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# Role of Judiciary in Combating Corruption

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The Indian Constitution has created a democratic republic and a trinity of instrumentalities to enforce its paramount provisions without fear or favour, affection or ill-will. The executive echelons, when they exceed their power as inscribed and circumscribed in the *suprema lex*, are subject to scan, scrutiny and correction by the higher judiciary. The legislature has vast law-making powers and is functionally competent to perform an inquest into the administration. But, when it transgresses its constitutional bounds, the court can quash its action by writs, or command fresh operation by means of appropriate directions.

The corrupt practices indulged in by the public men and bureaucrats have already been criminalized. The pitfalls in the Indian Penal Code in the matter of offences dealing with bribery and accepting of illegal gratifications by public servants have been sought to be remedied by passing a specific legislation, the Prevention of Corruption Act. State legislatures have also taken steps to supplement the corruption control efforts. Even the National Police Commission has acknowledged partiality, corruption and failure to register cognizable offences. A major chunk of the cases, which go without prosecution, are corruption cases. The only agency now sought to intervene in the field is Judiciary. In fact the higher judiciary by way of its judicial activism has tried to fill in the gaps created by the executive including the prosecuting and investigating agencies and competent higher sanctioning authorities. It has even tried to fill up some of the lacunae created by the legislature because of its passive or lethargic response to the problem of corruption[1].

## A. JUDICIAL ACTIVISM

The three organs of the State, provided under the constitution, namely the Legislature, the Executive and Judiciary, to run the affairs of the country are complementary to each other. The Constitution makers had envisaged a clear distribution of powers and functions for these three organs. The enactment of laws is the exclusive domain of the Legislature at the State level as well as the Union level, while the Executive – the most important, the powerful one, is entrusted with the duty to implement the legislation. The role of the Judiciary is to administer justice in accordance with the law of the land, and also

[1] G. Sadasivan Nair, "Judicial Activism NO Panacea for Prevention of Corruption", *Coachin University Law Review* (1997), p.375.

to adjudicate the constitutional validity of the law enacted by the Legislature[2].

"Judicial Activism" denotes the encroachment by Judiciary into the Executive and Legislative domain. Let us see the present position of the Legislature and the Executive and then juxtapose the comparatively holy status the judiciary holds. The harsh reality is that the masses in the country have been let down by the Executive and the elected representatives[3].

"With the growing deinstitutionalization of Indian polity, the role of the elected representatives has been brought down from legislation to that of power brokers. The politicians of all shades have contributed in a big way to bring the present day impasse where corruption is the rule of the day and to be an M.L.A. or M.P. is treated as a licence to indulge in all sorts of unlawful activities[4]."

One of the main tasks of the Executive is crime detection and crime prevention. In the *hawala cases, fodder scam* and other *corruption cases* the criminals involved are high politicians and ministers who control the Executive. The Police, the investigative agencies and even the prosecutors are controlled by them. In this situation, can it be expected that these corruption cases will be conducted at all the by executive? It is in this circumstance that the judicial activism took a different colour and shape. The judiciary is the only organ which could not be usurped by the politicians. It is this belief among the public that gave momentum to judicial activism. The "hands off" doctrine adopted by the Judiciary in the year 1980 underwent a drastic change in the nineties since the Judiciary felt that it is necessary to protect the constitutional guarantees and the democratic principles[5].

The Vohra Committee is of the firm belief that crime exists in politics and exposed the nexus between the criminal world with the politicians which now poses a serious threat even to our national security. Crimes and Criminal law are shaped by the criminal policy which in turn is a part of wider political policy. The entire criminal policy, including the criminal law, criminal procedure, evidence, penal policy and the wide range of other activities covered in the administration of criminal justice system are administered by the power yielders to safeguard their own security and comfort. Crime detection and crime prevention are on the mercy of politicians. This ensures for them the monopolized use of State force to repress and suppress those activities which

[2] P.S. SEEMA, "Eradication of Political Corruption – An Evaluation of the Legislative and Judicial Efforts"' *The Academy Law Review* (1999), p.189.
[3] *Ibid*
[4] D.N. Jauhar, "Judicial Activism: A need for Parameters", Vol.: 11, *Legal News and Views*.
[5] *Supra* n.3.

they regard as potential threat to their security and comfort[6].

Under these circumstances, it is highly necessary that an independent organ keeps under check the other two branches of the Government. This necessitated judicial activism to take a sweeping change from its earlier position. This change is reflected in many decisions[7].

## B. JUDICIARY ON PUBLIC SERVANTS

One of the recommendations of the Santhanam Committee was to include Ministers including Ministers of State, Deputy Ministers and Parliamentary Secretaries holding such office in the Union or State Government within the definition of the 'public servant'. There is no express provision making a Minister, a public servant. In this recourse, the Judiciary declared the following persons as pubic servants:

(1) President and Vice-President
(2) Chief Ministers and Ministers
(3) M.Ps and M.L.As
(4) Judges
(5) Municipal Councillor
(6) Co-operative Society
(7) Educational Institutions
(8) Kotwal

## C. PIL AND CORRUPTION

### (i) J.A.C. Saldana Case : Hands Off Doctrine Recognized

In *State of Bihar* v. *J.A.C. Saldana*[8] though was decided in 1980, an era of judicial activism, the apex court took a hands off position. D.A. Desai J. opined:

> "There is a clear cut and well demarcated sphere of activity in the field of crime detection and crime punishment. Investigation of an offence is the field exclusively reserved for the Executive through the police department, the superintendence over which vests in the State Government. The Executive, which is charged with added duty to keep vigilance over law and order situation, is obliged to prevent crime and if, an offence is alleged to have been committed, it is its bounden duty to investigate into the offence and bring the offender to book. Once it investigates, and finds, an offence have been committed, it is its duty to collect evidence for the purpose of proving the offence. Once that is completed and the investigating officer submits report to the court to take cognizance of the offence, under Section 190 of the Code of Criminal Procedure, its duty comes to an end[9].

[6] *Supra* n.3 at 190
[7] *Ibid.*
[8] *State of Bihar* v. *J.A.C. Saldana,* AIR (1980) SC 326.
[9] *Id.* at 25

It is clear from this that the judiciary was reluctant to play any role in the matters of investigation, though it had started supervising the prison administration. A critical analysis of this step taken by the judiciary reveals that, unless and until, the investigating officer submits report to take cognizance of the offence, the court will not be bothered to see that the culprits are booked. The police and other investigating agencies being the part of the Executive, can never be expected to 'investigate into the offence and bring the offender to book' when the offender himself is the Prime Minister, Chief Minister, other Ministers or powerful politicians. If, at all, investigation is conducted, it would be against the politicians in the opposition"[10].

> "The Hawala Scandal surfaced in October 1993 when a Public Interest Petition was filed in the Supreme Court, in which it was disclosed that in the course of investigations of hawala transactions, the Central Bureau of Investigation had raided the premises of the businessman S.K. Jain and had seized two *diaries* and two note books containing accounts from April 1988 to March 1991 and showing payments amounting to approximately Rs. 65 crores. It was pointed out that though the CBI had been in possession of this explosive information for more than two years, it had been sitting over it and not pursuing the investigation any further.
>
> The action against the politicians mentioned in the *diary* came dramatically on Jan. 16, 1996 when the CBI told the Supreme Court that it had filed charge sheets against seven politicians; out of the seven politicians six belonged to the opposition. In view of the fact that the diary mentioned the names of many politicians, largely from the Congress Party, and known to be corrupt, the picking up of these seven, for criminal action clearly indicates a political hand in the selection. None other than the Prime Minister could have dared to direct the CBI to do this. Moreover, the CBI is now directly under the charge of the Prime Minister who has obviously sought to turn a difficult situation to his political advantage by using this case to tarnish the image of main political opponents."[11]

These kinds of incidents give a vivid picture of the investigation of cases against politicians being conducted in our country. The compelling factor which made the judiciary to interfere even with the

[10] *Supra* n.3 at 191.

[11] *Frontline*, February 9, 1996, p.119.

investigation is very clear from this. The number of political corruption cases involving top political leaders came to be known very frequently after 1995, obviously due to the activistic Judiciary. Even though, so far this activism could not achieve anything material, and bring the offenders to book, the very fact that at least investigation is being conducted and the people of the country could know what their representatives are doing, is itself a good result[12].

**(ii) Jain Hawala Episode**

The judiciary was given an opportunity to be activistic in the investigation of political corruption cases especially the Jain Hawala case by Vineet Narain, editor of '*Kalchakra'* video magazine and Rajinder Puri, Cartoonist. If, they had not launched the public interest litigation in the Supreme Court on October 15, 1993, the Jain Diaries would have been dumped by the CBI as inconsequential scribblings by a businessman[13].

The history of post independence cases reveals that Ministers and powerful politicians invariably enjoy an immunity from prosecution, even when the acts of corruption are amply documented in the press or are established by commissions of enquiry. What stands out is that in the Jain Hawala case also, the recipients of the illegal payment could have enjoyed this immunity but for three unexpected developments. The first is leakage of sensitive information from the investigative agencies pertaining to the Jain diaries and interrogations and what was sought to be covered up. The second is the raising of the issue of cover up and obstruction of justice by a public spirited journalist. The third development is unprecedented activism shown by the apex court in monitoring, criticizing and guiding the CBI in its investigation[14].

The Vineet Narain case which is otherwise called the hawala cases is still in progress. The apex Court makes orders and directions. In *Vineet Narain v. Union of India*[15], the Supreme Court headed by Hon'ble Justice J.S. Verma, S.P. Bharucha and S.C. Sen really shattered the concept of separation of powers. The court took in this case a view reflecting a sea change from its decision in J.A.C. Saldana[16] regarding power of investigation.

In Vineet Narain's case the allegations were that government agencies like the CBI and the Revenue Authorities have failed to perform their duties and legal obligations in as much as they have failed to properly investigate matters arising out of the seizure

[12] *Supra* n.3 at 192.
[13] *Supra* n.3 at 192.
[14] *Supra* n.3 at 193.
[15] *Vineet Narayan* v. *Union of India*, (1996) 2 SCC 199.
[16] *Supra* n.192.

of the so called 'Jain Diaries' in certain raids conducted by the CBI. It was also alleged that the apprehending of certain terrorists disclosed a nexus between several important politicians, bureaucrats and criminals who are all recipients of money from unlawful sources given for unlawful consideration[17].

The CBI and other government agencies have failed to fully investigate into the matter and take it to the logical end point of the trial and to prosecute all persons who have committed any crime. The court ordered:

> "Investigation into every accusation made against each and every person on a reasonable basis, irrespective of the position and status of that person, must be conducted and completed expeditiously."[18]

In case of persons against whom a *prima facie* case is made out and a charge sheet is filed in a competent court, it will then deal with that case on merits, in accordance with law.

However, if, in respect of any such person the final report after full investigation is that no *prima facie* case is made out to proceed further, so that the case must be closed against him, that report must be promptly submitted to the court for its satisfaction that the authorities concerned have not failed to perform their legal obligations and have reasonably come to such conclusion[19].

The court also directed that since the matter involves great public interest, the investigation report should be furnished within reasonable time.

What could be more activistic than this order of the Judiciary, which takes away all the powers of investigation from the hands of the Executive? This seems all the more significant when compared with the holding of this court in J.A.C. Saldana that the investigation is the exclusive domain of the Executive[20].

In another proceeding of the same case[21], the same bench directed the authorities concerned to provide each of the officers adequate security and such other assistance as may be necessary. The Revenue Secretary and the CBI were to identify these officers to the authorities concerned.

In short, the whole proceedings are conducted under the control of the apex court. Actually as far back as in 1970, the Supreme Court had left a door opened for activistic judges to take innovative steps, in *S.N.*

[17] *Supra* n.3 at 193.
[18] *Supra* n.3, p.201.
[19] *Supra* n.3 at 194.
[20] *IbId.*
[21] *Vineet Narain* v. *Union of India*, 1996(1) SCALE (S.P.) 42.

*Sharma* v. *Bipin Kumar Tiwari*[22]. In this case the Court observed:

> "…….though the Code of Criminal Procedure gives to the police unfettered power to investigate all cases where they suspect that a cognizable offence has been committed, in appropriate cases an aggrieved person can always seek a remedy by invoking the power of the High Court under Article 226; if the High Court could be convinced that the power of investigation has been exercised by a police officer malafide the High Court can always issue a writ of mandamus restraining the police officer from misusing his legal powers."[23]

**(iii) The Fodder Scam**

In *Rajiv Ranjan Singh 'Lalan' VIII v. Union of India*[24] (Fodder Scam Case), a three Judges Bench of the Supreme Court observed in a Public Interest Litigation writ petition filed by two Members of Parliament, that PIL is meant for the benefit of those whose social backwardness is the reason for no access to the Court but not meant to advance the political gain of some persons and to settle their scores under the guise of PIL to fight a legal battle.

The Supreme Court also observed that in the matter of Economic Scams be it security transactions or Fodder Scams or Taj Corridor, economic interest of the country is at stake and as these cases involve highly complicated questions, the posting of a Judge plays a vital role and the choice of the candidate has to be exercised on some standard.

Appeals were preferred against this order of the High Court in *Union of India v. Sushil Kumar Modi*[25]. The bench consisting of Justices J.S. Verma, K. Ramaswamy and S.P. Bharucha observed:

> "In our opinion, it is not only appropriate but necessary that the Director, CBI should continue to remain the person ultimately responsible for the proper conduct of the investigation and its early completion. The Director, being the head of the agency, should be the person accountable for the entire functioning of the CBI and in that capacity answerable and accountable to the Court for a proper investigation into the alleged crimes."[26]

**(iv) Exemplary Damages**

[22] *S.N. Sharma* v. *Bipin Kumar Tiwari*, (1970) 3 SCR 946.
[23] *IbId.*
[24] *Rajiv Ranjan Singh 'Lalan' VIII v. Union of India*, (2006) 6 SCC 613..
[25] *Supra* n.211.
[26] *Id.* at 504, para 9.

A novel step was taken by the apex Court in two cases, where the Central Ministers maliciously abused their powers. Sensing that in the case of investigation into political corruption cases, mere drama of arrest (in some cases not even that) and release after by creating scenes of tension, is what can be expected, the judiciary made the Ministers, tortuously liable. All the advantages the 'Delinquent Politician' would get as a part of the executive, by controlling the Police, investigating agencies and bureaucrats are taken away by this award. These two cases are discussed below in detail.[27]

In *Common Cause (a Registered society)* v. *Union* of *India*[28], the then Petroleum Minister Captain Satish Sharma allotted retail outlets of petroleum products (petrol pumps) out of his discretionary quota in favour of persons related to politicians, members of Oil Selection Boards and officials in the Ministry in a cloistered and stereotyped manner without any guidelines or criteria.

The division bench consisting of Justice Kuldip Singh and Faizan Uddin held that the orders allotting petrol pumps are to be quashed, and that the Government of India or Oil Corporation shall take over the petrol pump premises from those persons within 10 days thereafter. Captain Satish Sharma was also to show cause within two weeks why a direction be not issued to appropriate police authority to register a case. He was also to show cause why he should not be made liable to pay damages for his malafide action[29]. In the case, in a later proceeding, the Court held:

> ".....an investigation by an independent authority is called for in this case. We, therefore, direct the Central Bureau of Investigation to register a case against Captain Satish Sharma. The CBI shall file interim report to indicate the compliance of this order"[30].

The court also directed Captain Satish Sharma to pay a sum of Rupees Fifty Lakhs as exemplary damages to the government exchequer. The Court also directed the CBI not to be prejudiced, and to complete the investigation within 3 months.

While awarding exemplary damages, the Court relied on an English decision[31], in which it was stated that the first category in which the exemplary damages can be awarded is "oppressive, arbitrary or unconstitutional action by the servants of government". The Court further observed that since the property with which Captain

[27] *Supra* n.3 at 200.
[28] *Common Cause* (a Registered society) v. *Union* of *India*, (1996) 6 SCC 530.
[29] *Supra* n.3 at 201.
[30] *Common Cause*, a Registered Society v. *Union f India* (1996) 6 SCC para 5.
[31] *A.B.* v. *South West Water Service Ltd.,* (1993) 1 All E.R. 609.

Satish Sharma was dealing was public property, the government which is by the people has to be compensated.[32]

Similarly, in *Shivsagar Tiwari* v. *Union of India*[33], where the Minister of Urban Development Mrs. Sheela Kaul allotted shops and stalls to own relatives, employees and domestic servants without following any policy or norm, the Court did not only cancel the allotments, but also directed Smt. Sheela Kaul to pay a sum of Rs.60 lakhs as exemplary damages to the government exchequer.

The division bench consisting of Justice Kuldip Singh and B.L. Hansaria observed:

> "Misfeasance in public office is a species of tortuous liability. A breach of statutory duty does give rise in public law to liability which has come to be known as "misfeasance in public office" and which includes malicious abuse of power. Therefore, misuse of power by a public official is actionable in tort….."[34]

The Court rightly pointed out:

> "The fact that there is no injury to a third person in the present case is not enough to make the aforesaid principles non-applicable in as much as there is injury to the high principle in public law that a public functionary has to use its power for bonafide purpose only and in a transparent manner."[35]

But, the Supreme Court in its judgement in *Common Cause*, *(a Registered Society )* v. *Union of India*[36] reversed the order and recalled the direction for payment of Rs.50 lakhs as exemplary damages on the ground that under Article 32, damages can be awarded only for the violation of fundamental rights of some identifiable persons and that in the present case that is not possible, and thus deprived the millions of Indians of their right to be compensated. The bench consisting of Justice S. Saghir Ahmad, Justice K. Venkataswami and Justice S. Rajendra Babu held:[37]

> "By directing the petitioner to pay a sum of Rs.50 lakhs to the Government, the Court has awarded damages in favour of the Government of India …which is not permissible as the court cannot direct the Government to pay exemplary damages to itself"[38].

The court further added that the state cannot legally claim that since one of its

[32] *Supra* n.222.
[33] *Shivsagar Tiwari* v. *Union of India* (1996) 6 SCC 558.
[34] *Id.* at 563.
[35] *Id* at 563.
[36] *Common Cause*, a Registered Society v. *Union of India*, AIR (1999) SC 2979.
[37] *Supra* n.221 and 223.
[38] *Supra* n.223, para 144.

Ministers or officers had violated the fundamental rights of a citizen or had acted arbitrarily, it should be compensated by awarding exemplary damages against that officer or Minister.

It is submitted that the court went wrong in evaluating the term government. While a wrongdoer – whoever it is, whether a Minister or a legislator pays exemplary damages, it goes to the government and thus ought to become the money of the people because the Government's money means the money of the people (and not of the executive – though in effect it is so) as they are the major contributors to the fund[39].

While the Court expressed its inability to direct the government to pay exemplary damages to 'itself' (the Government), it seems that the judiciary believes that the government raises money from the pockets of the Ministers and that the Government means the Ministers or the Executive[40].

This attitude of the judiciary is reflected in cases where it has directed the government (and not the wrongdoer) to pay compensation to the victim[41] without realizing that the money actually is snatched from the people for the wrong committed by some government officials.

It is strongly felt that the judiciary should not have shown any leniency towards the petitioner (Captain Satish Sharma) as he has betrayed the trust of the people which is more heinous than any other office. While the judiciary shows great enthusiasm to give umpteen number of directions to the Government in many other areas just to see that they are not yet implemented, it is reluctant to point out a particular person as the wrongdoer from among the officials of the government and to make him accountable which could have been more effective and an example to other political criminals.[42]

## D. CRITIQUE ON THE JUDICIAL APPROACH IN CORRUPTION CASES

The effectiveness of judicial activism will ultimately depend on the effective investigation into the corruption and acts of illegality committed by high level politicians and bureaucrats. The psychological climate of freedom of action for the investigating agencies like C.B.I. created by the judicial supervision, control and specific direction coupled with the public opinion and resentment against rampant corruption may go to some extent towards creating some more enthusiasm in the enforcement efforts. But, it has got its own limits. The ultimate success of these efforts depends on presence of reliable evidence of corruption and this is

[39] *Supra* n.3 at 203.
[40] *IbId.*
[41] See *Nilabati Behera* v. *State of Orissa,* AIR (1993) SC 1960; *Radul Sah* v. *State of Bihar*, AIR (1993) SC 1086.
[42] *Supra* n.232.

possible only on an adhoc basis from case to case. For example, in cases like the housing and petrol pump allotment cases, where there is illegality on the face of the record or impropriety of the highest level is evident, taking away any sense of rationality and fairness in the exercise of discretion, the judiciary may be successful in providing comparatively effective remedies. But, in border line cases of corruption, which are difficult to be proved, even all the judicial exercises have ultimately gone into futile exercises except creating a public opinion against political and high level corruption in the country.[43]

In fact, if ,one examines the Santhanam Committee report, it is evident. The same resentment and gravity of the problem was expressed in that report even as early as 1962. Even, after more than four decades, the problem is getting only aggravated and public opinion is spiraling against this malady which is eating away the very fabric of national and social life hampering economic and social progress.[44] In the much talked about Hawala pay off cases the Special Trial Court has found it bound to exonerate many of the accused persons on the ground that the list of abbreviated names in the Jain Pay Roll Diary could not be accepted as reliable legal evidence.[45] At the same time the admission made by Sharad Yadav, Janata Dal leader, for having accepted Hawala donation for and on behalf of the political parties is raising eyebrows in the political and legal circles. The belated charge sheeting of Shri Sharad Yadav for having received illegal gratification while being an M.P. is going to create legal lacunae and jurisprudential bottlenecks when he has made admission of guilt while other similar accused politicians stand exonerated. Many corruption charges against the former Prime Minister Narasimha Rao are raising big question marks as to whether they will all end in acquittals due to lack of investigation leaving high suspicion in the minds of the people about these trials and prosecutions and their usefulness.[46]

The ascendancy of his wife as the Chief Minister of Bihar after the belated arrest and prosecution of Shri Laloo Prasad Yadav stairs at the desire expressed in the Santhanam Committee Report as early as 1962 that the Ministers should be chosen “on the basis of their proven meritorious performance and track record. A more disquieting factor about the Fodder Scam in Bihar is the fact that one of the accused, a potential approver was killed

[43] *Supra* n.2 at 400.
[44] *IbId.*

[45] *L.K. Advani* v. *C.B.I.,* 1997 Cri. LJ 2559. Following this decision, noteable Hawala accused persons including L.K. Advani and V.C. Sukla and many other politicians and bureaucrats were exonerated by the trial court from similar charges. See also *Supra* nn. 25 to 28.
[46] *Supra* n.2, p.401.

in an accident and there is no effective enquiry in respect of that suspicious death. The police version is that of suicide.[47]

In the similar circumstances, in the State of Kerala, in spite of its so called high rate of literacy and political awareness, the entire family of an important witness Engineer in a corruption case against one of the former Ministers were exterminated in highly suspicious circumstances and there is no effective enquiry into the matter even after months and years of public demand and change of the government. This is again an instance to show the inadequacy of judicial activism to meet the challenges of crime and corruption of influential politicians. There are compelling circumstances to show, that in order to cover up the white collar offence of corruption, nepotism and criminal breach of trust and abuse of power they even commit or cause to be committed offences like multiple murders and destruction of evidences of crime. Enquiry becomes rather difficult. In the background of these socio-legal atmosphere, it is interesting to examine how the Kerala High Court and Supreme Court reacted in one of the corruption cases against the former Electricity Minister R. Balakrishna Pillai.[48]

In *R. Balakrishna Pillai* v. *State*,[49] Section 197 of the Code of Criminal Procedure, 1974 and Section 6 of the Prevention of Corruption Act, 1947 came for interpretation. The first accused in the case was the Electricity Minister of Kerala and the second accused was the Chairman of the Kerala State Electricity Board. The accused abusing their official position sold crores of units of electric current to a private party in Bangalore without the sanction from the Government. Finding that the above mentioned acts constituted offences under Section 109 and 120-B of the Indian Penal Code and Section 5(2) read with Sections 5(1)(d) of the Prevention of Corruption Act, 1947 and without obtaining sanction of the Government, cognizance was taken by the court under the Prevention of Corruption Act, 1947, since the accused ceased to be a minister at that time. The issues in this case were (1) whether sanction in terms of Section 197(1) of the Code of Criminal Procedure was required for prosecution under the Prevention of Corruption Act, 1947? And (2) whether sanction under section 6 of that Act was a prerequisite for the prosecution of an accused public servant under Section 5 of that Act even when such accused person had ceased to be a public servant on the date of taking cognizance of the offence by the Special

[47] *Ibid.*
[48] *Ibid.*
[49] *R. Balakrishna Pillai* v. *State*, 1995 Cri.J.T. 963.

Judge?[50] The court held that no sanction was required under Section 6 for prosecuting an accused public servant before a Special Judge when he had ceased to be a public servant on the date of taking cognizance of the offence.[51] The sanction required was the sanction contemplated under Section 6 of that Act. Since the petitioner had ceased to be Minister and for that reason had ceased to be public servant by the time cognizance of the offence was taken by the court, sanction under Section 6 was not required because that section insisted for a sanction only in the case of a person who was employed in connection with affairs of a State.[52] Sanction under Section 197 was required only for taking cognizance of the offence committed by a public servant while acting or purporting to act in discharge of his official duty. The acts constituting offences under Section 120-B of the Indian Penal Code were not acts committed in the course of discharge of official duty.[53]

The Indian Constitution has created a democratic republic and a trinity of instrumentalities to enforce its paramount provisions without fear or favour, affection or ill-will. The executive echelons, when they exceed their power as inscribed and circumscribed in the *suprema lex,* are subject to scan, scrutiny and correction by the higher judiciary. The legislature has vast law-making powers and is functionally competent to perform an inquest into the administration. But, when it transgresses its constitutional bounds the court can quash its action by writs, or command fresh operation by means of appropriate directions.

Credibility of Judiciary is directly proportional to the judicial responsibility, accountability, impartiality and objectivity on the part of judges. All the four ingredients are integral part of a judicial system which exists for citizenry at whose service only the system of justice must work.

[50] *Supra* n.2, p.403.
[51] *Supra* n.246, para 5, p.965.
[52] *Id.*, para 12, p.968.
[53] *Id.,* para 13, p.968.