

## **The Sorry State of The All India Services**

■ **Dr. M.N. Buch**

The Indian Constitution has a unique structure embodied in Article 312 which permits Parliament to make laws for the creation of what are known as All India Services. The Indian Administrative Service and the Indian Police Service which predate the Constitution would be deemed to be created under Article 312. The Indian Forest Service was later constituted. The All India Services are covered by the All India Services Act, 1951 and rules have been framed under the Act, including the Cadre Rules, the Conduct Rules and the Discipline and Appeal Rules. Under the Cadre Rules posts in the Central Government and the State Governments in the two initially constituted All India Services, the Indian Administrative Service and the Indian Police Service and the subsequently created Indian Forest Service are prescribed and against these posts only an IAS, IPS or IFS officer can be appointed. The officers are assigned to a State Cadre and normally serve under the State Governments, but they are liable to transfer either for service under the Union Government or, under certain circumstances, on deputation to other State Governments, public sector undertakings and as the rules stand today, to international bodies or even to private undertakings.

The reason why we provide for an All India Service in a federal constitution, apart from the need to have continuity in the administrative set up in India after we became independent, was Sardar Vallabhbhai Patel's clear understanding that India had major fissiparous tendencies which needed to be controlled and countered by building into the Constitution centripetal features which would hold the country together.

Upto 1967 the system worked extremely well and this was possible because, by and large, the Governments at both the Centre and in the States were formed by the same party. In 1967 suddenly the politics of defection through purchase of power was introduced and now power was up for grabs. Thus began an era of political uncertainty in which the politicians, in order to remain in power, had to use bribery as a major weapon. Money for bribes can only be made by misusing the instrumentality of State power and obviously an impartial and fearless Civil Service would be an obstruction in obtaining such money. The Civil Service had to be tamed and this the politicians proceeded to do with vim and vigour. In 1975, when Mrs. Indira Gandhi declared a state of Emergency and concentrated all power in herself, a new slogan of a committed Civil Service was added to our administrative lexicon. A committed Civil Service meant that civil servants would no longer necessarily be servants of the law and would be prepared to carry out the will of the political masters. So long as the Central Government continued to be under a single party some element of protection was available to the civil servants, especially the All India Services. However, when the Central Government became weaker and we entered into an era of unprincipled coalitions narrow political interests very often overtook the legal provisions relating to the All India Services and in many States the local satraps arbitrarily decided the fate of civil servants.

This was a total negation of Sardar Patel's ideal of an impartial Civil Service, immunised from undue political influence and, therefore, in a position to give advice without fear and favour and to administer without bias. Over the years the position has worsened. The standard joke in Uttar Pradesh is that the Annual Confidential Report of an IAS or IPS officer serving in

the districts is seldom written because hardly any officer serves for even three months in a district before being transferred and the ACR must span at least a three months tenure.

Recently a young IAS officer with two years service, Durga Shakti Nagpal, has been placed under suspension by the Uttar Pradesh Government because she took on the powerful political and commercial interests behind illegal sand mining. There are innumerable decisions of the Supreme Court and the High Courts calling upon government to control illegal mining and it is the duty of civil servants to implement these orders. If, however, the politicians are to harass civil servants doing their duty, how will the rule of law prevail? Javed Usmani, the Chief Secretary of Uttar Pradesh, should have stood up to the Chief Minister and opposed the suspension of this young officer. Instead he has become a party to framing a false and frivolous charge-sheet against the officer to try and justify the suspension. Durga Nagpal's case is one of many in which civil servants of the All India Services are being harassed.

How do we remedy the situation? The Supreme Court, in a writ petition filed by Prakash Singh IPS (retired) has been pressing the Central Government and the State Governments to immunise the police from undue political influence. The Supreme Court wants the Police Act to be amended to give the police autonomy, to provide tenure for officers from the rank of Station Officer up to DG Police and to protect officers from arbitrary action by government. Why is the Supreme Court suo motu not extending this to all the Civil Services and in particular the two other All India Services? One set of rules which need immediate amendment is the All India Services (Discipline and Appeal) Rules 1969. Rule 3 relates to suspension. Under this rule a State Government may suspend an All India Service officer serving in that State Cadre. The same rule, however, says that if there is a difference of opinion between the Central Government and the State Government about the suspension order, then the opinion of the Central Government shall prevail. In the Durga Nagpal case the order of suspension and the grounds of suspension are so flimsy and so obviously contrived that the Central Government should have treated this as a case of disagreement with the State Government and should itself have quashed the suspension order.

Considering the fact that there are many State Governments which are misusing the power of suspension we need to amend the rules so that the State Government has no power to suspend an All India Service officer. The power must rest only in the Central Government so that the All India Services are protected from political arbitrariness

There is another set of reforms that we need if we have to make the All India Services truly national in character. At present there are many officers who, after allocation to a State Cadre, never serve outside that State. This must immediately end. In the approximately thirty-five years span of service an All India Service officer should serve outside his cadre for at least ten years. Every All India Service officer should have one stint of five years of service in a cadre other than the one to which he is allotted and also put in an additional five years stint in any post under the Central Government. This would widen his horizon and give him an all India perspective, which is very necessary if our All India Services are to have a national character.

\*\*\*