

The Comptroller And Auditor General Of India And Autonomy of Audit

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Our democratic polity depends on the holding of free and fair elections whereby our Parliamentarians and Legislators are elected and from among whom, on the basis of a majority in the House of a party or coalition of parties, the President or Governor appoints the Prime Minister or Chief Minister and members of the Council of Ministers. The government of the day has to be political and to follow a political ideology of its choice. Its policy of government, the legislation it introduces, the translation of policy into action, all will reflect the party's ideology and its interpretation of the popular will. This is but mete and proper.

The same Constitution distinguishes between the political, elected element of the Executive and its permanent, appointed element, the collective Civil Service. This is because in a true democracy whereas decision making at policy level has to be politically oriented giving the ruling party the chance to shape the polity, economy and society according to its own ideology, the implementation has to be even handed, just, non-partisan and without bias. That is reinforced by Article 14 which totally prohibits any discrimination on any grounds whatsoever. Thus if government causes legislation to be enacted imposing a ceiling on how much land a khatedar, or holder, can hold, that will apply to every cultivator, regardless of his politics. A supporter of the party will not be exempt from the operation of the law. It is to ensure such even handedness in implementation that the Constitution, in Articles 53 and 154, mandates that the President or Governor will exercise his exercise functions through officers appointed by him and subordinate to him, while acting on the aid and advice of his Council of Ministers, which he is bound to do by Articles 74 and 163. The impartiality of the officers is ensured by the security afforded to them by Articles 311 and 312 and by the fairness of the selection process through the operation of Part XIV, Chapter II which deals with the Union and the State Public Service Commission and gives them autonomy.

A democracy demands that it is the Legislature which will sanction both appropriations and expenditure through the vote on individual grants and the right to spend them through the Appropriation Act. Because the Legislature approves the mobilisation of resources through taxation and sanctions from funds collected expenditure on various matters requiring spending, it obviously has the right to call government to account and demand information on how the budget has been utilised and with what results. For this purpose Part I, Chapter V of the Constitution creates the office of the Comptroller and Auditor General, the expenditure on whom and his entire establishment is charged to the Consolidated Fund of India. Under Article 149 CAG is required to audit the accounts of the Central and State Governments. This audit jurisdiction of CAG extends to the public sector undertakings and can cover all institutions which receive a public grant. The importance of audit reports can be gauged by the fact that under Article 151 every audit report of CAG is submitted to the President in the case of Union accounts and the Governor for State accounts who, in turn, causes the report to be placed before Parliament or the State Legislature.

CAG is the constitutional and professional watchdog who keeps government revenues and expenditure under scrutiny, comments on the efficiency of revenue collection and advises whether the money is being spent wisely, honestly and to best effect. On the basis of these reports the legislature, through committees such as the Estimates Committee and Public Accounts Committee, questions officials of the government and asks them to comment on the objections raised by audit or the suggestions made by CAG. An alert and active legislature can certainly keep government on its toes and by asking the right questions can force the Executive to spend voted funds wisely and well and thereby safeguard public funds and welfare.

CAG is the officer who calls government to account in matters relating to both revenue and expenditure. It is natural that often he and the Executive are cast in an adversarial role. Government, especially one that is

inefficient, dishonest, or both, would like to influence, pressurise, or otherwise persuade CAG to overlook or minimise irregularities, or worse, committed by government. If he acquiesced CAG would betray the trust reposed on him by the Constitution. Therefore, in order to immunise CAG from all adverse external pressures the Constitution, in Part V, Chapter V, Article 148 (4) provides, “The Comptroller and Auditor General shall not be eligible for further office under the Government of India or under the Government of any State after has ceased to hold his office”. Now the government cannot offer the inducement of post retirement employment to a CAG as a quid pro quo for any softening of any audit report which may be critical of a government department. This would be a strong disincentive to doing government an undue favour because this would not bring the officer any benefit.

C.G. Somiah, a 1953 batch IAS officer of the Orissa Cadre, was a first rate Home Secretary of the Government of India, who went on to become CAG. After he demitted office the Government of India wanted him to chair a committee to advise on certain high level security issues. Somiah refused point blank, quoting Article 148 (4). Government offered to not pay him anything but Somiah said that any expenditure on his office and on logistic support would amount to a violation of Article 148(4). Ultimately VK Shunglu who had also been CAG had no such scruples on heading a committee relating to irregularities in building the Commonwealth Games infrastructure. One now reads that Vinod Rai, who retired as CAG, has been roped in by the Railways to advise on how to make the Railways commercially and financially viable. If Vinod is the upright man he is credited to be he must follow the Somiah example and shun the Shunglu model. Will Vinod do that?
