayee and Home Minister L.K. Advani were the sufferers then. How can they now forget all that and allow any government department to torment a person who has done yeoman service in exposing the system of bribe and graft? Tejpal also told me that his father, who had been all his life in the army, was being described as a former agent of Congress leader Arjun Singh. Such things would ultimately come to hurt the people in power.

I am not saying that all journalists are paragons of virtues. They too share the responsibility of the current ills in society. The negative type of journalism, which has become the order of the day, is making readers and viewers into cynics. When a journalist takes up cudgels against the establishment and throws light on its misdeeds, he should be commended, not condemned.

The government cannot set at rest the fears, however exaggerated, through statements or TV debates. It would have been better if there had been a discussion in Parliament. But that has been sacrificed at the altar of politics. The Opposition is to be blamed for it. Their leaders were discussing the matter on different TV channels but refusing a debate in Parliament. Both Houses have been devalued. I wish George Fernandes, who has been accused of certain failings, had not been retained as the convenor of the ruling National Democratic Alliance. This challenges the norms of probity. It is like saying: "We do not care." Democracy is primarily a set of healthy traditions. The government is doing its best to damage them.

What has remained inexplicable is the failure of the intelligence agencies. The Tehelka people went about the job for 10 months, meeting top people in the defence ministry and in political offices of party chiefs. There was not a whiff of information to our intelligence men. It is a sad reflection on their working. They remind me of the faltering men in Green Graham's book, *Men from Havana*, which exposes the ineptness of sleuths.

## CHAPTER 9

# The Views that Matter

Political corruption in defence deals has a very adverse impact on the defence preparedness. When there are complaints about certain defence procurement decisions being unduly delayed—for example, the AJT trainer—underlying the delay will often be considerations of making money out of such purchases. Most honest officials do not want to get involved in the decisions which might involve corruption and so to try to avoid taking decisions altogether.

Pakistan would be very pleased with the present disclosures. This is likely to bring procurement decision-making to a complete halt. Even in 2000–2001, the ministry could not spend the money budgeted for procurement. In the coming year, it might slow down even further, unless the entire procurement process is thoroughly cleaned up, and all politicians are kept under continuous scrutiny in regard to money-making. Whether it is for the party purposes or personal aggrandisement.

K. Subrahmanyam  
*Hindustan Times*  
15.3.2001

"I do not blame the media. The Indian Prime Minister, Shri Atal Behari Vajpayee blamed the system for the "shortcomings" exposed by the Tehelka tapes.

..

Talking to reporters Shri Atal Behari said, "there was a 'need for introspection' to prevent the occurrence of such incidents in the future.

Shri Vajpayee chose to give a clean chit to the media, by saying, "I do not blame the media."

Atal Behari Vajpayee  
Prime Minister of India  
(*The Hindu*: 26.3.2001)

"We have seen the dirt, now it is time to clean up. There is an anecdote about the last days of Sardar Vallabhbhai Patel. About a week before his death in 1950, he called in his daughter Mani-Behn Patel, gave her an envelope containing Rs. 30,000/- and asked her to send it to the treasurer of the Congress Party, S.K. Patil. The money had been given to him which he could not do. He asked her to get a receipt for the money. Contrast this what Tehelka exposed. .

I had the dubious privilege of viewing the Tehelka Tapes on March 13. Dubious because in my 36 years of government service, I have never come across such a stark depiction of corruption affecting a vital aspect of our process of governance, management of defence purchases. The investigative journalists pretending to be representatives of a spurious Arms Supplying firm "Westend International" met 27 interlocutors amongst whom were seven serving army officers, out of whom three were Major-Generals, two Brigadiers, and two Lt. Colonels.... . Those directly involved should be made to face the consequences of their greed regardless of whether they are civilians, military officials, or politicians. Otherwise the future will be bleak, in terms of our national security."

J.N. Dixit  
Former High Commissioner  
Ceylon

"The whole issue is one of national security. Corruption is a severe illness afflicting our body politic and society but corruption involving issues of national security is inexcusable. Since the government is unashamedly carrying on oblivious of

its moral duty, the Congress has decided to take the matter to the streets.... The party will be launching a concerted campaign to expose the misdeeds of this government and also create an awareness which quite frankly already exists among the people."

• Madhav Rao Scindia  
Leader  
Congress Party

"Black Sheep will be nailed, says the Army Chief. In a message to his officers, and men, the Army Chief said, "As you are aware of the media focus on shady defence deals, regrettably there are one or two black sheep among us. But they will not be allowed to tarnish the image of the entire force."

General Padmanabhan promised to deal with the guilty with a heavy hand while protecting those who had been wrongly victimised. He asked the troops not to indulge in gossips and concentrate on the tasks at hand."

General S. Padamanabhan  
Chief of the Army Staff  
*Hindustan Times* 18.3.2001

"I have learnt everything in Politics from George (Fernandes).... I discovered that he was speaking the language that was in my heart.... I had never heard this from politicians. At that time I discovered that this was what a combination of Mahatma Gandhi and Dr. Lohia is about.... Sometimes we tease him and say that you are worse than Jesus Christ. Thus spoke Jaya Jaitly in a newspaper interview last year.

But now the putative Jesus Christ is in trouble, probably the worst in his unholy Career: Given his sang froid, he may still wriggle out. After all Fernandes is nothing if not an excellent trapeze-artiste. The way he has hopped, skipped and Jumped across the political stage must be the envy of most Indian politicians, many of whom are no mean circus acrobats themselves.

His gimmicks are simple. Wearing a coarse unironed Kurta and Pyjamas to underline his plain living, alongwith high

thinking support for the lost causes, like the plight of Tibetans or democratic rights in Myanmar. ... That there was speculation sometime ago about such a man becoming the next Prime Minister is a telling commentary about the degeneration in the Saffron camp."

Amulya Ganguly  
*Hindustan Times* 20-3-2001

"I did not dabble in defence deals, says Brajesh Mishra, the Principal Secretary to the Prime Minister. According to Harish Khare, "Mr. Brajesh Mishra, beleaguered Principal Secretary to a beleaguered Prime Minister, assertively rejected the insinuation in the Tehelka Tapes, that he had dabbled in defence deals. He also declared that there was no need for him to put in his papers, in particular Mr. Mishra categorically denied the suggestion made by Mr. Bangaru Laxman, former BJP President, in the tapes (which had shown Mr. Bangaru Laxman bragging that he could secure Mr. Mishra's attention in this or that defence deal). .... "I have never seen Mr. Ranjan Bhattacharya in the PMO" was Mr. Mishra's response to a question about the alleged extra constitutional role being performed by the foster Son-in-law."

Harish Khare  
*The Hindu* 20.3.2001

"PMO—an extra Constitutional Power. It is too conspicuous to be missed—the convergence of the offensives against the Prime Minister, Mr. Atal Behari Vajpayee by the Congress and others in the opposition, on the one hand, and by the RSS on the other in the wake of the Tehelka exposes. The opposition seeks to dent the credibility and the moral authority of Mr. Vajpayee and thus deprive the ruling National Democratic Alliance of its biggest asset to make it defenceless against a major strike. The RSS would, however, not like Mr. Vajpayee to be disturbed from the top post, but nonetheless is keen to contain him.

That also explains the differing lines of attack in the two cases: The opposition has mounted a frontal onslaught on the Prime Minister and the Government, headed by him.... The RSS



directed its attack on the Prime Minister's office in particular against the Principal Secretary, Mr. Brajesh Mishra, and Mr. Vajpayee's foster Son-in-law, Mr. Ranjan Bhattacharya."

K.K. Katyal  
*The Hindu*

"The lessons of Tehelka Exposés. Tarun Tejpal, Aniruddha Bahal, and Mathew Samuel of *Tehelka.com* have done a great national service by exposing the persuasive corruption in the establishment. But it will be a great national tragedy if these exposés are regarded as a Juicy Scandal to embarrass the ruling combine or promote the prospects of the opposition.

Our political system is built on the foundations of corruption. We have come to a stage when honesty is no longer compatible with political survival. Prime Minister Vajpayee has gone on record that every legislator starts his career with a big lie—an affidavit that election expenditure was within the ceiling prescribed by law. ... The PM and the leader of opposition owe it to the country to respond to this challenge and work hard to enhance the legitimacy of the political system."

Jayaprakash Narayan  
*The Economic Times* 17-3-2001

"Like the Watergate Scandal, there must be a thorough investigation. It should not drag on like the Bofors case. All the major defence deals struck in the past ten years should be examined besides every detail on what was approved, what were the qualifications, and who approved the proposals", —says Admiral Nadkarni.

"I am not shocked or surprised because this has been happening since independence. Whenever people had had opportunities they never bothered about their reputation or integrity. Corruption is so wild that even others who are not really initiated get interested in the presence of opportunities available for getting corrupt."

Former Chief of Air Staff  
Chief Marshal S.K. Kaul

"I am deeply upset and this might have a long term effect on defence preparedness.

General S. Roy, Choudhari  
Former Chief of Army Staff

"Can corruption be fought without debating morality? At the core of corruption is the fact that the entire legal frame work is based on a value system that most Indians do not share. In fact, most Indians even admire elements that go against the legal frame work. It is very difficult to attack the extra constitutional authority of a Prime Minister's son-in-law if you believe it is the duty of the family to support the individual in power.

A meaningful strategy to fight corruption will thus necessarily focus on the question of what constitutes Indian morality. Which brings us to truism that is too easily forgotten. We cannot fight the immoral, if we cannot agree on what is moral.

Narender Pani  
*The Economic Times* 23.3.2001

### **Abolish the PMO**

"The controversy over the P.M.O. is not merely with regard to its enjoying power disproportionate to its political location, the issue is that it has completely eclipsed the Cabinet Secretariat. The references in the Tehelka Tapes to disproportionate influence wielded by certain officials in the Prime Minister's Office (PMO) has put this office with a history of dubious controversies in the eye of storm all over again. Constitutional practice recognises the Cabinet Secretariat, not the PMO, as the supporting institution for the apex executive body."

Ajay K. Mehra  
*The Hindu* 28.3.2001

"Jaya Jaitly should have resigned as Samata Party President on day one. Most Samata Party Members and most of the NDA partners are convinced that she should have resigned immediately. But she, and some people alongwith her, thought differently. She thought that since she was not guilty, therefore, she did not need to resign. She after all neither had political grooming in her early years, but facts are different from perceptions. And in such cases where allegation of corruption is the main issue, perception is what matters."

Nitish Kumar, Union Minister  
*Indian Express* 25.3.2001

"Disruption of Parliament proceedings is wilful defiance of the whole system by which a billion people have chosen to govern them. This is the life line of the whole system. Snap it, and the entire system will collapse, and that will hurt no one more than it will hurt the very people who need the system most."

Pran Chopra  
*The Hindu* 27.3.2001

' "Ex. newsman endorses spyscam expose." ' The methods used by the *tehelka.com* for their now famous undercover operation have found support in an unlikely quarter: a member of the Vajpayee Cabinet has said, they are okay.

Speaking at a symposium organised by the RSS mouthpiece 'Pancha Janya' minister for disinvestment and former journalist Arun Shourie said reporters sometimes resort to "unorthodox tactics" to uncover what is hidden from the public eye. To him, the end (exposing corruption) justifies the means (in this case hidden cameras). ....

The lasting image from the tapes is that of former BJP President Bangaru Laxman reaching out for a wad of notes. Shourie called this "direct" evidence. But the BJP Spokesman V.K. Malhotra says that "accepting money" for the party on or off camera isn't a crime."

Arun Shourie and V.K. Malhotra  
as reported by Avirook Soon  
*Hindustan Times* 24.3.2001

“Defence purchases are shrouded in Secrecy.... It is ironic that this scandal should surface when the Defence Minister, Mr. George Fernandes, in a ground show of cleansing his Ministry had asked the Chief Vigilance Commissioner to probe major deals of the past. It has now been demonstrated beyond doubt that a most unholy nexus exists between political party operatives, officials in the Defence Ministry, high ranking army officers connected with equipment and arms purchases, and an assortment of businessmen and deal makers. ... The political implications of the Tehelka expose are already being felt in Parliament, and ought not to be underestimated.... It is going to be difficult for the NDA to live down this hour of shame.

*The Hindu*

There are many more social activists, intellectuals, political commentators, and the journalists including Vir Singhvi, Rajiv Shukla, M.J. Akbar, Prabhu Chawla, Chandan Mitra, Coomi Kapoor who have contributed their articles on this most sensitive issue. I sincerely regret, that it has not been possible to lay my hands on each and every article, and put their views in black and white in this small book, which has had to be brought out as quickly as possible. Paucity of time and shortage of space have been the main obstacles.

## APPENDIX 1

# Prime Minister's Address to the Nation after the Tehelka Tape Expose

**'I shall Work to Clean up the Dirt... Let's get Back to Work'**  
*New Delhi, March 16*

Following is the text of the Prime Minister's address on Doordarshan:

My dear countrymen,

I have taken this opportunity to talk to you at a moment of intense controversy and much noise.

As you know, grave allegations have been made. Issues of great moment have arisen. I have been in full view of all of you for 42 years. At no point have such allegations been made against my colleagues. That is sufficient to make them of the gravest concern to me.

That they have erupted when after years of uncertainty, stability; when we are implementing far reaching reforms; when our economy had been growing rapidly in spite of what is happening elsewhere; when the world has once again come to look upon our country with respect makes me all the more concerned.

It makes me wonder too. Parliament is in session. It is the forum in which these allegations should have been dissected. Unfortunately, Parliament has not been allowed to discuss them.

I am therefore here to talk directly to you—to you to whom Parliament, all of us are responsible.

The noise and dust of controversy, the din of allegations and explanations should not be allowed to obscure essential principles, and the interests of the country. These are three:

That the interests of our nation are paramount; That the security of our country must remain inviolate; That our government, and beyond that our political system, must be cleansed, that it must function to the highest standards of propriety. Each of these is of the highest concern to government.

That is why the government has acted decisively, and swiftly. Some officials have been suspended. Action against them is well under-way.

In the highest traditions of the country, to safeguard the morale of our forces and the security of the country, my esteemed colleague; a stalwart of the NDA, Shri Fernandes has left office.

The two political leaders who figured in the video-tapes have resigned their posts.

That all this in sharp contrast to the way others similarly placed reacted in the past is incidental. The important point is that action has been taken immediately—because the interests of our country, because the norms of good governance required that these steps be taken.

Even as we pursue every lead in the video-tapes, we must be ever alert that the security of the country is not jeopardised in any manner.

We live in perilous times. We live in a perilous environment. For that reason, the morale and combat effectiveness of our valiant forces must not be allowed to suffer.

Decision-making in the Ministry of Defence must not become a shuttlecock tossed between allegations and explanations.

It is the duty of the government to uncover the complete truth about every single allegation that has been made. The government is determined to do so. But there is a corresponding duty on each of us citizens: focus on the facts, do not be swept away by everything that is alleged.

Throughout the hours of recordings, no deal is actually struck. No minister is involved. The boasts and allegations, which the actors hurl, are patently false. Even the slightest effort would have revealed them to be completely contrary to facts.

Hurling such allegations is criminal. Giving hood to them is just as destructive.

It isn't just that this way our security is undermined. Our economy too can be imperilled: If confidence is shaken, much—from stock markets to the rupee—can be shaken. Many a country has been destabilised by such gales. But as the allegations have been made, as they have been broadcast far and wide, they cause grave concern.

The facts in regard to them must be nailed. If any one has done wrong, he must be brought to book—swiftly and with the fullest force of law.

Parliament is the forum that must discuss and dissect the issues and allegations—it must deliberate upon every ramification of every fact and allegation. From the very first moment the government has been anxious that the two houses discuss the matter. I appeal to all parties: allow Parliament to function, allow it to debate the issues threadbare.

But as such an important matter cannot be allowed to drift, as it cannot be allowed to become a football of political calculations, as facts need to be nailed, government has decided to institute an inquiry by a sitting or retired judge of the Supreme Court. The government is consociating the Chief Justice in this regard.

As the controversy needs to be brought to a swift conclusion, we are requesting that the inquiry be completed within 4 months. Government will extend the fullest assistance in pursuing the inquiry.

The government shall do everything to bring everyone guilty to account—howsoever high or low. It's only concerns are:

That the country's security apparatus remains strong as ever; that our soldiers retain the fullest of governance and our political system regain their health; that our people's trust and faith in them are fortified.

In an important sense, what has come into view goes beyond security: The ease with which persons posing as arms merchants gained access to our defence personnel and politicians shows how far the cancer has spread. The revelations are therefore a wake-up call to all of us.

Leaders of all parties should sit together and initiate reforms across the whole range of our political and administrative life—our electoral system, the system of funding political parties, the way cases against officials and those in public life are to be investigated and processed.

In a word, my countrymen, let us rise above our day-to-day preoccupations. Let us, by joining hands, convert this into an opportunity—to make our country's defence even stronger, to cleanse our political life, to cleanse our administration.

I shall spare no effort in this regard. You have my word. That I shall do everything towards ensuring these wide-ranging reforms. I shall get to the bottom of the allegations which have been made; I shall work to clean up the dirt that has come into view; I will ensure that all this is done in such a way that the security of the country comes out stronger.

Let us begin the inquiry. Let us have a thorough discussion in Parliament. Let us get back to work.



## APPENDIX 2

# Excerpts from the Tapes

### Sleaze, Deals, Lies and Video Tapes

Operation West End: This is a story of how the suitcase people are compromising Indian defence. *Tehelka.com* on Tuesday released secretly-recorded video-tapes of Bangaru Laxman, Samata Party president Jaya Jaitly and several top defence officials accepting or showing willingness to accept money to fix deals. Following are the transcripts.

For a few dollars more

- Tehelka : Sir, I am from Westend International. So I am chief representative. It's written in my liaising this thing... So we are interested in India investment. We already moved a proposal to PM that telling him (about) foreign direct investment. And we would like to introduce our night vision for defence. I have come directly. I have my credibility. My company's having the credibility. I don't need to meet through you, Mr. Gupta.
- Bangaru Laxman: Okay, don't argue.
- Tehelka : Sir, we have some promotional projects. There is no problem, absolutely nothing? *Hain!* I am asking you?
- Bangaru Laxman: No, I don't know how you came into his contact but.
- Tehelka : No, they approached us. They told they are doing liaising work of BJP. That ... he is a

trustee of RSS. So then Murli Madhawan told me that he talked to you for 10 lakhs. And asked for 20 lakhs only for this issue. My boss came to know. "If Mr. Bangaru Laxman takes Rs. 20 lakh?" then he asked me not to give. That is the thing, sir, I want to need clarification. Sir, I can come directly to you? There is no need for party men.

Bangaru Laxman: You come direct. One day casually I asked him.

Tehelka : We have a lot of other things. Power projects and lot of things we have. You know, once we are starting from the binoculars. You know, several times he asked me, "I want to introduce... I will go to introduce Mr. Bangaru. Mr. Bangaru Laxman." I said this, "Yes, I am an Indian. I can go directly meet him. I have the company credibility there. Mr. Bangaru Laxman... can understand my position.

Bangaru Laxman: Directly contact me... Talk directly... First he (Sathymurthi) will fix up appointment.

Tehelka : Sir, can I give you one lakh rupees of it? For a token... Sir, my boss is here. In a Oberoi executive suite.

...So he also wants to meet you.

Bangaru Laxman: *Accha*.

Tehelka : So, can you arrange the appointment tomorrow? ... So he will come and I told to Mr. Satya that matter.

Bangaru Laxman: Hmm.

Tehelka : For the party fund. ... I have five lakh rupees....

Bangaru Laxman: Hmm.

Tehelka : And today I will give you one lakh rupees. For just the beginning. A New Year gift.

Bangaru Laxman: Hmm, hmm.

Tehelka : Okay, But, tell me, sir, very frankly, Mr. R.K. Gupta told me he arranged the meeting.

- Bangaru Laxman: I do not know what exactly transpired between you and him. He was mentioning.... (quoting R.K. Gupta): "Sir, are you interested in that work? Would you entertain?" I said he's already met me and (Camera shifts towards Tehelka... Tehelka takes out wads of currency notes and hands them over to Bangaru Laxman).
- Tehelka : Sir, this is a small gift.
- Bangaru Laxman: Oh, no, no
- Tehelka : It's a small gift for the New Year party. Right? (Frame again shifts towards Bangaru Laxman)
- (Bangaru Laxman opens the drawer, takes money from Tehelka and puts it away)
- Tehelka : New Year party fund, hain? One lakh rupee, hain? ...So what time can I call my boss here?
- Bangaru Laxman: Tomorrow...hmm...Five o'clock.
- Tehelka : In here? Tomorrow. Rupee or dollar?
- Bangaru Laxman: Dollars. You can give dollars.
- Tehelka : Okay. We can give you dollars. Sir, we need your blessing.
- Bangaru Laxman: Okay.
- Tehelka : Okay. I can come directly to you. Any time I need I will make appointment with Mr. Satyamurthy. Okay?
- (Bangaru Laxman rises. They shake hands.)

### Rs. Two Lakh in 'Nation's Interest'

- Tehelka : Can I give it to madam?  
(proffering the packet of money) (Tehelka gives the package to another man standing to the right of the screen and folds hands).
- Jaya Jaitly : Please send this to our minister Mr. Srinivas Prasad.... He is hosting the National Council. We need some help because he said, "Look, I can do 50%

expense. You do the rest." So the rest whatever contribution.

Maj. Gen. Murgai : This company is making quality products... now they going in a big way for commercial selling.

Jaya Jaitly : Hmm.

Maj. Gen. Murgai : That is what they're doing. And they are making these night-vision binoculars, cameras.

Jaya Jaitly : They have to test the things.

Maj. Gen. Murgai : So if they don't then probably your help may be required.

Jaya Jaitly : Yeah, if they don't, we can always say, "Look you mustn't treat anybody unfairly. Give everybody a chance." ...If there is any unfair practice, we can step in. ...It's in national interest to consider all.... First you'd be applying. Then you'll naturally grab an opportunity to ask them, "Look, now I have applied. Are you going to respond to me at all or not?" If they say, "No", then we'll see.... I will not have any direct this thing. I would only request Sahib's office that somebody is not being considered even. So please send a word down that if anybody is fairly offering a good quality thing at a good price, they should also be considered ... we don't want anybody to feel that anybody has any extra interest.... Because we don't have any extra interest in anybody. We have extra interest in the good quality and good price.

Surendra Sulekha : That's right.

Jaya Jaitly : In the interest of the nation. So that we'll ensure that they don't neglect you.

Tehelka : That's all we're expecting.... That's two lakhs. Two lakhs. (Jaya Jaitly nods).

## Murky World of Conmen, Tricksters

*Times of India, New Delhi, March 25*

New Delhi: In 1985, flush with their spectacular election victory, Rajiv Gandhi and his lieutenants, Arun Nehru and Arun Singh banned all Middle-men or agents from arms deals and created a blacklist of foreign "agents" who were to be denied Indian visas. One of them, Mr. M, a well known Anglo-French operator, suddenly found his sources of Indian business drying up.

Then providence intervened—an invitation for the marriage of the son of a secretary in the ministry of external affairs. On the appointed day, M flew into Delhi sans visa.

From the immigration counter, he called the concerned MEA official to say that he was in Delhi for the auspicious occasion, but was not being let into the country. A couple of phone calls set things right, and that evening Mr. M joined the celebrations.

At some point in the glittering function, he positioned himself near Rajiv Gandhi and was photographed next to the unsuspecting Prime Minister.

The next week, the framed picture resting on his office table told its own story. Word got out: Far from being blacklisted, M was as close as can be to the man who mattered in India.

Is the story true? Who knows fact and fancy blend together in the world of wheeler-dealers and confidence tricksters.

Armstrong has thrown up its own list of stories. Here is a checklist of some flights of illusion and reality.

Allegation (R.K. Jain) : "I have done Soltam. It was worth Rs 600 crore. (The company has been contracted to convert India's aging 130mm field guns to the more powerful 155mm calibre.

Reality : The total cost of the deal, which was subjected to an intensive examination by the Central Vigilance Commission, was Rs 210 crore.

Expertise in the area is limited and the Israeli company was the only

- one that brought its product for trials in 1993
- Allegation (Maj. S.J. Singh): This (laser-guided 155 ammunition) was procured without proper trials....
- Reality : The Russians did not have firing tables, needed to calculate the charge and adjustments for high altitude, and the first trial failed. They came back after several months with new firing tables and scored perfect hits. France and other countries have procured the munition.
- Allegation (Rakesh Nigam): Claimed that MTR engines were procured for the Indian-made Advanced Light Helicopter (ALH) because of State for Defence Production.
- Reality : This engine was considered for the ALH, but negotiations broke down in May 1999 and no further discussions have taken place.
- Allegation (R.K. Jain) : Anti-missile defence system was acquired for the Navy by the Defence Minister overruling the then Scientific Adviser, A.P.J. Abdul Kalam.
- Reality : The DRDO conceded that its proposed Trishul system would not be ready and Kalam okayed the procurement in February 1996. In March 2000 when the price negotiations took place, a DRDO representative was in the negotiation committee.
- The Bigger Con : Among the Armsgate allegations (by R.K. Jain) is that the lowest offer of a Czech company for 250 vehicles used to recover damaged

but usable tanks from the battlefield was rejected by the Defence Minister.

In its clarification the Ministry claims that the Czech manufacturer was not an original equipment manufacturer and planned to pass off surplus Czech vehicles.

And that in view of this, the contract, for 87 not 250 vehicles, was given to two Indian public sector units, the Bharat Heavy Electricals and the Bharat Earthmovers Ltd.

Reality

: Somewhat murkier. Neither of the two companies has any record of having made armoured recovery vehicles.

According to sources, the ones they are going to 'make' are nothing but the Czech vehicles imported in a knocked down condition. Who thought up this ingenious con, needs to be investigated.

### **Tehelka: Just a Job Well Done**

*New Delhi, March 18, 2001*

I heard about the *tehelka.com* story just before it broke officially. I'll admit it upfront—I'm working on a project for the same firm, so I have something of a vested interest in praising them. But I'm not interested in praising them.

I'm interested in how they made news. Forget the story itself. Forget the controversy that's raging in the Parliament, in political circles, in the media, and perhaps soon in the courthouses. We all knew that there are crooked defence deals being brokered every day. We knew that the Kargils and Aksai

Chins happen partly because of such corruption and criminal negligence.

But that's not what interests me about the *tehelka.com* expose. In fact, the whole news aspect doesn't concern me at all. It's the advertising aspect.

If you ask me, I think every major advertising award for Campaign of the Year should go to *tehelka.com*. Look at what they've achieved. At a time when dotcoms are a joke, when IT firms are taking the worst beating imaginable, when staff is being laid off in the hundreds, salaries slashed and bottomlines vanishing like chocolate panties melting in the sun, *tehelka.com*'s riding tall and proud.

How many firms do you see mentioned across the front pages of every national daily, leading the news on all the television networks, dominating the country's attention for days on end? How many advertising rupees would it take to achieve the same attention grabbing? How much media planning? How many overpaid, underworked star creative directors and executive creative directors? How many overpriced photographers and models, ad-filmwallahs, awheck... does it really take that many people?!

And I haven't even mentioned the suits, those guys who come out of business management school and start up at fat starting salaries and preen like Lee Iacocas in the creative hen house.

You have to admit, to get the kind of buzz and attention that *tehelka.com* got with that single story, it takes a lot of manpower and manhours and most of all, moolah!

*Tehelka.com* did it with Rs 11 lakh. And a creative team of basically two persons. Anirudha Bahal and Mathew Samuel.

All right, so there was Tarun Tejpal masterminding the show, with Shoma Chaudhury waving the magical wand, and the venture capitalists who funded the firm and the whole editorial, administrative and production team backing them up. But there's no comparison between the core team that pulled off the Defence Deals Expose and the kind of muscle that goes into the average mega-budget ad-campaign.

Most of all, there was no client! Imagine that, and you're probably slobbering already!



Even more amazing, *tehelka.com* wasn't just a beautiful big bold brush ad splashed across the pages of expensive media. It was the media. It was in the editorial space, headlines, and front pages. Not just the ad space or sponsored commercial breaks. That's something even the biggest ad honcho's USD can't buy.

And here's something that's most amazing of all: *tehelka.com* wasn't even trying to advertise. They were just doing their job.

Of course, they happen to be smart enough to realise that just breaking a great news story isn't enough these days. You have to think big. You have to have balls. You have to go out on a limb.

Fine, fine, fine. They did all that. And they pulled the rabbit from the hat: And it talked and said, "Polly wants a cream cracker! Now, here's the big question: Why couldn't anyone else have done it?"

I'm supposedly known for bashing up the Times Groups (actually, I just love to kick big butts, that's all), so I'll pick on them as usual for an example.

Why couldn't the TOI Group, with all its resources, manpower, brainpower, marketing muscle, blah-blah-blah, break a story as brilliantly, gutsily, boldly, as *tehelka.com* did? That's something only they can answer of course. I won't even try.

But I will say this much: All the Femina Miss India shows. All the Filmfare Awards (gutka free of charge). All the clout and power of the country's allegedly most powerful media group. All that money, talent, marketing brilliance.

And yet, a startup dotcom barely out of its chaddis took off your panties and stuck it to you. On your own front page.

How do you explain that? Can you even begin to explain it? Or could it be that *tehelka.com* could do it because they concentrated on doing their job, which is covering the news, the whole news, and nothing but the whole news. While you were busy powdering your nose with your arms full of so many brand franchises, you didn't even have a hand free to hold your writing pad and time to do your real job? That's what this is really about. (Courtesy: *Pioneer* 18.3.2001)

## **Justice K. Venkataswami Commission of Inquiry**

Conference Room 'E', Vigyan Bhawan Annexe, Maulana Azad Road, New Delhi 110 011

*New Delhi, April 13*

### ***Public Notice Under Rule 5(2)(b) of the Commissions of Inquiry (Central) Rules, 1972***

Whereas certain allegations have been made in the video-tapes and transcripts released by *tehelka.com* under the name of "Operation West End", followed by widespread coverage of the subject in the print and electronic media.

Whereas these allegations tend to cast an adverse reflection on the manner in which Defence procurement and other transactions of the Central Government have been transacted allegedly for illicit gains and for extraneous considerations.

Whereas in view of the doubts and suspicions generated as a result of the wide publicity given to these allegations, a thorough probe into the matter is considered necessary.

Whereas the Central Government in exercise of powers conferred u/s 3 of the Commissions of Inquiry Act, 1952 appointed vide Notification No. S.O. 266(E) dated 24th March, 2001, a Commission of Inquiry consisting of a single member Hon'ble Mr. Justice K. Venkataswami, Retired Judge, Supreme Court of India (hereinafter called the "Commission") to conduct Inquiry and submit a report with respect to the following matters:

- (a) Whether the transactions relating to Defence and other procurements referred to in the video-tapes and transcripts released by *tehelka.com* under the name of "Operation West End" have been carried out in terms of the prescribed procedures and the imperatives of national security;
- (b) Whether in any of the aforesaid procurement transactions, illicit gains have been made by persons in public office, individuals, and any other organization as alleged and if so, to what extent;
- (c) To suggest action that may be taken in respect of persons who may be found responsible by the Commission for their

- acts of commission and/or omission in respect of transactions referred to sub-clause (a) above;
- (d) To inquire into all aspects relating to the making and publication of these allegations and any other matter which arises from or is connected with or incidental to any act, omission or transaction referred to in sub-clause (a) and (b) above.

Now, the Commission invites all persons acquainted with the above subject matter of the inquiry to furnish to the Commission a statement relating to such matters as are mentioned hereabove. As the Commission is time bound it may be ensured that the statement/s reach the Commission on or before 8.5.2001.

Every statement should be accompanied by an affidavit of the facts set out in the statement. The affidavit shall have due regard to the provisions of Justice K. Venkataswami Commission of Inquiry (Regulations of Procedure) Order, 2001 (hereinafter called the "Order") in particular clauses 12 to 22 which read as follows:

12. Any affidavit(s) filed on being invited by the Commission, or otherwise, shall be attested by a Judicial Magistrate (1st Class) or any other authority empowered to administer oath.
13. The statement accompanied by an affidavit may be presented under acknowledgement either in person or through counsel or a duly authorized representative to the Registrar or an official authorized by him during office hours or may be sent by Registered, acknowledgement due post.
14. The statements and the accompanying affidavits so filed shall be in English. However, if the same are in any other language, they shall be accompanied by true translation of the same in English duly authenticated to be true translation by a Judicial Magistrate (1st Class) or any authority empowered to administer oath.
15. Statements of material fact relating to each subject matter shall be in separate paragraphs.
16. The affidavit shall be drawn up in the first person and divided into paragraphs to be numbered consecutively.

The opening paragraphs of the affidavits shall state the description, occupation, postal address, and true place of abode of the deponent.

17. Each affidavit shall carry a verification in the end in the following manner:-

“Verified that the statement made in paragraphs ..... of the above statement/affidavit are true to my personal knowledge and those of paragraph ..... are true to information received and believed to be true.”

18. The Judicial Magistrate (1st Class) or the authority before whom the Affidavit is sworn, shall make the following endorsement:-

“Sworn before me by the deponent who is identified to my satisfaction by ..... or is personally known to me. The affidavit has been read out in full to the deponent who has signed after admitting it to be correct, this ..... day of ..... 2001 at .....

Seal and Signature of the Magistrate/Authority”

19. If information contained in the statement is derived from any document, or records, the particulars and nature of such documents, the person in custody or control thereof should be indicated and source of such information should be disclosed. If any part of the statement is based on information received by the deponent, he shall disclose the source of such information.
20. The deponent shall file along with the statement, a list of such documents on which he intends to rely. He shall also file a list of witnesses with their full particulars and addresses whom he would like to examine in support of his statements along with a summary of facts they are likely to depose. Against the name of each witness the deponent shall indicate briefly the fact or facts, which the witness is expected to prove in his examination, and give reasons, why instead of oral examination his examination on affidavit will suffice.
21. A party or person filing statements/affidavit shall file four copies thereof. If the statements/affidavits are filed in any

language other than English, same number of copies of its true translation shall be filed.

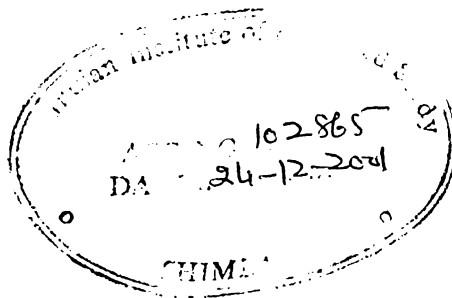
22. A deponent who relies on any document, the original document or duly certified copy thereof shall be filed along with the affidavit. If such a document is not in possession or control of the deponent he shall disclose the particulars of the person in whose custody the same is available along with the particulars of the document. In case the document is an official record, the department or the officer in whose custody and control the document is, shall be indicated.

Copies of the Order can be had from the office of the Secretary to the Commission at Conference Room 'E', Vigyan Bhawan Annexe, New Delhi 110 011. (Telephone No.: 3022069). In case of any difficulty, please contact Registrar/Secretary to the Commission of Inquiry.

### **By Order of the Commission**

Given under my hand and the seal of the Commission.

Registrar  
Justice K. Venkataswami Commission of Inquiry  
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