

## The Pawan Bansal Case

■ Dr. M.N. Buch

Remember Alice in “Alice’s Adventures in Wonderland” and her meeting with the Cheshire Cat? The cat vanishes, leaving only her grin behind, at which Alice says, “Well! I’ve seen a cat without a grin but a grin without a cat! It’s the most curious thing I ever saw in all my life!” The Pawan Bansal case, which pertains to a bribe allegedly offered by the then General Manager of the Central Railway, Mahesh Kumar to be appointed as Member Railway Board with the electrical portfolio, is even more curious case than that of the grin without a cat. The officer was caught paying a bribe of Rs. 90 lakhs as a first installment of a much larger bribe paid for promotion as Member, Railway Board, with the demand being that the electrical portfolio will be assigned. The post not being immediately vacant the beneficiary officer was promised the post when it fell vacant and meanwhile was told to take over as Member (Personnel). He was also, by way of compensation, allowed to continue as General Manager, Central Railways as an additional charge. We thus had the curious phenomenon of a person holding a higher post in Delhi and continuing to run the Central Railway on a lower post with headquarters in Bombay, both approximately 1400 kilometres apart.

The fact of Mr. Singla, the son of the then Railway Minister’s sister, being caught red handed taking a bribe of Rs. 90 lakhs naturally led to a public furore. Though the bribe taker used Chandigarh as the place where the bribe was given, much of the transaction had been negotiated at Delhi, using the residence and office premises of Mr. Pawan Bansal, the Railway Minister. A criminal case was registered and though he initially tried to brazen it out, Pawan Bansal ultimately had to resign. The story put out by him was that he was an innocent victim, had no connections with his nephew and whatever transactions had occurred were without his knowledge or approval. The incontrovertible fact was that every order relating to an officer of the rank of Member, Railway Board had to be approved by the Minister. No one gives a bribe to obtain a favourable order unless he is confident that the bribe taker is so close to the decision maker that he can influence him. Singla, being a close relative of Pawan Bansal, was obviously such a person. The decision itself was in three parts:- (1) Promotion to Member, Railway Board, (2) Assignment of a portfolio of choice, (3) A dual charge till the wanted portfolio became available. In all this for the minister to plead total innocence and total ignorance just does not ring true. Without a nexus the bribe would not have been given and favourable orders could not have been obtained.

Let me give one example to illustrate the point. The National Central for Human Settlements and Environment, Bhopal (NCHSE), submitted to the Government of India, Ministry of Rural Development a project proposal costing Rs. 40 crores, but with a clear understanding that it could only be sanctioned if the Central Government altered the norms for such proposal. Two persons claiming to be representatives of the then Rural Development Minister, Raghuvansh Prasad Singh, met me and demanded a bribe of 20 percent of the project cost. They even offered that they could get a sanction of Rs. 50 crores so that NCHSE would get the full required amount of Rs. 40 crores, the extra Rs.10 crores being paid by way of commission. What is more, they even offered to have audited accounts prepared which would cover the entire Rs. 50 crores. I checked with the Secretary of the Ministry who these people were because in any case there was no question of paying a bribe and he told me that they had no connection with the

Minister or the Ministry. I then turned them out of my office. If Singla had been an imposter or unconnected with the Minister then, he, too, would not have been able to obtain a favourable order and would undoubtedly have been told to remove himself.

This was a fit case for the Delhi Special Police Establishment (CBI) to thoroughly investigate the question of a nexus leading to a conspiracy for bribe giving and taking. Despite Pawan Bansal denying any connection with his nephew there is evidence to show that he, his wife, his son and his nephew had common interests in more than one business undertaking. There is also the sequence of events of negotiations, the giving of a bribe and obtaining favourable orders which clearly indicates that this was a conspiracy. Pawan Bansal should have been investigated and charge sheeted in this case along with his nephew and the bribe giver. Political considerations should not have come into investigations because after all under Chapter XII, Cr.P.C. the police enjoys total autonomy in the matter of investigation of an offence. The police cannot afford to show bias in an investigation. What is more, the police does not have any discretion in the matter of including as an accused person someone against whom there is no prima facie case, nor can it exclude a person against whom there is a prima facie case. However, the police has chosen to leave out Pawan Bansal from the list of accused and has instead made him a prime witness for the prosecution. This is even more curious than the case of the grin without a cat. I have not seen the case diary and, therefore, would not like to comment in detail on the manner of investigation. However, such nefarious games are not unusual so far as CBI is concerned. In 1978 when I was head of the Delhi Development Authority CBI had sought permission to prosecute Jagmohan, Ranbir Singh and other D.D.A officials in a case pertaining to demolitions carried out during the Emergency at Samalkha, Kapasheda and Andheria Mod, all leading to Indira Gandhi's farm. The demolitions were done at the behest of the Commissioner, Municipal Corporation of Delhi, B.R. Tamta. CBI chose to exclude Tamta from the list of the accused, though he was the principal agent in this case. On this account I rejected the application for permission to prosecute, stating that the investigation was tainted. I now find that this practice is fairly routine if the Bansal case is taken as an example.

CBI has played a clever game. All that Bansal has to do as an important prosecution witness is to turn hostile, with the CBI led prosecution allowing him to get away with it. This would probably lead to the acquittal of the other accused, including Bansal's nephew and the promoted Railway Board officer. Can anything be more lovey-dovey and cosy than this?

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