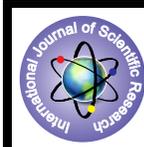


System of Whistle Blowing in India



Management

KEYWORDS : Whistle blower, incarceration, environment, corruption.

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ABSTRACT

History is witness that there have always been informers who reveal inside information to others. Ancient Greeks talked about whistleblowing centuries before. Lykourgos, the Athenian orator, in his speech against Leokratis said: neither laws nor judges can bring any results, unless someone denounces the wrongdoers. The term whistleblowing probably arises by analogy with the referee or umpire who draws public attention to a foul in a game by blowing of the whistle which would alert both the law enforcement officers and the general public of danger. The term 'whistle-blowing' is a relatively recent entry into the vocabulary of public and corporate affairs although the phenomenon itself is not new. This paper tries to find know about the concept of whistle blowers and provisions related to them. It focus on the protection of whistle blowers.

INTRODUCTION

The word whistle blower originates from 'whistle' as used by a referee to indicate an illegal or foul play. It was coined by civil activist Ralph Nader in early 1970's so as to avoid any negative connotations. Whistleblowing is officially defined as "making a disclosure that is in the public interest". It will usually occur when an employee discloses to a public body, usually the police or a regulatory commission that their employer is partaking in unlawful practices. A whistle blower discloses information about misconduct in the workplace that he feel violates the law or endangers the welfare of others and speaks out with an intention to expose corruption or dangers to the public or environment.

Infact, the people who decide to blow the whistle have a strong sense of right and wrong and want to ensure that their voice of dissent is properly heard. Whistleblowing is to be encouraged as it is an efficient and effective way of curbing unlawful practices. As a result there is significant legislation in place to protect whistleblowers.

Most whistleblowers are internal whistleblowers, who report misconduct on a fellow employee or superior within their company. One of the most interesting questions with respect to internal whistleblowers is why and under what circumstances people will either act on the spot to stop illegal and otherwise unacceptable behavior or report it.[8] There are some reasons to believe that people are more likely to take action with respect to unacceptable behavior, within an organization, if there are complaint systems that offer not just options dictated by the planning and control organization, but a choice of options for absolute confidentiality.

External whistleblowers, however, report misconduct to outside persons or entities. In these cases, depending on the information's severity and nature, whistleblowers may report the misconduct to lawyers, the media, law enforcement or watchdog agencies, or other local, state, or federal agencies. In some cases, external whistleblowing is encouraged by offering monetary reward.

According to Koehn "whistle blowing occurs when an employee informs the public about inappropriate activities going on inside the organization"

According to Kloppers, 1997 "whistle blowing entail information about criminal activity, a contravention of any statute, improper or unauthorized use of public and other funds, miscarriage of justice, abuse of power, mis administration, danger to the health or safety of an individual and any other misbehaviour or malpractice".

A worker can report things that aren't right, are illegal or if anyone at work is neglecting their duties, including:

- someone's health and safety is in danger
- damage to the environment
- a criminal offence
- the company isn't obeying the law (like not having the right insurance)
- covering up wrongdoing

OBJECTIVES

- To know the concept of whistle blowing
- To understand the position of whistle blowing
- To know the provisions regarding protection of whistle blowers.

RESEARCH METHODOLOGY

This paper focuses on extensive study of secondary data collected from various books, published national and international journals, various websites etc. This paper focuses on various aspects of whistle blowers in India.

FEATURES OF WHISTLE BLOWING

- It relates to an action that takes place with an organisation.
- Whistle blowing can be done by a member of an organisation.
- The information is generally evidence of some significant kind of misconduct on the part of an organisation or some of its members.
- Release of information must be something that is done voluntarily, as opposed to being legally required although the distinction is not always very clear.
- Whistle blowing must be undertaken as a moral protest.

TYPES OF WHISTLE BLOWING

- **Internal:** When the whistleblower reports the wrong doings to the officials at higher position in the organization. The usual subjects of internal whistleblowing are disloyalty, improper conduct, indiscipline, insubordination, disobedience etc.
- **External:** Where the wrongdoings are reported to the people outside the organization like media, public interest groups or enforcement agencies it is called external whistleblowing.
- **Alumini:** When the whistleblowing is done by the former employee of the organization it is called alumini whistleblowing.
- **Open:** When the identity of the whistleblower is revealed, it is called Open Whistle Blowing.
- **Personal:** Where the organizational wrongdoings are to harm one person only, disclosing such wrong doings it is called personal whistleblowing.
- **Impersonal:** When the wrong doing is to harm others, it is called impersonal whistleblowing.
- **Government:** When a disclosure is made about wrong do

ings or unethical practices adopted by the officials of the Government.

- **Corporate:** When a disclosure is made about the wrongdoings in a business corporation, it is called corporate whistle blowing.

EFFECTS OF WHISTLE BLOWING

- Forced to leave organisation / demotion.
- Credibility ruined
- Family, health and/or life in jeopardy.
- Outrage and divisiveness of people directly or indirectly involved.
- Physical or psychological isolation.
- Organisation experiences loss of money, restitution, productivity and positive reputations.
- Incarceration.

Whistleblower Protection Act 2011

There have been multiple instances of threatening, harassment and even murder of various whistleblowers. An engineer, Satyendra Dubey, was murdered in November 2003; Dubey had blown the whistle in a corruption case in the National Highways Authority of India's Golden Quadrilateral project. Two years later, an Indian Oil Corporation officer, Shanmughan Manjunath, was murdered for sealing a petrol pump that was selling adulterated fuel. A movie/Film has been made based on the said incident titled 'Manjunath'(2014).

Whistle Blowers Protection Act, 2011 is an Act of the Parliament of India which provides a mechanism to investigate alleged corruption and misuse of power by public servants and also protect anyone who exposes alleged wrongdoing in government bodies, projects and offices. The wrongdoing might take the form of fraud, corruption or mismanagement.

The Act was approved by the Cabinet of India as part of a drive to eliminate corruption in the country's bureaucracy and passed by the Lok Sabha on 27 December 2011. The Bill became an Act when it was passed by the Rajya Sabha on 21 February 2014 and received the President's assent on 9 May 2014.

Corruption is a social evil which prevents proper and balanced social growth and economic development. One of the impediments felt in eliminating corruption in the Government and the public sector undertakings is lack of adequate protection to the complainants reporting the corruption or willful misuse of power or willful misuse of discretion which causes demonstrable loss to the Government or commission of a criminal offence by a public servant.

It was decided to enact a separate legislation to provide adequate protection to the persons reporting corruption or willful misuse of power or discretion which causes loss to the Government or who disclose the commission of a criminal offence by a public servant.

CASES OF WHISTLE BLOWING IN INDIA

CASE1: Satyendra Dubey, an IIT Kanpur graduate in his mid thirties was supervising construction of the golden quadrilateral project in the koderma division of Jharkhand. He had a reputation for being an honest and upright officer. He was promoted as project director and was likely to be posted there. Dubey exposed mis handling of funds by three of his engineers which led to the suspension of the contractor. He had written to the National highway authority of India (NHAI) and to the prime minister's office (PMO) describing the financial irregularities in the project.

Dubey was shot dead on november 26, 2003. He had arrived at gaya railway station from Varanasi. He did not find his driver at the gaya station. When he called up his home he was told that the vehicle has some mechanical problem. He asked his driver to stay at home and took a rickshaw. When he did not reach home, the driver went at looking for him, and found dead near AP colony in Gaya.

CASE 2: The incidence of murder of Manjunath Shanmughan, an IIM graduate and a sales manager of the Indian Oil Corporation on november 19, 2005 once again shocked India. He got killed for exposing the racket of adulteration of petrol and the mafia behind it.

CONCLUSION

In nutshell, it can be said that role of encouraging whistle blowing lies with both companies and law. Companies have to provide for the pre requisite culture, support of top management and high level corporate leadership for whistle blowing. And government needs to not only frame but ensure the implementation of laws governing whistle blowing mechanisms and systems. In general, the level of whistle blowing activity is likely to depend not just on the legal protection granted to whistle blowers but also on the regulatory response to whistle blowing. Although the Act has yet to come in force by a notification of the Central Government in the Official Gazette the provisions of the Act on the bare perusal of the Act seem inadequate and thus there are chances that the zeal of the Whistleblowers to make disclosure will be affected.

It has to be seen that the Act does not become a Paper tiger like the Benami Transactions (Prohibition) Act, 1988 and proper rules should be formulated and passed to give better effect and force to the Whistleblowers Protection Act 2011.

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