Chapter IV

Political Leadership and Corruption: Major Political Scandals and Commissions in Post-Independent India
An assessment of the problem of corruption, by and large, leads one to the observation that it is the phenomenon of political corruption which is reflected in different walks of socio-economic life in India.\(^1\)

It has been rightly observed that unlike other evils which germinate from the bottom of society, corruption in India starts from the top – the political leadership being its fountain head. Thus proving the age-old Sanskrit adage that the tree has roots at the top and branches at the bottom.

This is not the problem in India alone. In almost all newly Independent states problem has been the same. The politicians, finding new opportunities and avenues have been indulging in corrupt practices thereby generating the phenomenon of corruption. It is also a fact that before Independence, guided by an idealism, the politician had pledged to root out this social menace. But after acquiring the power, they have conveniently forgotten all what they stood for and for which they had fought. In the words of Edward Shills, “the large budget of work undertaken by Governments in the new stages creates a problem which did not exist before independence, namely, the corruption of politicians. Indigenous politicians had no governmental authority to speak of before independence and thus their probity was neither trained nor tested. Now, when so much is at their disposition in

\(^1\) Kohli, Suresh, “Corruption in India”, Chetan Publications, New Delhi, 1975.
the awarding of contracts and in appointments to office, new opportunities and temptations (emphasis added) are open to them. Thus, having no firm tradition of probity in the exercise of governmental power and having, indeed, on the contrary been brought up in an atmosphere of kinship, caste, and ethnic particularism and of ‘traditional gift-giving’ – it is all too easy, for some politicians to yield to the attractions which office brings before them”. Edward Shills further points out that the Inadequacy of the pres as a standing enquiry into the probity of elected (and appointed) officials, which in the more advanced states, is an intermittent safeguard against corruption, also serves to diminish inhibitions. Through the same is not true about Indian Pres which has been exposing scandal after scandal involving politicians and persons holding high public offices with great vigour. Indian press has been in vanguard, voicing its concern about corruption in high public offices and politics. A.R. Antulay’s case is an illustration to the point. Mr. Antulay had to resign the office of Chief Minister of Maharashtra and face prosecution as a result of the exposures of his corruption in ‘Indian Express’.

J.M.M. Bribery case, Jaylalitha’s Tansi case, Laloo Yadav’s Fodder scam, Tahalka Exposure, Defence Minister George Farnandes, Jha Murder case, Mr. Sibu Soren, oil for food, Mr. Natwar Singh had to step down.

J.J. Van Klaveren observes that “recent experience in the so called under-developed countries has most vividly brought home the fact that

3. Ibid.
corruption is not a mass of incoherent phenomena, but a political system, capable of being steered with tolerable precision by those in power”.

Johon Waterbury, while analyzing the endemic and planned corruption in a monarchial regime and his observations in the context of a monarchial regime like Morocco are not less applicable to a democracy like India, observed that “corruption may be seen as a planned, cultivated, and vital element in assuring the survival of a regime. As the case of Morocco would tend to demonstrate, corruption is not simply an aspect of politics, but has displaced and dwarfed all other forms of politics”.

Gibbson has put that corruption is the most infallible symptom of constitutional liberty. But it is a debatable point because in other countries which do not have such type of socio-political systems have also been facing the problem of political corruption as well. Following account of Soviet System is noteworthy in this behalf.

The concern about the visitation of political corruption in India, has been expressed by Commissions of Inquiry, political leaders and newspapers from time to time.

Santhanam Committee laments in these words: “The sudden extension of the economic activities of the Government with a large armoury of regulations, controls, licences and permits provided new and large opportunities. The quest for political power at different levels made successful achievement of the objective more important than the means

5. Ibid.
adopted. Complaints against the highly placed in public life were not dealt with in the manner that they should have been dealt with if public confidence had to be maintained. Weakness in this respect created cynicism and the growth of the belief that while governments were against corruption, they were not against corrupt individuals, if such individuals had the requisite amount of power, influence and protection”.6

The phenomenon of corruption was suddenly geared up in India during Second World War. According to A.G. Noorani, “The Second World War wreaked a veritable havoc in public life. Controls meant an increase in the bureaucrat’s power and businessman had ample black money to feed his power. To complete the triangle, the politician and businessman discovered that each needed the other – the politician for financing his election and his political ventures, the businessman to get things done for himself. Both needed bureaucrat as an ally”.7 The second war was proceeded by the Independence of India. And over a period of time, “corruption by politicians became the bane of Indian politics”.8 As has been rightly observed that “in an acquisitive society like ours, misuse of political power for amassing wealth can neither be fought by codes of conduct nor by merely asking politicians to periodically declare their assets. An entirely different political culture and political atmosphere is necessary. And this can be created if every act of omission and commission of those in power that snacks of corrupt practice is unmasked”.9

9. Ibid.
Indian social system is facing the rigors of political corruption. Sugata Das Gupta opines that “corruption, political corruption, sets the pace for its other forms. In its malignant stage, it corrupts an entire elite, destroys their value system and corrodes with it all the vitals of life, from those whom the elite dominates. The situation in India today is just as good...”\textsuperscript{10}.

It is worthwhile to briefly analyze the factors that led to the generation of political corruption in post-independence India. It becomes all the more relevant because the struggle for freedom in India which ultimately culminated in Independence was led by Gandhi ji who strongly believe that moral and ethical values to be inculcated in the socio-political fabric of India.

The fact that the aims and objectives of Indian national Congress\textsuperscript{11} radically underwent great changes after 1947 when India won the freedom may not be lost sight of. In the process of onward march of history, these aims and goals had to change. The congress party became the ruling party of the country. Over a period of time, this party got deeply entrenched with the struggle of electoral victories, distribution of party tickets and administration of the party affairs. In absence of a new ideological framework, the party started exploring the means and methods to be firm in the saddle of power. The newcomers to the party were lured more by its control over the apparatus of the State than on ideological principles. In the words of James Scott: “As the ‘movement’ qualities of the Congress party faded after 1947, the leadership, both locally and nationally, turned increasingly to machine style


\textsuperscript{11} Here in after to be referred as Congress.
incentives to retain electoral majorities". Whereas the people flocked to Congress on ideological basis in pre-independence era, it attracted people to its cadres on some other considerations in post Independence period. James Scott rightly opines that "the supporters were attracted to it more by the chances it offered for nominations to the office and for legal access to decision makers within the administration who made licences, permits, quotas and loan decisions than by the direct goods or employment Congress could distribute".

Gandhi ji is reported to have said on 21 December 1947 at his daily prayer meeting that "I hear from many trustworthy sources that it (corruption) is on the increase". He is reported to have objected to the Andhra leader, the late Mr. T. Prakashan, becoming Chief Minister of Madras in 1946 because he had appropriated to himself a purse of Rs. 30,000 given to him by the people of Andhra. Gandhi contended that this money had been given to Prakasam for party and not for his personal use. When ultimately Mr. Prakasam offered to return this money to party, Gandhiji pertinently asked him as to how did he propose to raise it. The late Mr. Prakasam could have, no doubt, obtained the sum from any of his rich friends, but in Gandhiji’s eyes it would tantamount to corruption, because in return for money they would expect some favour from late Mr. Prakasam when he became Chief Minister.

Such standard of public morality departed with the departure of Mahatma Gandhi from the socio-political scene of India.

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13. Ibid., p. 123.
Pandit Jawaharlal Nehru's attitude towards political corruption, particularly indulged in by those belonging to Congress, had been that of ambivalence. As pointed out by Dwivedy and Bhargava, "whenever a change of corruption was leveled against a politician, Mr. Nehru had the habit of going into the motives of the accusers. For instance, when several Congress M.P.'s had taken exception to Mr. V.K. Krishna Menon's handling of the Jeep transaction (better known as the jeep Scandal), the former Prime Minister's reaction was that a section of the party old guard was up in arms against Mr. Menon because of his radicalism. So he ignored the findings of the Public Accounts Committee of Parliament and refused to institute inquiry into the charges (against Krishna Menon)". 16

It is this attitude of the leadership at the top that corruption in politics in post independence India thrived. As pointed out by Dwivedy and Bhargava that, "In India, especially, the practice during the first seventeen years (and even now) of Independence had been to single out the smaller fry in the crusade against corruption while allowing politicians the benefit of doubt. The accent had been on weeding out corruption in the administration without touching its mainly political sources". 17

The material on political corruption in India is voluminous and vast. However, for the reasons of authenticity, one has to confine to the cases supported by authentic academic works and cases enquired into and adjudged by Commissions of Inquiry appointed by the Government from time to time. It is pertinent to note that whenever an enquiry has been held by the

16. Dwivedy and Bhargava, Political corruption in India, op.cit., p. 15.
17. Ibid., p. 19.
government under public pressure, the charges of corruption against a public
official or politician have been substantiated.

It is worthwhile to examine and analyze a few major cases of
corruption by public men of eminence which assumed scandalous proportions
in post-Independence India. In the proceeding pages, an analysis of major
scandals and reports of the Commissions of Inquiry have been carried out.

MAJOR POLITICAL SCANDALS AND COMMISSIONS IN POST-INDEPENDENT INDIA

India, the ancient seat of learning, the breeding-ground of people
with morals as lofty as the sky itself. The nation which was once a proud
claimants vis-à-vis truth and follower of the paths of sagas like Mahavira and
Gautam Buddha, has perhaps forgotten its ethical roots. Now, all our country
is lift with is a bagful of scams.

We have a total of twenty five major and minor scams that saw
dayling. There might be some other as well, which be never come face to face
with. We have the following list, naming a few major onces, perhaps the
biggest scams in the world as well as jeep, Serajuddin, Mundhra, Karion
Bofors, Securities, Hawala, Urea, Telecom, fodder, Jayalalitha, J.M.M., Stmap,
Taj Corridor, Oil for Food (Volker Committee) etc. some of the important
ones have been discussed here.

A. JEEP SCANDAL:

The Jeep scandal was the first to come to light in the post
independence India. It is pointed out, and rightly so that given a principled
approach on the part of Mr. Nehru, it would have helped the effective tackling of the problem of political corruption. Instead, an impression had been created that the corrupt could get away with it if they were on the right side of the rulers.\(^{18}\)

Jeeps were needed for military operations in Kashmir in 1948. The army was short of 4,603 jeeps in 1948. About a thousand jeeps were imported from U.S. To get the rest of the jeeps, a high power delegation consisting of Defence Secretary, the Commander in Chief of the Army and the then Financial Adviser of Defence Services went to U.K. but were unsuccessful to obtain them. In June 1948, Mr. A.K. Chanda, the then Financial Adviser who had gone to London as a member of the Sterling Balance Delegation wired to the Defence Secretary that 1,500 reconditioned Jeeps were available at £300 each. The Defence Secretary was interested and wired back to Mr. Chanda to negotiate the purchase of 2,000 reconditioned Jeeps mentioned by him provided three years’ spares could also be obtained.\(^{19}\)

Only 9 July 1948 Chanda wired that 2,000 jeeps had been ordered with three years ‘spares and supply was to commence within a period of six weeks from the date of the order and to be completed within five months’ time. From the tenor of the foregoing and gist of the telegraphic correspondence between Mr. Chanda and Mr. Patel it would appear that Mr. Chanda took part in the negotiations.

\(^{18}\) Dwivedy, Surendranath and Bhargava, G.S., *Political Corruption in India*, op.cit., p.43.
\(^{19}\) The whole scandal has been extensively dealt with by Dwivedi and Bhargava in *Political Corruption in India* (pp. 43-61), ironically, the report of the committee which was constituted to look into Jeep Scandal was also not published. However, Dwivedy and Bhargava have quoted from this report because they had access to the report being member at the parliament.
But Mr. Chanda told the committee looking into the deal later that the whole arrangement was made by the High Commissioner (Mr. Krishna Menon), that he did not take part in any negotiations, that he was not present at any of the meetings and that he was corresponding with the Defence Secretary only at the instance of High Commissioner. He also said that he happened to be in London only by accident on 8 July 1948, when the deal was finalized.

The financial Adviser as well as Legal Adviser of Indian High Commission in London were not consulted when this order worth Rs. 8 million was placed with Messers Anti-Mistantes who had in the words of veteran Parliamentarian Shiva Rao, “capital assets of the magnificent value of £ 605”.  

The terms of payment were: 65 per cent on receipt of certificates from the inspecting firm, 20 per cent more on production of bill of loading and the remaining 15 per cent within one month of receipt of the Jeeps at a port in India. However, within a month of the signing of the contract (9 July 1948) and irrespective of inspection certificates, 65 per cent of the price had been paid to the suppliers. This was done because, in the words of Shiva Rao, “with its incredibly meagre resources it would never have been in a position to fulfill that contract without this amount being advanced to it”.  

Thereafter concessions were made which seem to be unusual. The official Indian inspectors and Messers Hunt named as inspectors in the contract were bypassed. On the seller’s suggestions Krishna Menon later nominated yet

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21. Ibid.
another firm for inspection. Before even their certificate could be had, over £
1,72,000 were paid to the sellers. Krishna Menon agreed to a mere 10 per cent
inspection of Jeeps at random, together with the job cards for the rest, in place
of the cent per cent inspection previously stipulated.

The Ayyangar Sub-committee found it “a dangerous deviation”. The
Committee found “that even the ten per cent inspection proved to beillusory,
seeing that not even one of the 155 jeeps which landed at Madras (Port) were
found to be serviceable. The Defence Ministry naturally refused to accept
them. Under the contract of the date of the first shipment was 23 August and
that of completion 9 December 1948. On 26 December Krishna Menon
assured New Delhi that Jeeps were in the process of being shipped and
approximately 1,300 should be on the high seas and day. The first
consignment of the 155 unserviceable jeeps reached India in March 1949, two
months after the ceasefire in Kashmir. Instead of the required three years’
spares as the contract stipulated, ten per cent of the total spares required
during that period arrived. The Ayyangar Committee remarked that this was a
very serious deviation from the terms of the original telegram on the basis of
which the Defence Ministry accepted the offer, entailing serious loss to the
country. The payments were made by Krishna Menon without prior approval
by the Defence Ministry.

Krishna Menon entered into a new contract with another firm,
messers S.C.K. Agencies, London for the supply of 1,007 jeeps at £ 458.10
each with 68 jeeps to be supplied per month. The new contractor was to give
credit to New Delhi for the Rs. 1.9 million lost on the first contract with Anti-
Mastantes. However, Krishna Menon reduced the supply rate from 68 to 12
for the first six months, to be increased to 120 jeeps a month thereafter. Actually, only 49 jeeps worth about Rs. 94,667 arrived and the firm backed out. Meanwhile, when this new contract was entered into, Krishna Menon concluded another contract for the purchase of rifles and ammunition with an allied concern messers J.C.J. Knott Co., whose issued capital was £ 100. The total amount involved in the contract was £ 19,44,000. The supply of rifles was to begin within ten days of the contract and end within 120 days.

A week after the ceasefire in Kashmir on New Year’s Day 1949, the Defence Ministry cabled its cancellation since no deliveries had been made.

Dwivedy and Bhargava comment, “If the rifles and ammunition were intended for immediate use in Kashmir, their prompt delivery was of the utmost importance. It was not clear to what extent the non-fulfilment of these contracts, after a period of waiting for six months, hampered the military operations in Kashmir....”

Two other Krishna Menon contracts remained unfulfilled. One was for 25 Michell bombers, and the other one was for staghound armoured cars. Dwivedy and Bhargava sum up the whole episode in these words: “If Mr. Krishna Menon was the constant representative of the Government, at the receiving end of the contracts and their proceeds was a ubiquitous and even mysterious character called Mr. E.H. Potter. He represented all the four companies with which Mr. Krishna Menon did business involving millions of rupees of the tax payer’s money. He was the spokesman for the supplier of the Jeeps who ultimately did the vanishing trick, he negotiated the sale of rifles

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22 Dwivedi and Bhargava, op.cit., p. 51.
and ammunition which were never supplied, he offered the Mitchell bombers which never got off the ground and finally, he contracted to sell plates of the value of £ 400,000. Thanks to Mr. Krishna Menon's undying solicitude for him, Mr. Potter wangled a fresh and juicier contract every time he failed to live up to his commitment. To quote from Ananthasayanam Ayyangar Committee, 'most of the contracts were broken by Mr. Potter. Some of them were cancelled by him and some other were modified by Krishna Menon'.

Dwivedy and Bhargava record yet another deal – for steel plates – whereby Potter took advantage of the situation to make a profit of £ 102,000.

The Ayyanger sub-committee, a committee constituted by Congress parliamentary party, under great pressure from its own members, presented its report to Jawaharlal Nehru on 9 April, 1951. It has not been published, yet. The matter was taken up by the Public Accounts Committee which recommended, in its Ninth Report, that the deals be assessed by a high level Committee, consisting of one or two High Court Judges. The Government of India (on 18 December, 1954) asked the Committee to reconsider their earlier recommendations. When the Committee refused to give in, Government announced on 30 September 1955 that the case was closed. On 3 February 1956 Mr. Krishna Menon was appointed in the Union Cabinet as Minister without portfolio. “If an official had been guilty of even a fraction of the lapses admitted by Krishna Menon, he would have been prosecuted”, comment Dwivedy and Bhargava. They further comment, “But in the case of Krishna Menon, not only no action was taken against him but he was also

23. Dwivedy and Bhargava, op.cit., p. 52.
24. Ibid.
25. Ibid., pp. 60-61.
pitchforked into the cabinet and remained shielded there until the floodgates of public indignation virtually flushed him out of public life in 1962". The authors, highlighting a small episode in the London High Commission, but dealt with differentially write. In the same High Commission in London, an employee held responsible for ‘serious loss’ of Mahatma Gandhi Memorial postage stamps (perhaps not worth more than about Rs. 1000) was prosecuted and sentenced to imprisonment. Commenting on it, the first report of the Public Accounts Committee had observed that it was distressing to note the contrast in the handling of cases of losses in the same department in as much as no action had been taken in the present case i.e. (Jeep Scandal)".27

B. MUDGAL EPISODE

Another noteworthy episode proceeding Indian Independence has been the Mudgal episode. Though huge fortunes were not involved in the episode but it certainly led to “realization of the danger of a liaison between business and politics. The later developments in the Indian socio-political situation proved that Mudgal episode proved to be a flash in the pan”.28

Mr. H.G. Mudgal, who ran an organization called H.G. Mudgal publications in Bombay and was publishing a couple of periodicals, was elected to the provisional parliament in April 1950. Subsequently, the Mudgal Publications was entrusted with the publicity work of the Bombay Bulletin Association. The Association was said to be facing certain difficulties, especially in regard to stamp duty, option business etc. It was estimated that

26. Ibid.
27. Ibid, p. 69.
28. Ibid.
an expenditure of Rs. 20,000 would be required for the publicity work which Mr. Mudgal was to organize. It was to include arrangement of press conferences, writing and printing of pamphlets for distribution among members of Parliament, interviews with the Ministers, and other parliamentary contacts.29

The President of the Bombay Bullion Association accordingly, proposed at a meeting of the Board of Directors on March 9, 1951, that the expenditure, be sanctioned. The representative of the Bombay Government on the Board objected to the procedure which would involve propaganda among members of Parliament on payment through a member of Parliament. The rest of the Board members, while endorsing the procedure, slashed the estimated expenditure by half.

Meanwhile, Mr. Mudgal gave a notice of an amendment to the Forward Contracts (Regulation) Bill, 1950, then on the legislative anvil, proposing that the Bill be circulated for eliciting public opinion. He also tabled a question on smuggling of gold. Drawing up a memorandum which the Association was to submit to ministers, arranging a press conference and a dinner for the Association President and some of the Directors during their visit to New Delhi, and securing an interview for them with a minister were the other services he rendered for the Association.

Simultaneously, Mr. Mudgal had written to Mr. K.G. Lalwaney, an assistant editor of his publications, asking him to persuade the Bombay Bullion Association to pay Rs. 7,000 for the drafting of the memorandum,

29. Ibid., pp. 63-69.
arrangements for delegation and other parliamentary contacts for the rest of the parliamentary session.

On June 6, 1951, Jawaharlal Nehru moved a motion in Parliament and set up a five member committee of the House under the Chairmanship of T.T. Krishnamachari to investigate the conduct and activities of Mr. Mudgal and consider whether it was "derogatory to the dignity of the House and inconsistent with the standards which Parliament is entitled to expect from its members."

The main charge against Mr. Mudgal was that in return for a consideration he had used his position as a member of Parliament to create necessary atmosphere for getting support to the objectives of the Bullion Association and that his tabling the question and the request to the Finance Minister for an interview for the spokesmen of the Association appeared to be in furtherance of the offer made by Mr. Mudgal to carry on an agitation in the interests of the Bullion Association in Parliament, for which, it had been stated, he had asked for a sum of money.

The Committee was unanimous in their findings that "all the dealing between the Bombay Bullion Association and H.G.Mudgal Publications .... were on the understanding that whatever might be the services that H.G Mudgal publications might render to them, Shri Mudgal would also render services to them in return for consideration paid to the concern. Further, it was satisfied that the "services to be rendered by Shri Mudgal were to include putting of questions in Parliament, moving amendments to the Forward

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30. Dwivedy and Bhargava, op. cit.
Contracts (Regulation) Bill and arranging interviews with Ministers, etc.\textsuperscript{31}

The Committee held that Mr. Mudgal's conduct was derogatory to the dignity of the House and inconsistent with the standards expected of a member of Parliament. While the House was discussing the motion of Mr. Mudgal's expulsion from the House in the light of the recommendations of the committee, Mr. Mudgal tendered his resignation from Parliament.

Mudgal episode is an important case in the history of political corruption in post Independence India in as much as that Government of India under the leadership of Jawaharlal Nehru acted promptly and instituted an enquiry into the whole episode and even proposed punishment to the guilty. But it also reveals the attitude of ambivalence and discrimination on the part of Government and its political leaders. In comparison to the misdeeds of Krishna Menon, the Mughal episode was a case of minor magnitude.

In the words of Dwivedy and Bhargava "The Government and the ruling party, which had rightly taken a very serious view of Mr. Mudgal's conduct, unfortunately did not keep it up when even graver transgressions were committed by politicians holding even more important positions. For instance, when the former Orissa Chief Minister, Mr. Biju Patnaik, was charged with using his official position to further the business interests of the concerns with which he was connected, the same national leaders began to split hair and argue that he had not 'personally derived any pecuniary advantage from his actions.' Mudgal had received from Bomby Bullion Association was not even a millionth of the sums involved in Patnaik affair.\textsuperscript{32}

\textsuperscript{31} Ibid.
\textsuperscript{32} Dwivedy and Bhargava, op.cit., p. 67.
C. MUNDHRA DEALS

Mundhara deals which caused a furor in the Parliament and outside is yet another episode establishing a nexus between the businessmen and the politicians in post independence India. The brief facts of the episode may be reproduced as follows:

An investment of Rs. 15 million of Public money was made in the shares of six companies owned by a businessman Shri Haridas Mundhra. This investment, which was the compulsory savings of millions of men and women through Life Insurance Corporation, depreciated by about Rs. 3.7 million, or a quarter of that amount. Not only the drop in the value of the investment caused a shock in the public mind, but it was equally amazing as to how the public funds held in trust by a statutory body like the Life Insurance Corporation of India had been allowed to be used for the business activities of a person like Mr. Mundhra. It is important to note that Mr. Justice Tendulkar of the Bombay High Court had an occasion to observe that "Mr. Mundhra often adopted a thoroughly dishonest attitude in his business dealing."

A vociferous Firoze Gandhi forced the Government to hold an enquiry into the matter. The enquiry was conducted by M.C. Chagla, the then Chief Justice of Bombay High Court. The Finance Minister Sh. T.T. Krishnamachari denied the involvement in the deals and tried to place the whole blame on Sh. H.M. Patel, Principal Finance Secretary, Government of

34. Quoted in Dwivedi and Bhargava, op.cit., p. 72.
India. Mr. Krishnamachari contended that deals had been entered into without his approval and knowledge. While commenting on the Minister's denial of having given his approval of the deals, Mr. Chagla observed: "I would prefer to accept the positive evidence of Mr. Patel and Mr. Bhattacharya (Chairman of the State Bank of India), especially as Mr. Patel's version is strongly supported by the probabilities of the case and also by certain subsequent events to which I would draw attention. I think Mr. Patel rightly said that the decision arrived at to buy Mundhra shares was a decision of some importance and that it was impossible that he should proceed to finalize it on his own.\(^{35}\)

Having rejected Krishnamachari's version on the basis of evidence, Mr. Chagla stated the legal position as follows:

In my opinion, in any case, it is clear that constitutionally the Minister is responsible for the action taken by his Secretary with regard to this transaction. It is clear that a Minister must take the responsibility for actions done by his subordinates. He cannot take shelter behind them, nor can he disown their actions.\(^{36}\)

T. T. Krishnamachari resigned from the union Cabinet.

Jawaharlal Nehru is reported to have written to Mr. Krishnamachari that "despite the clear finding of the commission, so far as you are concerned, I am most convinced that your part in this matter was the smallest and that you did not even know that was done".\(^{37}\)

\(^{35}\). Quoted in Noorani, AG. "Minister’s Misconduct", p. 23.
\(^{36}\). Ibid., p. 27.
\(^{37}\). Ibid.
As pointed out earlier, Mr. Krishnamachari had denied giving his approval to the deals. However, an interesting revelation has been made by Taya Zinkin who knew both Mr. Krishnamachari and R.M. Patel closely. According to Taya Zinkin, Sh. Krishnamachari rushed to see Mr. R.M. Patel after giving evidence before Chagla Commission. The Minister said, 'I let you down badly, R.M.! am sorry. I had not expected that the Judge would ask so many questions and I got frustrated.  

On May 5, 1958, a Board of Inquiry was constituted under the Chairmanship of a Supreme Court Judge, Mr. Vivan Bose to investigate certain charges against Mr. R.M.Patel, Mr. Kamat and Mr. Vaidyanathan under Rule 5(2) of the All India Services (Discipline and Appeal) Rules, 1955. The Board found Mr. Patel guilty of abusing his authority by causing Mr. Kamat and Mr. Viadyanathan to enter into a transaction with Mr. Mundhra, which was improper and contrary to business principles and that he was negligent in as much as he failed to give a clear indication as to the prices to be paid for the various shares, thereby causing considerable loss to the Corporation. It exonerated Mr. Patel of two other charges that had been leveled against him. With regard to Mr. G.R. Kamat, the Board held the charges of improper investment and negligence proved.

The Board also came to the conclusion that "the evidence clearly goes to show that Mr. Krishnamachari gave general approval for the Life Insurance Corporation to invest in Mundhra shares to the extent of a crore of rupees or so, but that he added a rider to the effect that the L.I.C. should be

careful. The Board's report went to the Union Public Service Commission which came to the conclusion that the charges against Mr. Patel had not been proved, charges against Mr. Kamat had been proved to some extent and the Commission advised the penalty of censure against him.

The Union Public Service Commission also came to the conclusion that Mr. Krishnamachari had been fully apprised by Mr. Patel about the transactions.

Mundhra deals, technical and legal Wranglings aside, clearly establish the links between the shady businessmen and politicians holding high public offices and manipulation of officials holding administrative and bureaucratic offices. What is more important is the confession of Mr. Mundhra before the Board of Inquiry that "in January 1957 he paid the U.P. Congress one and a half lakh of rupees and he paid the Central Congress Party in Calcutta a lakh of rupees as donations to the Congress party Fund."

However, the episode clearly highlights the role of an important public servant, viz. Mr. H.M. Patel, Principal Finance Secretary, Government of India. He had been clearly involved in the whole transaction.

**D. SERAJAUDDIN AFFAIR**

Serajuddin - K.D. Malaviya affair further establishes the shady links between businessmen and politicians in perpetuating the phenomenon of corruption in post-Independence India.

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41. Dwivedy and Bhargava have extensively dealt with the affair in "Political Corruption in India".
Mohammad Serajuddin, who was the managing partner of Messers Serjauddin and Co., a firm of mine owners operating in Orissa. In 1956, a search in connection with the charges of Income Tax and custom duty evasion, revealed payments and gifts to some Central Ministers. The revelation came through the entries in Serajuddin's private papers and account books. The matter remained where it was for about seven years. However, in February, 1963 (6 February 1963) 'Anand Bazar Patrika', Calcutta, and another Bengali daily 'Lok Sevak' (6 February 1963) followed by a Calcutta Weekly 'Lokmat' (February 8, 1963) broke the news that the private papers and account books seized from Mr. Serajuddin contained entries showing payments made and gifts given to some Central Ministers. Surrindernath Dwivedy member of Parliament demanded an inquiry in the matter.

Shri K.D. Malaviya, the then Union Minister for Mines and Fuel, admitted before the Congress Parliamentary Party's executive that he had recommended to Serajuddin the Congress candidate who fought the Assembly election in 1957 from the Basti Constituency in U.P., for a financial contribution of Rs. 10,000 and this amount had been received. It was not known whether this fund was given to the Congress Party Fund or it was given to the candidate personally. It may be pointed out that Calcutta Newspapers had made disclosures of the affair in the first week of February 1963, and on 11th April 1963. Shri Hem Barua M.P. disclosed that Shri K.D. Malaviya had "forwarded" an application from Messers Serajuddin to the Ministry of Commerce and industry involving Rs. 20 million for selling
manganese in Czechoslovakia and import, on a barter basis, machinery and plant for the Oil and Natural Gas Commission.\textsuperscript{42}

On 7 May 1963, Jawaharlal Nehru reported to the Lok Sabha about the institution of an Inquiry by a sitting Supreme Court Judge, Justice S.K. Das. However, the nature and status of the Inquiry was perplexing. According to Mr. Nehru: “There is going to be no Judicial inquiry as such. This matter essentially is a matter for the Prime Minister to decide on the advice of eminent persons. It will naturally be a quasi judicial inquiry because there is a Supreme Judge. It is not a normal judicial inquiry, it is not that with judicial procedures and all that....\textsuperscript{43} On 17 August 1963 Jawaharlal Nehru announced in the Lok Sabha\textsuperscript{44} that as a result of this Inquiry, of the six findings four were in favour of K.D. Malviya and two were not. However, Mr. Nehru observed that: “I am not personally convinced that Shri Malaviya has done anything which casts a reflection on is impartiality and integrity”. It may be added that Mr. Nehru’s acceptance of Shri Malaviya’s resignation was certainly partly conditioned by Justice Das report obviously.

It is worthwhile to note the following observation: “By then, it was an accepted fact that Serajuddin and Co. had paid large sums of money to Ministers, both at the centre and in Orissa. Whether these contributions and the consideration shown to his firm were inter-related, or whether Mr. Serajuddin was financing the Congress Party for purely altruistic reasons, no judicial authority had an opportunity to decide. But the two were inter-linked

\textsuperscript{42} ‘Lok Sabha Debates’, vol. 16, 29.03.1963 to 11.04.1963 4th Session, 3rd Series, Col. 9241-92481.

\textsuperscript{43} ‘Lok Sabha Debates’, vol. 18, 25.04.1963 to 7.05.1963, 5th Session, 3rd Series, Col. 14211.

\textsuperscript{44} ‘Lok Sabha Debates’, vol. 19, 13.08.1963 to 26.08.1963, 5th Session, 3rd Series, cols. 956 to 969.
in the public mind as cause and effect. The Union Home Minister, Mr. G.L. Nanda, also admitted on the floor of Lok Sabha that the then Chief Minister of Orissa, Mr. Biren Mitra, had received Rs. 200,000 from Serajuddin & Co....". 45

As is evident from these scandals, that far from punishing the guilty, the political leaders at the national level would make their best efforts to avoid the institution of an enquiry. In the words of Mr. Noorani, “The Malaviya-Serajuddin affair left everyone convinced that when it came to his favourites, Nehru would strain every nerve to avert a thorough inquiry” 46

E. DAS COMMISSION OF INQUIRY 47

On July 13, 1963 a memorandum by the members of Parliament and state legislature was submitted to the President of India containing certain allegations against Sardar Partap Singh Kairon, the Chief Minister of Punjab. Paragraph I of the Memorandum runs as follows:

“That being highly aggrieved by the misdeeds and blatant acts of corruption and gross misrule of the present Punjab Chief Minister, Sardar Pratap Singh Kairon, and being further aggrieved by the partisan handling by the present Prime Minister, Shri Jawaharlal Nehru of the series of complaints containing documentary proof against Sardar Pratap Singh Kairon, the representatives of the non-communist opposition parties approach the President of India with this Memorandum praying for a public Enquiry.

45. Dwivedi and Bhargava, op.cit., p. 167.
against the said S. Partap Singh Kairon either by way of a reference by the President under Article 143 of the constitution of India or by way of an appointment of a Judge of the Supreme Court of India under the Commission of Inquiries Act”.

Before the constitution of this Inquiry Committee, the Congress High Command had made an Inquiry and exonerated Partap Singh Kairon of the charges of corruption leveled against him. It is in this context that Jawaharlal Nehru had, on June 4, 1958, dismissed the charges of corruption leveled against Partap Singh Kairon as “fantastic, frivolous and absurd”. He further said that “there was no evidence at all, not the faintest, slighter shadow of it”.

However, on November 1, 1963, Central Government in exercise of the powers conferred on it by section 3 of the Commissions of Inquiry Act, 1952 Constituted a Commission constituting Shri S.R. Das, formerly Chief Justice of India to enquire into and report on the allegations made in the said memorandum.

The Inquiry Commission classified its findings under four different heads.

(1) In the first head, the Commission took up the cases where the Chief Minister himself abused his influence and power for his own benefit.

(2) In the second head, the commission took up the cases where the Chief Minister abused his influence and powers, personally and/or by or

49. Vide Chapter XXXIII of the Report.
through his colleagues or subordinates, to help his sons or relatives to acquire or dispose of properties or businesses in violation of law or rules of established procedure. In this category following cases were discussed before the Commission:\(^{50}\):

(i) Neelam Cinema, Chandigarh

(ii) Nandan Cinema and Punjab Cold Store, Amritsar and,

(iii) Sale of Surplus lands in villages Ramgarh Dhani and Madhar Kalan

Regarding Neelam Cinema, Commission found out that there was a transfer from S. Nazier Singh to S. Surrinder Singh Kairon (Chief Minister’s son) of a half share in the Cinema site and the acceptance of such transfer was a breach of the condition of sale and a violation of the provisions of section 3 of the Capital of Punjab (Development and Regulation) Act, 1952. The Commission further found out that the decision of the Deputy Minister supported by the Minister, Public Works, was erroneous and in the circumstances appearing from the files, could not be explained away as a merely innocent mistake of law. The Commission felt that it had been done with a view to further the interests of S. Surrinder Singh Kairon and ultimately to please the Chief Minister.

The Commission further found out that all extensions of time sanctioned by the Minister and/or the Deputy Minister were wholly unauthorized, and illegal as they offended the provisions of Rule 11 of the Chandigarh (sale of sites and Building) Rules 1952/1960.

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\(^{50}\) Ibid., p. 249.
The Commission came to the conclusion that “on the evidence and the probabilities inherent in the circumstances, there is strong reason to hold that the illegalities in the matter of transfer of interest and extensions of time sanctioned by the Minister and or Deputy Minister in breach of the conditions of sale and in violation of the provisions of section 3 of the Act mentioned at (e) above (i.e. transfer from S. Nazar Singh to S. Surrinder Singh Kairon) and Rule 11 of the rules made thereunder were committed with the full knowledge of S. Partap Singh Kairon and if he did not actually direct their Commission, he certainly connived at them”.  

Regarding Nandan Cinema and Punjab cold store Amritsar, the Commission found out that the sanction given by S. Qaryam Singh (Executive Officer of the Municipal Committee, Amritsar) and the Municipal Committee, Amritsar, while the Town Planning Scheme was in force, to the plans submitted by S. Gurinder Singh for the construction of a cold store, which was prohibited by that scheme, was improper, irregular and even illegal.

The Commission observed that “S. Partap Singh Kairon, if he did not himself commit the irregularities or illegalities was certainly privy to their commission”.  

Regarding the sale of Ramgarh Dhani and Madhar Kalan, the charge sheet was that the surplus land areas of many land owners had to be surrendered under the land legislation. To save the vast surplus estate of Surrinder Singh Kairon’s mother-in-law at Sangrur, it was purchased for the “noble cause” of Harijan Welfare and all formalities were bypassed and “cash

52. Ibid., p. 169.
amounting to Rs. 2,65,528.75 n.p. was virtually placed in the hands of Chief Minister’s son for this so-called sale of some 310 acres of land”.

Similarly, the charge sheet maintained the Sardar Harcharan Singh Brar, M.L.A., son-in-law of Sardar Partap singh Kairon’s younger brother, and Shri Brar’s son, Manjit Singh were helped in by way of acquiring 46 and 19 acres of land belonging to father and the son for resettlement of Harijans at an expense of Rs. 60,000.

Regarding these two charge sheets, Commission came to the conclusion “that the purchases of the Ramgarh Dhani land and Madhar Kalan land were in violation of the spirit and purpose of the Punjab Security of Land Tenure Act, 1953, and the PEPSO Tenancy and Agricultural Lands Act, 1955, whichever be applicable to such lands”. 53

Thus, Commission found out that “the aforesaid purchases of such lands were affected with the full knowledge and consent of S. Partap Singh Kairon, if not directly but at this behest”.

It may be pointed out that in all such cases millions of rupees were involved. In regard to the charges classified as 1 and 2 above, the commission observed “All that this Commission cay say, for the consideration of the authorities, is that those several charges thus brought home to the Chief Minister cannot be he regarded as unbecoming of a person holding the high and responsible office of Chief Ministry of a state.” 54

In regard to those charges where the sons of relatives of the Chief Minister exploited his influence and powers, which have been classified in

Third category by the Commission, the Commission observed: "In view of his inaction in the face of the circumstances hereinbefore alluded to, he must be held to have connived at the doings of his sons and relatives, his colleagues and the Government officers. This is the true position, as the commission apprehends it. It will be for the authorities to consider and decide what consequences follow from such connivance."

This report was submitted on 11 June 1964 to the then Prime Minister Shri Lal Bahadur Shastri. After the publication of the report S. Pratap Singh Kairon resigned.

Das commission of Inquiry, apart from establishing the corruption of politicians in power, establishes the role public servants play to facilitate the corrupt practices of the politicians. Public servants violate, bend or circumvent rules to please the politicians in power.

F. AYYANGAR COMMISSION:

The Jammu & Kashmir State Government Constituted an Enquiry Commission on 30 January 1965, consisting of N. Rajagopal Ayyangar, a retired judge of the Supreme Court of India, to investigate several charges of corruption against the then Prime Minister (as he then was called) OF Jammu & Kashmir State.

The enquiry against Bakhshi Ghulam Mohammad was in the words of the commission, "first of its kind in post Independence India," It is one of the voluminous reports which is spread over 720 pages.

55 Ibid. p. 284.
It is worthwhile to point out that Sh. Bakhshi Ghulam Mohammad stayed the functioning through Jammu and Kashmir High Court on 6th September '1965. The Jammu and Kashmir High Court on 27th December 1965 quashed the notification SRO-39 of 1965 as well as the proceedings of the commission under the said notification. However, on 6th May, 1966 Supreme Court reversed the Judgement of the High Court. Thus the commission resumed work after suspending it for over 9 months.

Schedule II (page 1-g to 1-p) of the report contains 38 allegations against the Prime Minister Bakhshi Ghulam Mohammad. However, for the purposes of present study, it is sufficient to reproduce allegation No.1 of the schedule in extensor: “Bakhshi Ghulam Muhammad and his relatives as mentioned in Part A of the First Schedule who were persons of modest means in 1947, had by 1963 acquired vast assets and pecuniary resources valued at about Rs. One and a half crores and this process of acquisition was facilitated by the abuse by Bakhshi Ghulam Mohammad of his official positions, or by the exploitation by his family and other relatives, with his consent, knowledge or connivance, of his official position as Deputy Prime Minister and later as Prime Minister of the state of Jammu and Kashmir.”

The other allegations in the schedule include acquisition of land under coercion, encroachment on Government and private lands, acquisition of other movable property like buildings under coercion, setting up of business concerns and launching commercial ventures and thereby causing pecuniary benefits to the relatives through Government Departments, advancement of loans from Government Departments in violation of rules and procedures,
purchase of items for Government Departments particularly vehicles through the agencies held by his relatives and thereby causing pecuniary benefits to them and misappropriation of public funds.

The Commission came to the conclusion.\(^{57}\) That, “the charge of abuse of power made in 15 of the allegations, was established to my satisfaction (viz. allegations 5,9,12,19,20 to 24,26,27,29,32 and 34 as also in one out of four in Allegations 14 and one out of three in Allegation 15(a).”

It is pertinent to document the allegations and the findings of the commission in details:

The allegation 9 submitted before the commission was “that the land measuring 34,500 sq.ft. were carved out of the premises of Nedous Hotel, Srinagar, which was already on lease with M/s Nedous and Sons and was given on lease for 40 years on 29.12.1960 to Shir Ghulam Jeelani, minor nephew of Bakhshi Ghulam Mohammaad, at the rate of Rs. 20 per marla per annum without any premium, and in violation of the rules, at the instance of Bakhshi Ghulam Mohammad. The Electric Sub-station which existed at the site was dismantled and shifted to another place at Government expense as desired by then Prime Minister, Bakhshi Ghulam Mohammad.

Commission found the charge as proved. The Commission found the allegation that six sets of plots in Gandhi Nagar at Jammu and 14 sets of plots in Srinagar were allotted to the relations of Bakhshi Ghulam Mohammad in contravention of the rules framed for the purpose and to the detriment of

\(^{57}\) Ayyangar Commission Report, pp. 698-710.
persons legitimately entitled under the scheme. The pecuniary and financial advantage to the members of his family came to Rs. 2,07,134.68 n.p.

The commission found that allegation of securing an automobile agency for his son, by the Prime Minister, and securing business through the Government Department, and advancing Government loan to his son in contravention of rules to promote his business concerns to be correct. The commission found that as a result of this, Prime Minister’s son obtained a pecuniary benefit of Rs. 17,14,851.

The commission found the allegation that due to the abuse and exploitation of official position of Bakhshi Ghulam Mohammad, his two close relatives obtained the carriage contract for ESSO (oil) Products which they sublet to Ch. Aishi Ram Batra was correct. “The total amount received by Commercial Oil Co. (ESSO) for this nominal agency which existed only for receiving the payments came to Rs. 2,34,660.00.

The Commission found the allegation of making the grant of a lease in Hotel Neduous, in favour of his daughter-in-law to have been established. Causing a pecuniary advantage of Rs. 6 lakhs for ten years in her favour (lease having been extended upto 20 years).

The Commission found the allegation that while abusing and exploiting his official position, Bakhshi Ghulam Mohammad’s brother, acquired two Cinema Houses in Srinagar and thereafter to eliminate the competition, no new Cinema House was allowed to operate in Srinagar. The Commission found the charges of obtaining pecuniary advantage for his son and other relatives by making unwarranted purchases and advancing an
irregular advance of Rs. 1,00,000 from Transport Department to his son and daughter for the promotion of their business as established.

The Commission, established "beyond reasonable doubt" the allegation that by the abuse and exploitation of the official position of Bakhshi Ghulam Mohammad, as concern owned by his son, Bakhshi Bashir Ahmad (Messers New Bharat Transporters) was able, in March 1963, to secure a contract from the Indian Oil Company for transporting their petroleum products in J & K State, in spite of the fact that previously Messers Poonch Kashmir Transporters had given quotations, which were lower than the rates at which the contract was given to Messers New Bharat Transporters."

Coming back to the allegation No.1, Commission observes:

"I have found on the evidence placed before me in regard to which, though no reply was filed, I consider that the material are both satisfactory and sufficient, that at the time when the respondent became the Deputy Prime Minister of the State, the total assets of the family which consisted of merely of a few residential houses, did not exceed Rs. 10,000 in value. All the members of the family put together were not deriving from the business which they were carrying on and from the employment which some were able to secure, anything more than Rs. 850/- per mensum.\(^{58}\)

The Commission points out that during the period, when Bakhshi Ghulam Mohammad became the Deputy Prime Minister, i.e. October 1947 to 1956, the assets of the Family had gone up to over Rs. 25 lakhs, out of which

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\(^{58}\) Ayyangar Commission Report, p. 698
over Rs. 21 lakhs were voluntarily disclosed in 1956 before Income Tax Authority.

The report concluded:

"From the tabulated statement which follows, it would be seen that the total amount of improper benefit or undue financial advantage obtained by the respondent and the members of his family set out in Part ‘A’ of Schedule I, totals over Rs. 54 lakhs. Out of this Government has been able to prove that only about Rs. 33 lakhs odd were directly traceable to abuse of power on his part, though they have also proved that about Rs. 22 lakhs more, had been the amount of improper undue financial advantage which the members of the family obtained, but in which abuse of power had not been brought home to the respondent. This would mean, that the members exploited their relationship, but that Government have not bee able to prove that this exploitation had been with his knowledge or connivance. The sums are by no means insignificant, though they look small compared to the total of over Rs. 1¼ crores by which the family has improved its finances since 1947. This concludes the report on rampant corruption in Jammu and Kashmir State during Bakhshi rule.

The Commission after Commission, Inquiry after Inquire lay bare the same facts, reveal the same data and tell the same story; misuse of official position; obtaining pecuniary gains for one’s own self or for one’s relatives through unlawful means, misappropriation of government or public funds and property.

In July 1964, R.N. Singh Deo, leader of the opposition in Orissa Assembly submitted a charge sheet against Biju Patnaik, the (then) Chief Minister of Orissa, the Deputy Chief Minister Biren Mitra and other Ministers of the state Government. The charge sheet signed by 62 others leveled charges of impropriety against the Chief Minister and others.

The (then) Union Home Minister, Gulzarilal Nanda referred the charges to the C.B.I. for a preliminary inquiry. In November 1964 C.B.I. submitted the report. The report concluded that on the basis of the scrutiny of the records it would not be possible to say that all the allegations were unfounded, unsubstantiated, or untrue. There were quite a few and some of them were serious enough which required further inquiries to come to definite and clear conclusions.

The report warranted a full fledged Inquiry and as was the precedent or propriety, the report should have been made subject to Commission of Inquiry. However, Government of India decided to set up a Union Cabinet sub-Committee consisting of Home Minister Gulzarilal Nanda, Defence Minister Y.B. Chavan, Finance Minister T.T. Krishnamachari, Foreign Minister Swaran Singh, Law Minister A.K. Sen, and M.C. Chagla, the Education Minister. The Sub-Committee was required to consider in detail the allegations against the Orissa Ministers, the C.B.I. reports and the Ministers’ explanations. Thus, Union Government decided to subject the report of C.B.I. for scrutiny to a cabinet sub-committee instead to a Commission of Inquiry.

This Sub-Committee submitted its report in January 1965. The conclusion of the report was that the manner in which Chief Minister, Sh. Patnaik and his Deputy, Sh. Mitra, directly or otherwise, conducted Government transactions in which were involved the interests of private concerns owned or controlled by them or by their relations, was definitely not in keeping with the normal standards of Public conduct. The sub-committee expressed its serious concern at the picture emerging as a whole from the series of such individual transactions in many fields of activity of the State Government and the improper use of authority by leaders of the Government.

However, sub-committee did not favour the institution of an Inquiry Commission. In October 1967, when a Non-Congress Government headed by R.N.Singh Deo came into power, a Commission of Inquiry was appointed to inquire into and report on the charges against Sh. Patnaik, Sh. Biren Mitra and thirteen other Ministers including Sadasiba Tripathi, the leader of the opposition in Orissa Assembly. Justice H.R. Khanna, the (then) Judge of Delhi High Court was appointed as Commission of Inquiry.

Justice Khanna submitted his report on 15 January 1969. It exonerated all other persons mentioned in the charge sheet but upheld some of the charges, which were grave enough, against Sh. Biju Patnaik and Sh. Mitra. Justice Khanna observed, that “Sh. Patnaik should have allowed such a sway to the pecuniary and business interests of the companies, which had been started by him and with which is family members were associated, in dealings with the state Government, that within two or three years of his stewardship, is public image became tarnished and the hopes which were built
around him, were shattered to pieces...." The Commission pointed out, in
detail, as to how Sh. Patnaik passed on the Low Shaft Furnace plant, which
was uneconomical and involved the expenditure of crores of rupees of state
exchequer, to Orissa State Industrial Development Corporation. Sh. Patnaik
who was himself a Industries minister, maneuvered the transfer of the plant
and it is worthwhile to mention here that agreement for sale was executed by
Mrs. Gyan Patnaik, wife of Sh. Biju Patnaik as Chairmperson of Kalinga
Industries. The computation of price was made by a firm of auditors who had
been associated with Kalinga Industries for more than a decade. Khanna
report highlights many episodes like State Finance Department circular
directing Government Departments to purchase vehicles stores and other
materials only through local dealers with in the state. As C.B.I. Inquiry had
earlier pointed out that the circular gave virtual monopoly in favour of Orissa
Agents (Mrs. Biren Mitra as sole proprietor), for the products of Kalinga
Industries Ltd. And Kalinga Tubes Ltd. (Patnaik concerned) in certain goods.
Even Cabinet sub-committee had confirmed it. The Government of Orissa
purchased goods from these concerns worth lakhs of rupees without even
inviting tenders.

The Commission described it an "administrative impropriety" that the
premium of land held by a Textile Mill owned by Sh. Patnaik and his family
members was reduced from Rs. 400 per acre to Rs. 100 per acre, after Sh.
Patnaik became the Chief Minister. The order, though made by the Revenue
Minister, was endorsed by Chief Minister. In regard to Deputy Chief Minister,
Biren Mitra, the Commission on the basis of assessment of Income Tax
Officer, who assessed Sh. Mitra’s wife, Mrs. Easwaramma’s concern came to
the conclusion that during the years Mr. Mitra was Deputy Chief Minister the income of his wife as the proprietor of Orissa Agents rose steeply.

The assessment revealed that Mrs. Mitra's income had risen from Rs. 69,143 during the assessment year 1960-61 to Rs. 6,98,524.00 in the year 1963-64.

The Khanna Inquiry Commission against Biju Patnaik and others reveal yet another facet of abuse of official position to obtain pecuniary gains by those holding high public offices. To float business and commercial concerns in the name of members of family or bizarrely in one's own name, a high public official like a Chief Minister or a Deputy Chief Minister, using official machinery including officials to promote his own business and obtain pecuniary gains makes a complex portrayal of phenomenon of corruption in India.\(^\text{61}\)

**H. T.L. VENKATARAMA AIYER COMMISSION REPORT\(^\text{62}\):**

In March 1967, a United Front Ministry appointed Aiyer Commission to inquire into the charges against former Congress Chief Minister, Mr. Krishana Ballabh Sahay and his five ministerial colleagues.

Aiyer Commission makes shocking revelations. The Commission holds Mr. K.B.Sahay squarely blameworthy of favoritism and abuse of power.

In regard to the grant of mining lease to Chief Minister Mr. Sahay's son, Mr. Someshwar Prasad, without considering other claims on merit,

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\(^{62}\) *T.L. Venkatarama Aiyer Commission of Inquiry* Constituted by the Government of Bihar to inquire into charges against K.B.Sahay and others (February 5, 1970).
commission held that Mr. Sahay exploited his position as Chief Minister and Abuse his power.

Commission held Mr. Sahay guilty of abuse of power by conferring gains to his sons Mr. Someshwar Prasad and Mr. Narbadeshwar Prasad by granting mining licences to them at different places in the state, even nullifying adverse order of Central Government, undue favours to friends, interference in the administration of justice on the part of Chief Minister's sons, appointments made not on merits but malafide out of improper motives.

The Commission held Mr. Mahesh Prasad Sinha, No.2 in Mr. Sahay's cabinet guilty of many charges of abuse of power. However, most shocking revelation was holding Mr. Sinha guilty of receiving a bribe of Rs. One lakh and Rs. 75,000 respectively from a contractor. So he shares with Dr. H.K. Mahtab of Orissa the distinction of being a Minister of a State whom a judicial inquiry has found guilty of receiving a bribe.

Other ministers of Mr. Sahay's cabinet were also found guilty of certain charges like favourtism in appointments, grant of concessions, misuse of Government money and property. However, these are not relevant for the purposes of the present study.

In January 1968, United Front Ministry fell and a new Soshit Dal Ministry supported by Congress Party came to power in Bihar. This ministry appointed in March 1968 another Commission of Inquiry.

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Madholkar Commission held thirteen ministers guilty of wrongful withdrawal of cases, which are not relevant to the present study.

The Commission, however, held one Minister, Shri K.N. Singh, Raja of Ramgarh, one of the largest mine owners of the state, who was appointed as Minister of Mines, guilty of use of official position to enhance his own personal interests. It is ironical, as pointed out by Mudholkar Commission, that a person being himself a mine owner should have been appointed as Minister of Mines.

The exposures made by Commissions of Inquiry do not end there, but the tales of corruption continue to be revealed by subsequent Commissions in different states, though these reports do not have strict bearing on the present study.

The year 1977 may be termed as a turning point in the socio-political history of India because a new political party had assumed the reigns of power. Different Inquiries were conducted by the new Government at the Centre who had pledged to weed out corruption from the public offices in India. Shah Commission of Inquiry was one such important Inquiry which needs to be mentioned here.

I. SHAH COMMISSION OF INQUIRY

The grant of Shah Commission of Inquiry was generally different and it was appointed to look into "several aspects of allegations of abuse of authority, excesses and malpractices committed and action taken or purported

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64 'Shah Commission in Inquiry', Appointed under Section 3 of Commission of Inquiry Act, 1952 Interim Report I, March 11, 1978,
to be taken in the wake of the Emergency proclaimed on the 25th June, 1975 under Article 352 of the constitution. However, it throws light on a new aspect of the problem that men in political authority and power can use anti-corruption laws against public servants or can even shield some public or Government servants from prosecution under anti-corruption laws and libitum. Shah Commission records the following instances:

(1) Misuse of powers and institution of false criminal complaints against four senior officials by the C.B.I. at the instance of (the then Prime Minister) Smt. Indira Gandhi.65

Shah fact these four officials were collecting information regarding Maruti Limited for the purpose of replying a query in the Parliament.

Shah Commission came to the conclusion that “Smt. Indira Gandhi was responsible for institution of criminal proceedings (Under Prevention of corruption Act, 1947) against the four officers concerned (Shri Krishnaswamy, Deputy Secretary, Heavy Industries, Sri A.S.Rajan, Development Officer, DGTD, Shri L.R. Cavale, Chief Marketing Manager P.E.C. These officials belonged to the Ministries of Heavy Industries and Commerce), having their houses searched and subjecting them to humiliation (through C.B.I.), merely because they were responsible for collecting information in the discharge of their duties, which would have been prejudicial to the interests of Maruti Limited, a concern in which Shri Sanjay Gandhi, her son, was vitally interested.”

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65 ‘Shah Commission in Inquiry’ pp. 59-64.
(2) The Commission records yet another instance where anti-corruption law was circumvented to shield a favourite.66

A clerk employed by the Northern Railway, Sh. Sudrashan Kumar was caught in a trap laid down by C.B.I. Delhi Branch while accepting an illegal gratification of Rs. 3,300. Prosecution (case) under Section 161 of Indian Penal Code and Section 5(2) read with Section 5(1)(d) of the Prevention of Corruption Act was sent to the vigilance officer, Northern Railway. However, under pressure from (the then) Prime Minister’s household, the prosecution was dropped and instead a departmental inquiry against the official was launched. Though, in the words of the Commission, “On the materials collected by the authorities, there was little chance of Shri Verma escaping conviction for the offence of receiving a bribe.”

J. REDDY COMMISSION67

Reddy Commission against Shri Bansi Lal, the former Chief Minister of Harayana, came to the conclusion that the lands were purchased in Bhiwani (Haryana) by Shri Bansi Lal’s daughters at throw-away prices; and in order to give them an approach road a tar road was constructed at public expenditure though this might have ultimately benefited the public. “Therefore, there is no escape from the conclusion that all this was done at the instance of Shri Bansi Lal, his son Shri Surrinder Singh, who actively participated in giving effect to the objective of purchasing these lands cheaply and thereby conferring an unlawful gain to the daughters of Shri Bansi Lal.”

66 ‘Shah Commission in Inquiry’ op. cit.

The Commission further came to the conclusion that the destruction and demolition of shops, residential houses temples and Samadhis and other properties in Bhiwani (including the one's) belonging to (one) Shri Manohar Lal was done at the instance of Shri Bansi Lal, as Chief Minister and subsequently as Defence Minister, who was frustrated at not obtaining the properties of (one) Shri Manohar Lal and his sons for his (Bansi Lal’s) son, Shri Surinder Singh and his brother Shri Raghubir Singh, to build a Five Star Tourist Hotel and an air conditioned cinema by them respectively at a throw away price, abused his position as a person in authority. The Commission held that Shri Bansi Lal was aided by Deputy Commissioner and other officials in Bhiwani in this behalf.

K. COMMITTEE ON PREVENTION OF CORRUPTION68:

Santhanam Committee was the first of its kind constituted by Government of India in Post-Independence era to make an estimation of the problem and suggest remedies to control corruption among public servants. The Committee assessed the problem in-depth. The recommendations of the Santhanam Committee led to the amendments in anti-corruption laws, the constitution of Central Vigilance Commission, amendments in the Criminal Procedure Code and revamping of Central Government Servants conduct Rules.

The observations and the recommendations of Santhanam Committee have been duly incorporated in the present study at appropriate places.

68 Referred as Sansthanam Committee* in the present study.
The survey of these Commission Reports will be incomplete without mentioning the latest episode in Andhra Pradesh. This episode throws light as to how ministers in power have been responsible for delaying or scuttling governmental schemes of public welfare for monetary considerations received from vested interests who would be effected by such policies.

According to this report, S. Satyanarayana who was the Transport Minister in N.T. Rama Rao’s cabinet formed in 1983 has been held guilty by the Andhra Pradesh Lokayukt of receiving graft for showing ‘official favour’. The minister had been accused of deferring the nationalization of some bus routes in Cuddapah (Andhra Pradesh) after receiving Rs. 1.3 Lakh from some private bus owners of the district.

The State Government had initially hesitated to start proceedings against Satyanarayan, but, later, it referred the subject to the Lokayukt (Pmbudsman) under Section 18(3) of the Andhra Pradesh Lokeyukt Act. The accused tried to stop the proceedings by imputing political motives, but the High Court dismissed his petition.

CONCLUSION AND SOME OBSERVATIONS

Leafing through the plethora of reports of Commissions of Inquiry one reaches the following conclusions:

1. That most of the allegations of corruption against politicians holding high public offices are correct. The Commissions have even held the Chief Minister like Dr. H.K.Mahtab of Orrisa, and Mr. Mahesh Prasad Sinha, Deputy Chief Minister of Bihar guilty of directly accepting illegal gratifications.

2. That there have been strenuous efforts on the part of political leaders to avoid any inquiry against the fellow travelers i.e.: politician in power. However, even under great pressures from public, in the Parliament or State Assemblies and from media, attempts have been made to avoid a Commission of Inquiry to be properly constituted under Law. The handling of Keep Scandal, (which has been described by many a writer as an ‘Early warning’) by Jawahar Lal Nehru, his remarks on T.T. Krishnamachari’s resignation, his handling of Serajuddin affair, the Congress High Command’s Inquiry report exonerating Mr. Pratap Singh Kairon of all corruption-charges, and constitution of a Union Ministers’ sub-committee to look into the charges of corruption against Mr. Biju Patnaik are all illustrations to the point.

It is amazing to note that such situations have immediately proceeded the independence of the country. Needless to mention that one of the cherished ideals of Indian Freedom Movement has been to free Indian society from the evils of corruption and, bribery.

It may be pointed out that during second half of 1945, when Gandhiji came to know that Sri T. Praksham, a veteran congressman of Andhra Pradesh had accepted purses at various places and kept the money to himself, he wrote to him, “All the papers that you have sent to Sardar (Patel) and are now sending to me, show how, in my opinion, you have been instrumental, however, unwillingly in, as I would put it, corrupting public life…” Although Prakasam returned the money and credited the amount to Provincial Congress Committee Gandhiji persisted in his demand that Prakasam should quite public life.  

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70 Noorani, A.G., ‘Ministers’ Misconduct’.

71 Chowdhari, G. Rudrayya, 'Prakasam: A Political Study', op. cit., 158-159
However, after 1947, when Congress became the ruling party, it had to develop means and methods to sustain itself as a ruling party at local as well as to national level in a new democratic polity. As pointed out by James Scott: “As the ‘movement’ qualities of the Congress Party faded after 1947, the leadership, both locally and nationality, turned increasingly to machine style incentives to retain electoral majorities.” However, though the Congress party acquired a machine style, it did not and could not become a Machine as had happened in America. It could not be a replica of American machine because of various reasons like lack of resources, cultural particularism, social structure, emergence of local leadership etc. In order to win power, Congress party made compromises and acquired a style which has a semblance of machine. Thus, “in areas where customary authority was still strong, it meant adapting to traditional caste leaders and land owners – even to princes in some regions.” It is how one finds a Maharaja owing large estate of mines being appointed as a Minister of mines. One need not to forget that Indian National Congress had all along fought maharajas and princes, who were the allies of British power in India. But the Congress was compelled to adjust with them and accommodate their interests in the new socio-political system in order to retain the hold over power. The accommodation of corrupt politicians in party and Government was to consolidate and balance the

72 Scott, James, C., ‘Comparative Political Corruption’, op. cit., p. 132.
73 The development of the Congress Party in India has been compared to American Machine Parties and authors (Weiner, Party Building in a New Nation: The Indian National Congress, University of Chicago Press) have gone so far as to recommend the “machine” to Indian politicians as a form to emulate. For a discussion on “Machine”, see ‘Factory Analysis’, infra.
74 Scott, James, Ibid, p. 138
75 Mudholkar Commission Report.
political power. This accounts for the strenuous efforts made by the leadership to save a corrupt politician in power from falling in the trap of law.

3. The third and important conclusion which may be drawn from the Inquiry Commission Reports is that public servants have been conniving with politicians in perpetuating the phenomenon of corruption. More than one Commission of Inquiry have pointed out to the nexus between public servants and corrupt politicians. The Commissions have come heavily on public servants in this behalf. This is clear from 'Mundhra Deals' in the foregoing pages, that officials were hand in glove with the Minister Mr. T.T. Krishnamachari in causing a loss of millions of rupees to the Life Insurance Corporation and causing gains to a shady businessman Mr. Mudhra. A Board of Inquiry which was set up to look into the conduct of officials held two of them guilty and proposed punishment also. The officials were found guilty of abuse of authority, improper investment of funds and negligence. The involvement of government official is established in Dr. H.K. Mahtab’s case also. Day Inquiry Commission Report has indicated the government and public officials in Pratap Singh Kairon’s case.

The Das Commission\textsuperscript{76} also established the cases where the Chief Minister’s sons or relatives had exploited his influence and power in getting undue favours or advantages from Government officials for acquiring properties or business in violation of law or rules of established procedure. There were cases where Chief Minister’s colleagues or officials on their own had bestowed favours or advantages on his sons or relatives for acquiring

\textsuperscript{76} ‘Das Commission of Inquiry’, pp. 211-212.
properties or business in violation of law or established rules of procedure. This was done, as pointed out by the Commission, out of fear or in the hope of future rewards.

The Ayyangar Commission of Inquiry against Bakhshi Ghulam Mohammad has classified all such cases in a separate category. Ayyangar Commission Report gives distressing findings on the role of public officials in these words: "The most saddening and depressing of the materials placed before me were the affidavits of the officials who confessed to have knowingly done improper acts extending even to tampering with official records to the prejudice of the State, State property and monies in carrying out the desires or order of the respondent to benefit himself or his relations. The respondent who has denied charge made against him had naturally something very sharp and scathing to say against these officials – some of them heads of their departments like the Chief Engineer, the Chief Conservator of Forests, the Transport Commissioner – not to speak of the lesser ones. His case against them was put in two ways; first that these officers who still continued in service and some even promoted to higher jobs, had been coerced or tempted to make false statements out of fear of losing their jobs or face worse consequences. In the alternative, he said, that as on their own confession, they were guilty of improprieties, their statements were like those of accomplices entitled to little credence."

The Ayyangar Commission has used very harsh language and passed on very harsh judgement against such officials in these words,...” Though,

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77 Ayyangar Commission Report', 35.
therefore, the respondent might not be justified in saying that the officers were coerced or induced to speak against him, he is on firmer ground when he accused the officers of lacking in character, and of being on their own admission willing tools of the Government in power. Whether what they stated in their affidavits was true or false is a very different matter, but these deponents (public servants) are certainly very unreliable persons... What as indictment of public servants?

Khanna Commission of Inquiry against Mr. Biju Patnaik very clearly establishes connivance and involvement of government officials in promoting business interests of Mr. Patnaik and his family members thereby causing pecuniary gain on him and his family members wrongfully.

Mitter Commission against Mr. R.N.Singh Deo specifically indicts two civil servants.

Aiyar Commission report against Mr. K.B. Sahay of Bihar records more than one instance of public servants conniving with the ministers to cause wrongful gains to them in violation of law.

P. Jaganmohan Reddy Commission against Mr. Bansi Lal rightly concludes that the civil servants must also realize that governments change and different shades of government with different views, principles and ideologies come and go, but the civil servants are permanent and are meant to give stability to the administration and to ensure that public administration runs efficiently and with integrity and public spirit. They are not government

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servants or servants of the political head, but “public servants” whose duty it is to serve the public and not anyone as their master, much less a transient master.”

Much has been made about harassment to public servants if they do not connive with the ministers. Some of them have even pleaded before Commissions of Inquiry the fear of victimization and apprehensions of jeopardizing their future career. Such arguments appear to be felicitous. The Indian Constitution and other statues and rules give enough protection to government and public servants. Moreover, the intervention of courts in the matters of undue victimization, harassment and protection of service rights had resulted in a new branch of “Service Laws”. Courts in India have been very boldly coming out and protecting the rights of public servants and stopping executive high-handedness by way of issuing writs. Therefore the arguments of fear of victimization do not hold any ground. As rightly pointed out by Reddy Commission, ‘that if with all these constitutional and statutory safeguards and protection, a civil servant cannot hold his head high in abnormal and unfriendly times to do his duty fearlessly, he cannot legitimately expect any sympathy or consideration.’

4. The Commissions of Inquiry clearly establish a nexus between politicians and businessmen. More than one Commission of Inquiry lay bare the facts of promoting each others’ interests on the part of businessmen and the politicians. Keep Scandal, Mundhra deals, Sirajuddin Affair, Dr. H.K. Mahtab’s cases may be illustrations to the point. Thus, these scandals prove

80 See, Note Indian Legal System.
this pithy expression that, "the economic elite of the city does not simply play
golf with the political and legal elite. There are, in fact, significant ties
between the two." These ties may provide a clue to the evil of many
economic offences like black money, hoarding and profiteering in Indian
Society. It is no secret that proclaimed smugglers and economic offenders
have publicity claimed political patronage. Thus the efforts to demolishes the
parallel economy in India have proved futile because rot lies somewhere else.

In a recent estimate made by the National Institute of Public Finance
and Policy, carried out on behalf of Department of Revenue (Central Board of
Direct Taxes) of the Union Finance Ministry, the Institute has come out with
startling facts. The report has estimated that during 1983-84, black money
generated was about 21 percent of Gross Domestic Product (GDP), or in
absolute terms about Rs. 37,000 Crore. These estimates do no include black
money generated through large scale smuggling activities, and through black-
marketing in foreign exchange and other Price-controlled commodities.\textsuperscript{83}

The report, while enumerating reasons for generation of black money,
among other factors, places cuts and kickbacks on contracts, sale of licences
and permits and bribes as factors responsible for generating black-money.\textsuperscript{84}

In an assessment of effects of black money on Indian economy, Y.S.
Mahajan, Member of Parliament, comments: "The monster of black money
has assumed the massive form of a parallel economy and poses a serious
threat to the economic base of our society. It also dominates politics and those

\textsuperscript{82} Criminal-Political - Legal Elite, \textit{Wisconsin Law Review}.
\textsuperscript{83} 'Aspect of the Black Economy in India' National Institute of Public Finance and Policy, 1985,
p. 434.
\textsuperscript{84} Ibid.
who have the capacity to get an advantage in fighting the elections — posters and handbills which used to cost less, have been eliminated by the newest and expensive gadgets like audio and video tapes, and costly equipments. Mr. Mahajan finds the connection between politicians and black money as: "The need for black money arises because politicians have to depend to a considerable extent on funds to be supplied by business firms for defraying election expenses."

In connection with the role played by corrupt government officials to generate black money, he further writes that: "It has been widely recognized that one of the important sources of generation of unaccounted wealth is lack of integrity among officials in almost all departments of the Government which have public dealings. Corruption has crept in even in the administration of Justice and education — areas which were hitherto regarded as sacred. In my view, corruption which has become endemic in our society is the biggest source of black money generation."

5. There has been no follow-up action on the findings of Commissions of Inquiry. Inspite of the fact that clear cases of corruption and bribery have been established against Ministers and other politicians in power, no criminal proceedings have been launched against them. The reasons may be two fold. Firstly, as discussed in foregoing pages of these conclusions, that being biggest beneficiaries of the political system, they safeguard each others interests. Commission of Inquiry reports are a play in the hands of politicians to keep each other away from seats of political powers. These reports are also

86 Ibid.
87 Ibid.
an important device to contain the sentiments of public indignation against the political system and cool off their passions so that they do not revolt against the system. Secondly, and more important, that the ministers had been excluded from the arena of criminal law because anti-corruption laws were not applicable to them. The criminal law (Indian Penal Code) excluded ministers’ from the definition of ‘Public Servant’ and hence Section 161 of Indian Penal regarding bribery on the part of Ministers and Prevention of Corruption Act were not applicable to them. However, the amendment in the definition of “Public Servant” under I.P.C. and inclusion of ministers within the ambit of public servants and hence within the net of anti-corruption laws does not seem to have been of any help. Because no cases have been launched against them so far.

The writings and scholarly compendiums on corruption among politicians holding high public offices in India abound. One may use this as a secondary evidence, but as is evident from foregoing pages, the fact is established by judicial commissions duly appointed by Central and State Governments.

Santhanam Commission on prevention of corruption, while discussing the creation of a social climate to banish the evil from society opined. “There is a large consensus of opinion that a new tradition of integrity can be established only if the example is set by those who have the ultimate responsibility for the governance of India, namely, the Ministers of the Central and State Governments. The problem is difficult and delicate. Ministers are necessarily the leaders of the political party which succeeds in obtaining a majority in elections based on adult suffrage. There is a
widespread impression that failure of integrity is not uncommon among Ministers and that some Ministers who have held office during the last 16 years have enriched themselves illegitimately, obtained good jobs for their sons and relations through nepotism, and have reaped other advantages inconsistent with any notion of purity in public life. The general belief about failure of integrity amongst ministers is as damaging as actual failure.\textsuperscript{88}

Ayyangar Commission concludes "...I am besides conscious of the fact that the temptations offered by political power are great, and if one occupying the position that the respondent did, were determined to do wrong and benefit himself and his family members at the expense of the state, as denoted by the spree which I have found the respondent indulged in between 1960 and 1963, nothing except the existence of political parties which not merely lay down codes of moral conduct, but seriously enforce them and weed out of public life proved transgressors, an independent honest and public spirited civil service, a vigilant, virile and fearless press which takes a non-partisan attitude as regards cleanliness in public life, and an informed, intelligent and alert public opinion could prevent or stop it.\textsuperscript{89} Ayyangar concludes the report on this touching note, "if this detailed examination would, by bringing into public view, the methods adopted to secure undue financial advantages, serve at least in some measure to diminish even if it does not eliminate improprieties in public life, the trouble, I have taken would have been worthwhile, and I would have achieved my purpose.\textsuperscript{90}

\textsuperscript{89} Ayyangar Commission Report, p. 270.
\textsuperscript{90} Ibid.
Jaganmohan Reddy concludes his Inquiry Report in these words: “It is clear, therefore, that to blame the civil servant and to point out the conditions, pressures and persecutions would be to look for the malice in the wrong place. No army can be more efficient than the General and if the General chooses to seal the ‘fort’ of democracy, the soldiers on duty can not be expected to fire from the ‘ramparts’ aimlessly, especially when it may lead to suicidal results at the hands of their own commander. The front of democracy has to be defended by the custodians of democracy, the elected representatives of the people; the civil servant is merely an instrument of execution. However, faithful he may be, he cannot be expected to be a more bit of pear flying in the eddies of their masters’ desires. If we extend a step further and see how the political masters, viz, the party as well as the Cabinet colleagues of the Chief Minister behaved, we find the situation equally a matte of regret.91

L. N.N. VOHRA COMMITTEE REPORT

The Government of India woke up very belatedly to this alarming situation of a growing nexus between criminals and politicians and convened a conference of chief ministers on the 'Administration of Criminal Justice in India' in 1992, which, in a unanimous resolution expressed its concern at the increasing criminalization of politics and politicization of criminals. The conference recommended the formation of a ministerial group under the chairmanship of the Union home minister to take follow-up action. This group hardly met and the recommendations of the chief ministers' conference remained for all practical purposes a dead letter. Nothing tangible was done

notwithstanding goading by the police research organization known as the Bureau of Police-Research and Development under the Government of India.

The following year, the government constituted, in the Ministry of Home Affairs, on 9 July 1993, a committee with Union home secretary N.N. Vohra as chairman, and secretary, RAW; director, IB; director, CBI; special secretary (Home) as members, and joint secretary (police), as the member-secretary. The committee was asked to take stock of all available information about the activities of crime syndicates/mafia organizations that had developed links with and were being protected by government functionaries and political personalities and make recommendations. The committee inter alia reported on 3.10.93 that, (i) all over India had become a law unto themselves. Even in the smaller towns and rural areas, muscle men had proliferated and assassinations were common place. A nexus between the criminal gangs, police, bureaucracy and politicians was a common occurrence in various parts of the country, (ii) There has been a rapid spread and growth of criminal gangs, armed senas, drug mafias, smuggling gangs, drug peddlers and economic lobbies -in the country, which have, over the years, developed an extensive network of contacts with the bureaucrats/government functionaries at the local level, politicians, media persons and strategically located individuals in the non-state sector, (iii) In states like UP, Bihar, and Haryana, the mafia gangs enjoy the patronage of local level politicians and the protection of government functionaries. Some politicians become leaders of these gangs and get elected to the state assemblies and Parliament, (iv) The mafia network was virtually running a parallel government, making the state apparatus virtually irrelevant, (v) These syndicates have acquired substantial
financial and muscle power, social respectability and wield enough influence to make the task of time investigating and prosecuting agencies extremely difficult. Even members of the judiciary have not escaped the influence of mafia, (v) Not infrequently, officers in charge of cases are transferred long before they can complete their task, etc.\textsuperscript{92}

In fact, it was not so much the report of the committee as much as N.N. Vohra himself. Unfortunate when it came-to measures to deal with the situation, Vohra Appeared more concerned with further consolidation of the hegemony of the home secretary over other professional heads of police organizations and agency. In para 151, Vohra wrote\textsuperscript{93}:

"In the normal course this report would have been drafted by the member-secretary who was joint secretary in the MHA under Vohra and finalized by the committee considering the nature of the issues involved."

This seems to be a curious approach to the functioning of such a high powered committee comprising the heads of sensitive organizations with enforcement and intelligence tasks and responsibility for finalizing a report. The members of the committee had indicated their views regarding the establishment of a nodal agency with primary responsibility. For collection, collation, and operationalization of all information rather than devising appropriate machinery for enforcement. The committee did not go into the modalities of operations that urgently needed to be taken to deal with the situation. Brushing aside the views of other members, Vohra went on to recommend that it would be logical if the nodal setup is under the MHA.

\textsuperscript{92} File://H/Vohra Committee Report.htm, p. 1.
directly handled by the home secretary, who can be assisted by one or more selected officers of the ministry. The report made no mention of the recommendations of the National Police Commission and the L.P. Singh Committee appointed by the Morarji Desai government in the wake of the Shah Commission report.

Madhav Godbole, a now retired member of the Indian Administrative Service and an upright officer, who decide to take premature retirement form service out of sheer frustration when he was Union Home secretary in his book *Unfinished lunings*, has described the Vohra report as a non-document which hardly said anything new. In fact, he wrote, ‘What is significant is what it (the report) does not say. The complex issues cannot be addressed in this perfunctory manner.

Naturally, the report remained a nonstarter till a storm broke out some years later demanding the tabling of a copy before Parliament. According to Rabi Ray, former Speaker of the Lok Sabha, the report was 'placed before the Parliament, under somewhat dubious circumstances, to draw attention away from the scandalous Naina Sahni murder case involving a worker of the ruling party. It appears that some of the vital information defining the nexus between high political functionaries and the mafia, which were made available to the Vohra Committee, were totally omitted. A part of this is now informally making rounds in various circles in Delhi. They make startling revelations, some of which are given below\(^\text{94}\):

1. It talks about Mool Chand Sampat Raj Shah alias Moolchand, alias Choksi, r/o 604 Rajinder Vihar, Gwilder Lane, Wellington Road, Bombay. He developed close relations with Dawood Ibrahim as long ago as 1980 and was responsible for transferring money from various important people in Bombay to the including Rs 20-50 crore for a former chief minister.

2. A COFEPOSA detention order was issued against Moolchand in March 1989. This is reported to have been revoked in May 1990 by a political functionary in the Home Department, Maharashtra, allegedly for a consideration of Rs 2 crore.

3. Moolchand was arrested by the Mumbai Police in April 1991. He was produced before the Special Designated Court in Bombay on 17.4.91, and was remanded to police custody till 24.4.96. During interrogation by the CBI, Moolchand allegedly claimed that he could not be held under detention for long and in this context spoke of high political connections.

4. Moolchand again same under scrutiny for funding terrorists and underworld elements after the series of bomb blasts in Bombay. In March 1993. He was arrested on 4.5.1993 by DIG CID Crime Branch Bombay, and was subsequently remanded to judicial custody under TADA.

5. The report confirmed that Moolchand wielded a great deal of influence amongst politicians and bureaucrats. As a result of which and his monetary clout, he allegedly could not be interrogated at length during his arrest by DRI Enforcement Directorate and Customs.
6. East-West Airlines as a subsidiary of East-West Travel and Trade Links Ltd., Bombay. Its chairman who is an NRI based in Bahrain, maintained very close links with Dawood Ibrahim. It was reported that a politician related to the Janata Dal allegedly worked as a conduit for funding East-West Airlines through one of its directors, who in turn was helped to raise money allegedly by a cabinet secretary through Dena Bank, Allahabad Bank, etc.

7. It was also understood that a person close to a former PM, who worked as his personal secretary, had allegedly helped East-West Airlines to raise funds from persons known to be close to a former prime minister and in particular a minister in the Central government at the time the report was prepared, i.e. in 1993. It was also gathered that a brother of an important adviser to a former prime minister acted as a conduit for funds flowing into East-West Airlines from Dawood Ibrahim and his gang.

8. It was reported one Usman Ghani ran a flourishing currency exchange business in Dubai. Some of the important personalities whose money he dealt with included top film personalities and an advocate close to a top politician of Bombay. Usman Ghani was part of the Bombay blast conspiracy.

9. Dawood Ibrahim entrusted Rs 3 crore to a political worker of Delhi for the purchase of a plot adjacent to Sun-n-Sand Hotel in Bombay. This political-worker was once very close to a former prime minister.
The nation would like to know what the much publicized Vohra Committee did with these startling revelations and what concrete follow-up action was taken, and whether any further verification was undertaken in all such matters. When, on the recommendations of he Vohra Committee report, not even a nodal agency was created what could be expected by way of concrete action, particularly when known serious allegations against high public functionaries remained buried with different enforcement agencies for years together and came to light only when the Supreme Court intervened. It required another such intervention in September 1997 for the government to act. Under directions from the court, the government set up a three-member committee with the same N.N. Vohra, principal secretary to the prime minister, as its chairman. Former cabinet secretary, B.C. Deshmukh and central vigilance commissioner, S.V. Giri were appointed members. The Supreme Court had asked as early as March 1997, for the high-level committee to be set up. Curiously, no professional or the head of CBI or any other intelligence or enforcement agency was associated with this committee.

The report of the Research Centre was noteworthy in many ways. It traced the historical background of the growth of some of the notorious criminal gangs such as those of Vardha, Haji Mastan, Yusuf Patel, Dawood Ibrahim, Ram Nayak, Om Prakash Srivastava alas Bobloo Srivastava, Arun Gawli, etc. The report contained details of their nexus with politicians only confirming what had been cited in the Vohra Committee report. Some of the startling facts are summarized below:

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1. The police record showed that a councilor in the Bombay Municipal Corporation allowed his office to be used by the Makabwala gang to assemble before going on a murder mission.

2. Maulana Sinuddin Bukhari an ex-MLA was shot dead in front of his house by the Arun Gawli gang as a warning to the Dawood Ibrahim gang. He had been selected because they knew that he had close relations with a number of politicians including a former chief minister who had connections with Dawood Ibrahim and was suspected of using this political connection to bring pressure on the law enforcement authorities.

3. When Babu Rashim of the Ram Nayak gang, and later Ram Nayak himself were killed, several politicians, including MLAs belonging to the ruling party in the state, attended their burial and eulogized them as social workers, etc.

4. Subhash Singh Thakur, a trusted hitman of Dawood Ibrahim, had allegedly told the police that he and other associates of Bhai Thakur who had taken a leading part in the J.J. Hospital killings, had used the official residence of a sitting MP as their operational headquarters as well as a safe haven in Delhi. The MP not only offered board and lodging but also provided this telephone facility and kept abreast of what they were doing.

5. Bhai Thakur in his statement before the CBI allegedly substantiated the involvement of the MP with members of the Dawood Ibrahim gang. He confessed that he had stayed in the house of the MP in Delhi.
for one and a half months in 1992 and during a subsequent stay this MP had also discussed with him cases registered against him by the Bombay police.

6. Subash Singh Thakur has a penchant for befriending politicians. He narrated how he had easy access to a Central minister, who even arranged accommodation for him at NTPC Guest House in Delhi. In fact, the MP as well as the nephew of a Central minister took a keen interest in the details of the J.J. Hospital shoot out. Subash Singh asserted that Dawood Ibrahim contacted him via a long distance call from Dubai when he was staying with the MP after the murders.

7. Subash Singh Thakur also knew the PA of a former prime minister. He allegedly used this contact to arrange a meeting with the former prime minister. Later, Subash Singh Thakur’s associate, Sunil Sawant, and others allegedly met the former prime minister and obtained an assurance of assistance in cases registered against them by the Mumbai police.

8. Maish Lala, legal advise to the Dawood Ibrahim gang, disclosed in his statement to the CBI that in July 1993, he took an important functionary of the former prime minister’s political faction to Nepal to settle matters with the Nepal police who had raided Sunil Sawant’s house because this functionary knew the head of Nepal’s IB.

9. Subash Singh Thakur’s younger brother is married to the cousin of an office bearer of the youth wing of a political party. The marriage took place in Varanasi district in June 1991, and was attended by a host of gangsters belonging to the Dawood Ibrahim gang.
10. A certain Anil Amarnath Sharma, who was arrested by the Mumbai police in connection the JJ Hospital shoot out, allegedly told the police that he had originally been a businessman, but got involved with the gangsters essentially due to his relationship with the above office bearer of the youth wing of a political party. The latter had persuaded Sharma to allow his Vile Parle flat and the phone installed there to be used by Subash Singh Thakur and Sunil Sawant Sharma. He also revealed the involvement of a personal assistant and nephew of a former Central minister in the affairs of the gang even when the minister was in office.

According to the report, the situation in Delhi is no better. The report, however, did not go into details but briefly discussed the nexus between a dreaded gang led by a politician, who is now an MLA and other top politician.

The report also went into the nexus between the police and criminal gangs. The latter tried to neutralize the former thorough bribery, etc. When the gangs were confronted by conscientious police officers, they attempted to exert pressure on the police with the aid of obliging politicians. The report said Dawood Ibrahim, whose father served the Mumbai City Crime Branch for a number of years as head constable before he retired, is still regarded by serving police officers as 'our boy', who went astray. Dawood is reported to have 'links' in the police which are handy in getting some rivals eliminated. Some of the gangs also provide monthly doles to the officers and staff of police stations. Sathish Raja of the Dawood gang specialized in this and
reportedly his 'reach' extended to senior officers not only in the police department but also in other departments relevant to the gang. There is material to indicate that Amar Naik has many sympathizers in the lower ranks of the police force, and a personal diary of Naik contained the names and telephone numbers of many police officers.

M. THE TELECOM SCAM

Popularly known as the ‘Sukhram Scam’, this was a product of the gradual liberalization of the Indian Economy. Every sector during the period was being thrown open to privatization. However, the country was not fully prepared for the onslaught of the market. In had no infrastructure, no guiding strategies and no crisis management regime. In such a situation, there is a normal tendency in powerful persons who know the whole scene to manipulate using their statute, post/s, power etc. thins to their own benefit. It is precisely this that happened in the Department of Telecommunications in the early 90s.

The Chronology

1. TEC floats a tender for 3000 MARR sets.

2. March ’92 & may ’93 : TEC evaluates 35 bids for MARR systems given part order to ARM @ Rs. 3.54 lac per system. Sets up Price Negotiation Team.

3. Sept. 1993 : ARM asks Sukhram to restore price cut and orders 450 crystal sets instead of 300, committee members object but are overruled.


7. Aug. 31, 1995: HFCL bids highest in 9 circles at 85,000 crore rupees. Their bid is Rs. 50,000 crore more than their nearest rival. HFCL’s ability to raise funds in doubt.

**Sukhram’s Modus Operandi:**

1. Get pliable bureaucrats
2. Over rule officials
3. Transfer officials who object
4. Wait until the right moment in order to strike

The Government was stunned by the scandal. Doubts were raised on the minds of government officials and ministers regarding the entire liberalization process. However, the government could not stop it as it was too far ahead in its course to stop it. The GOI would have to return over Rs. 1900 Crores which had been collected as license abrogated or renegotiated. Also, the impact on foreign investment would have been extremely bad and India’s credibility broken to pieces.

In a significant decision, the Delhi high court on 22 May 1997 quashed as illegal and arbitrary a decision by former communications minister Sukhram to award 90 percent of the contract for transmission instruments to Hyderabad-based Advanced Radio Masts Limited and associate companies in 1995.96

Justice C M Nayar noted that Sukhram took this unilateral decision after “discarding” the recommendation of a tender evaluation committee and

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thereby posed "huge losses" to the state exchequer.

The high court had stayed the awarding of the contract after VXL Engineering Limited and P S Measurements Limited petitioned it, contending that as per the recommendation of the tender evaluation committee they were to be awarded 30 to 50 per cent of the contract for digital transmission analysers.

Quashing the then communications minister's decision, the court noted that it was based on "extraneous considerations".

Not only had Sukhram overturned the Tender Evaluation Committee's recommendation, but had also directed that advance purchase orders be placed on ARM and four other chosen companies, which had quoted rates much higher than those bid by the petitioners.

_Justice Nayar noted that "There was no basis to say that the acceptance of higher rates would result in saving of Rs 15 crore (150 million) to the Department of Telecommunication compared to last tender rates. This averment is not borne out from the records and no explanation is offered"._

On the contrary, the acceptance of prices of ARM and the other companies in comparison to those of VXL and P S Measurements would have caused huge losses to the state exchequer, the judge added.

Justice Nayar noted that during the pendency of the proceedings DoT counsel Rakesh Tiku had filed an additional affidavit stating that the

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government had decided to pay a uniform price of Rs 107,000 and Rs 94,744 for packages one and three of the transmission instruments.

This was the price quoted by the petitioners and lower than that quoted by ARM and others.

However, the DoT said that it would stand by Sukhram’s decision to award 90 per cent of the contract to ARM and four others.

Setting aside this decision Justice Nayar directed that the placement of orders be worked out as per the tender documents.

According to the tender documents, 30 to 50 per cent of the contract was to be awarded for technically and commercially responsive bids in inverse proportion.

The tender is to be on Indian rupee terms and commercial supplies can start only after the goods have been type approved by the purchasers.

Justice Nayar held that the above provisions will have to be followed by the government and noted that this was the method recommended by the TEC also. However, the judge added that it would be open for the government to fully satisfy itself about the quality and technical viability of products before taking any further steps.

Counsels Maninder Singh and Pratibha Singh appearing for the petitioners had contended that the “favouritism” to ARM and others would cost the exchequer Rs 130 million.

Advance Radio Masts is owned by Hyderabad-based Pattalu Rama Rao, who is a co-accused with Sukhram in another multi-million-rupee deal for radio relay systems.
The contract awarded in the present case was for 528 pieces of DT A 34 MB/s without jitter and 1,137 pieces of DTA 140 MB/s without jitter floated on October 31, 1994.

Besides ARM, the other companies allegedly favoured by Sukhram are ARM’s sister concern Advance Communications and Devises and Gurgaon-based S M Creatives Electronics Private Limited and Hyderabad-based Sinclaire Electronics India Limited and Surana Telecom Limited.

Noting the chequered history of the contract, Justice Nayar observed that the first tender evaluation committee did not consider the bids of the petitioners, who then represented to the minister.

Sukhram then appointed a second tender evaluation committee on March 12, 1995 headed by the chairman of the Telecom Authority and with member finance, member production, adviser production and deputy director general (materials management) as members.

This committee, in its report of November 1995, placed VXL and P S Measures and Control at first and second positions, entitling them to secure 30 to 50 per cent of the contract.

However, ARM then represented to Sukhram and argued against the eligibility of these companies to secure the contracts.

Justice Nayar noted that Sukhram had adopted the ARM’s opinion as his own and proceeded to overturn the recommendation of the second TEC, which he himself had set up.

Noting that his decision was based on extraneous considerations, Justice Nayar observed that ARM being a rival bidder its opinion could not have been acted upon by the government.
On July 5, 2002, a Delhi court on Friday convicted former communications minister Sukhram in a telecom scam case in which he was accused of causing a loss of about Rs. 1.68 crores by favouring a private firm while awarding a contract.  

Besides the 75-year-old Sukhram, who now heads his own party, the Himachal Vikas Congress, Special Judge V.K. Jain also convicted former telecom department deputy director Runu Ghosh and the managing director of the Hyderabad-based firm Advance Radio Masts, P. Ramarao, for corruption and criminal conspiracy.

Sentencing Sukhram to three years imprisonment the court observed: "Being a minister in the Union Cabinet a great deal of faith was reposed in him ... But the chose to act otherwise and betrayed the trust reposed in him by the nation while giving such a high office to him. If the minister himself abuses his position as a public servant, it will be hardly possible for him to check similar abus by other public servants working under him. "Sukhram, Runu Ghosh and P. Ramarao were present in the jam-packed court The CBI had filed a chargesheet in March 1997 accusing Sukhram and Runu Ghosh of entering into a criminal conspiracy with Ramarao and abusing their official position as public servants. It was alleged that Sukhram, as the then telecom minister, had conspired with others and approved the bid of the Hyderabad-based private firm even though its rates were higher than that other bidders,

98. "At last Sukhram gets 3 years imprisonment", The Asian Age, 7-8 July, 2002.
99. Ibid.
100. Ibid.
The equipment, the prosecution alleged, was of much inferior quality and the higher price approve for such equipment caused a loss of around Rs. 1.68 crores to the exchequer. The accused were booked under Section 120(b) of the IPC and Section 12(2)(c) read with 12 (1)(d) of the Prevention of Corruption Act. Runu Ghosh was also sentenced to two years rigorous imprisonment and a fine of Rs. 50,000 for the substantive offence under Section 13(2)(d). The sentence would run concurrently, the court said. The judge said the conviction and the sentence would remain in abeyance till August 5 to enable them to file an appeal only if they deposited the fine with the court. Sukhram said he would appeal to the high court. "I have full faith in the judicial system," he said, adding that prima facie the case is in his favour and that his appeal may be allowed. Sukhram's counsel D.S. Patial said the former minister would file an appeal in the Delhi high court against his conviction. The accused were granted bail till the filing of appeal period and subject to their executing bail bonds of Rs. 1 lakh each. Runu Ghosh's counsel Satish Tamta said he would file the appeal in the high court before August 5.

The Delhi High Court on July 22 admitted the appeal by former Communication Minister Sukhram against his conviction in the telecom scam case related to the supply of MARR equipment for communication network in rural areas and issued notice to the Central Bureau of Investigation (CBI) for filing its reply.  

Admitting the petition by Sukhram challenging his conviction and three years rigorous imprisonment for criminal conspiracy and under the provisions of Prevention of Corruption Act (PCA) by the trial court, justice M

A Khan directed CBI to file its reply by July 25.  

Sukhram has also sought suspension of the sentence and regularisation of interim bail, granted by the trial court on July 5 when the judgement was pronounced.

While sentencing him to three years jail term, designated judge V K Jain on July 5 had allowed him and two other co-accused one-month's time to file appeal in higher court.

The High Court has already admitted appeals by co-accused, Department of Telecom (DoT) senior official Runu Ghosh and P Ramarao, a former managing director of Hyderabad firm Advance Radiao Masts (ARM), which was provided undue favour in an equipment supply contract during 1993-94 when Sukhram was the minister.

The High Court, however, rejected Runu Ghosh's appeal for suspension of the order of conviction in the light of Supreme Court's judgement in the K.C. Sareen case.

The order of suspension from Government service was served on her after trial court initiation of disciplinary action.

102. Ibid.
103. Ibid.
104. Ibid.
She pleaded the her service should not be terminated till the pendency of the case saying an appeal against the conviction was a continuation trial.

Citing the Sareen case, the High Court said if a Government servant was found guilty of corrupt practice after a judicial process, disciplinary action should be taken against him till the higher court exonerates him. If the higher court found such a person not guilty, then all service benefits and remuneration could be restored provided he had not crossed the age of superannuation.\textsuperscript{105}

\textbf{\textsc{N. THE UREA SCAM-‘NITROGEN FIXAITON’}}

The urea scam has its genesis in the P.V. Narsimha Rao regime. It is not only important because of the amount involved the negatives it generated. At the centre of controversy lay a dubious deal signed by the NFL with a little known Turkish firm called Karsan Danismanlik Turigam Samayi Ticarct Ltd. For the supply of 200,000 tons of urea in Oct. 95. The CBI, which was probing the scam, charged the NFL management with making a full advance payment of $37.62 million to Karsan in complete violation of accepted business norms. The agreement was made without any bank guarantees, a complete insurance cover and even a letter of intent. Also, it would be naïve to assume that the NFL M.D. could authorize payment of $38 million to the Turkish firm without the consent of scores of officials, going right upto the then Minister of Fertilizer. Possibly, even higher powers were involved because the system of fertilizer procurement does not permit such rash payments to be made.

The CBI found that a part of the payment amounting to $ 200,000 found its way back into India via an ANZ Grindlays Bank account in Hyderabad. The account belonged to Saikrishna Impex, agents for Karsan in India. The CBI believed that the sum was brought into India via Rea Brothers Ltd. A company with which Prakash Yadav was supposed to be closely involved. Thus, a clear political angle could be established.

All about Karsan

Karsan is listed as a tourism firm in Turkey and is little known. The officials of the team sent to Ankara by the Ministry found that it was a very small firm even in Turkey and quite incapable of fulfilling the commitment it had made. Not only had NFL failed to check Karson’s credentials, it also had not taken insurance cover against the possibility of Karsan not fulfilling its contractual obligations.

The Fallout

NFL had planned to expand the capacity of its Nangal plant by 215,000 tonnes and that of its Panipat plant by 726,000 tonnes. Doubling the capacity of the Vijapin plant, involving an outlay of Rs. 1000 crores, is also pending clearance. It was planned to get the money from the capital markets. An Euro-issue was also on the anvil. While the public issue was stalled owing to tight monetary conditions, the Euro-issue plan was scratched. The Ministry also instructed NFL to put a joint venture project in Syria with Zuari Agro Ltd. For constructing a urea plant on hold Politically, the scandal brought a number of Congress leaders, including Narsimha Rao, again into negative focus.
The Central Bureau of Investigation, Dec. 25, 1997, filed a charge sheet against former prime minister P.V. Narasimha Rao's relative B Sanjeeva Rao, former Union minister Ramlakhan Singh Yadav's son Prakash Chandra and seven others in the Rs. 13.3 million urea scam. Among the others charge sheeted Turkish firm Karsan Ltd's executives Tuncay Alankus and Cihan Karanci, former National Fertilizers Limited managing director CK Ramakrishnan, its former executive director Dilbagh Singh, Karsan's Indian agent M Sambasiva Rao, one D. Mallesam Goud and Brazilian national A E Pinto who is under arrest in London in connection with the case.

The charge sheet was filed in the court of Chief Metropolitan Magistrate Prem Kumar, to be forwarded to Central Bureau of Investigation special judge Ajit Bharihoke for consideration on January 12, 1998. The accused have been charged with criminal conspiracy under Section 120B read with Sections 409 and 420 of the Indian Penal Code and under various sections of the Prevention of Corruption Act.

According to the charge sheet, NFL paid the entire contract amount of $ 37.62 million in advance on November 29, 1995, for the purchase of urea. But the accused shared the amount amongst themselves without honouring the contract. Alankus "dishonestly" transferred $ 28.10 million of the payment to his personal account with Pictet Bank, Geneva, $ 1.1 million to Karanci's account in the same bank and $ 4 million to a Dubai-based company, the charge sheet said. The $ 4 million was subsequently brought to India through hawala channels and paid to Sambasiva Rao, Sanjeeva Rao and Goud, the CBI said.106

October 3, 1997, five other accused were released on bail after being in custody for three months. Goud is yet to be arrested. The 13-page charge sheet has been supported by the statements of 159 witnesses. The CBI also provided to the court the sanction order to proceed against C.K. Ramakrishnan. The charge sheet maintained that sanction orders for the prosecution of D.S. Kanwar and Prakash Chandra Yadav were not required. For, Kanwar had already retired and Yadav was no longer a public servant.

According to the charge sheet, the contract amount of $37.62 million was not remitted to the account of Karsan Ltd. With Parmuk Bank. Instead, it was sent to some other account.

The amount was subsequently “returned to India dishonestly with a view to giving an impression that NFL did not fulfill the terms and conditions of the contract although they wanted to misappropriate” the amount.

21 June, 1998. The CBI has sought attachment of property of London-based Brazilian A E Pinto, key accused in the Rs.133 crore urea scam. An extradition order was passed against him recently by a London court. The CBI had alleged that all of Pinto’s property in UK was acquired with swindled money. Stating that Pinto’s name was not included in the charge-sheet submitted 1997, they said formalities for its inclusion in the supplementary charge-sheet would be completed soon.

Pinto would be the third accused in the multi-crore scam to be extradited to India after Tuncaya Alankus and Cihan Karanci, senior officials of the Turkish firm Karsan Ltd, which was supposed to supply two lakh metric tones of urea to the public sector undertaking National Fertilizers Ltd.
Karanci and Alankus were extradited to India on October 3, 1997. The duo have since been in judicial custody. Pinto was arrested in London in December last following a warrant issued by the CBI special judge here.107

Officials did not even forfeit the performance guarantee bond from Alabama International after the latter failed to supply a grain of urea, the CBI said. The NFL officials thus violated all the norms and caused an undue benefit to Alabama International, the CBI said. The Bulgarian firm M/s Bulsigma Limited which bagged the order for supply of 2,000 metric tonnes of urea, neither submitted the required performance guarantee bond nor supplied the urea.

The misuse of funds is in addition to the Rs. 133 crore urea deal in which some officials of NFL, Turkish firm Karsan Limited and several others, including Sambasiva Rao, were allegedly involved.

The deal was signed in 1995 and the State Bank of India remitted $37.62 million in November that year to the bankers of Karsan Limited without insisting on bank guarantee. Reserve Bank rules state that any payment exceeding US $ 5,000 should be brought into the notice of its foreign exchange cell and the obtaining of a bank guarantee is a must in respect of import of non-capital goods such as urea. The two officials of the Karsan Limited Tuncayalankus and Cihan Karanci are still in Swiss custody after being arrested by the local police following a letter of request (letter rogatory) sent by the CBI. Acting on a similar letter, the Swiss authorities froze a bank account in which the deal amount of Rs. 133 crore was deposited by NFL.

The firm’s failure to supply urea despite advance payment of the amount led to the arrests of relatives of top officials and kins of politicians.\textsuperscript{108}

Nov 5, 1998: The Rs., 133 crore urea scam has cost the state-owned National Fertilizer Rs. 83 crore in cost and time overrun. The final cost of the Vijaipur expansion project has now been calculated at Rs. 1,070.60 crores, against the approved figure of Rs. 987.3 crore, including a foreign-exchange component of Rs. 349.4 crore. The project hoped to produce 7.26 lakh tones of urea a year. The state-run firm forced liquidity crunch between April and August, 1996, owing to IDBI’s decision to stop further disbursement in the aftermath of the scam.\textsuperscript{109}

The Supreme Court on Friday 10 August, 2000 rejected the bail plea of Tuncay Alankus and Cihan Karanci, officials of Turkish firm Karsana Limited, which failed to deliver 200,000 metric tones of urea despite taking an advance of Rs. 1.33 billion from National Fertilizer Ltd in 1996. A three-judge bench headed by Chief Justice A S Anand rejected the bail plea after hearing brief arguments from the accused. The duo were extradited to India from Switzerland in 1997.\textsuperscript{110}

Pleading for bail, counsel for the accused said that the two officials were charged under section 420 of the Indiana Penal Code, which carries a maximum sentence of seven years’ imprisonment. He argued that the duo had already undergone four years imprisonment since their arrest in 1996. He

\textsuperscript{108} Ibid., p. 2.
feared that, going by the number of witnesses to be examined, the trial could go on for another few years. Justice Anand said most of the delay was caused by the accused who repeatedly challenged the framing of charge in the Delhi high court.

A.E. Pinto, an agent of the Turkish firm Karsan and a key accused in the urea scam, was brought to New Delhi from Britain by a three-member Central Bureau of Investigation team on Thursday. Pinto's extradition is expected to give a fillip to investigations into the scam. The British government had earlier this month decided to extradite Pinto after he lost his case against his extradition.

The extradition came after Union Home Minister L.K. Advani, CBI director L. Raghavan and other home ministry officials requested Interpol and Britain to support the extradition.

CBI's investigations into the scam had been stalled due to Pinto's absence. The CBI registered a case after it was established that though money was paid to Karsan, no urea was supplied to the National Fertilizer Ltd. In accordance with the contract.

Pinto, along with D.S. Kanwar had unauthorisedly signed the contract on behalf of NFL in India. Tunkay Alankus, a Karsan official, signed the contract on behalf of his firm. Alankus and Cihan Karanchi, the Karsan officials who defrauded the NFL, were extradited to India on March 3, 1997 after being arrested in Geneva, on a CBI request. They were at Tihar Jail.\(^{111}\)

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\(^{111}\) Rediff.com Uream scam accused Extradited from Britain.htm, August 24, 2000, pp. 1-2.
The bureau, in its first information report, alleged that the firm paid huge kickbacks to a number of people, including public servants in India. The CBI charged Pinto with receiving kickbacks. Prabhakar Rao, son of former prime minister P.V. Narasimha Rao and Prakash Yadav, son of former Union Minister Ram Lakhan Yadav, were also involved.\(^{112}\)

Rao, Yadav, Pinto, Kanwar, Alankus, Karanchi, M. Sambasiva Rao, B Sanjeeva Rao, D Mallesamgoud and C.K. Ramakrishnan are among those charge sheet by the CBI.

On 30 August 2000 Brazilian businessman A.E. Pinto, key accused in the Rs. 12.33 billion urea scam case, was on Thursday remanded to 14 days judicial custody by a Delhi court following his custodial interrogation by CBI for six days. Special Judge V.B. Gupta sent Pinto to Tihar Jail till September 14 after the accused was produced before the court by CBI. The agency did not seek is further police custody.\(^{113}\)

C.B.I. Alleged this contract was deliberately not acted upon and it was replaced by another contract signed in October 1995 envisaging cent per cent advance payment by NFL and counter-guaranteed by Lloyed Insurance Policy covering risks of non performance and non-delivery. But even after advance payment of the total money, not even a single grain of urea was supplied by Karsan, CBI said, adding that Pinto was a key conspirator in the case.

That day the two top executives of Turkish firm Karsan, currently lodged in Tihar Jail in connection with the Rs. 1.33 billion urea scam, have sought direction from a Delhi court to the Union Ministry of Chemicals and

\(^{112}\) Ibid., p. 2.

\(^{113}\) On Rediff.com “Pinto remanded to Judicial custody for 14 days”.htm August 30, 2000, p. 1.
Fertilizers and National Fertilizers Limited to discuss with them the possibility of an amicable settlement of the 'dispute'.

The duo has annexed a copy of their representation to Union Minister for Chemical and Fertilizers Suresh Prabhu. In their letter, which was not responded to, the Karsan executives had expressed readiness to discuss possibility of an amicable settlement of the 'dispute' without any precondition to save the considerable amount of time and money spent on litigation by both the parties.

On April 22 the fertilizer scam of 1995 was finally resolved on January 22, 2004, following an award by the International Chamber of Commerce (ICC). However, a sum of Rs. 245.45 crore still remains unrecovered, out of which a substantial amount of Rs. 137 crore remains untraceable. Out of a total recoverable amount of Rs. 246.47 crore, only a meager Rs. 1.02 crore has been recovered till date.

When Karsan failed to start supplies within the stipulated period ending May 1996, the contract was extended by four months till October 4, 1996. In September, NFL rejected the first shipment from Karsan for not meeting quality parameters.

The contract was terminated on October 6, Karsan did not return the advance. NFL won the case when it took the arbitration to the ICC and Karsan was asked to pay NFL a compensation of $ 40.69 million along with a five percent annual interest on the principal amount of $ 37.62 million.

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114 Ibid., p. 2.
115 Fertilizer scam of 1995, Govt. recovers just Rs. 1 crore against Rs. 246.47 crore, The Hindu Business Line, April 24, 2005.
January 16, 2006 The nine year old Rs. 133 crore scam case will now be heard by Special judge V.P. Vaid. District Judge S.N.Dhingra marked the case to him today after Additional Sessions Judge A.K.Garg who was hearing the matter retired.

At present defence witnesses were being examined in the case. Delhi High Court had allowed the defence to examine 21 additional witnesses through video conference at the State’s cost. The CBI had challenged this order in the Supreme Court and the apex court had imposed a stay on it till further orders.

The CBI also succeeded in freezing about Rs. 90 crore deposited in various foreign banks of the two Karsan executives. However till date only 4.4 million dollars of the 38 million dollars siphoned off from the country had been recovered.

Karsan Chairman and Chief Executive Officer Tuncay Alankus and Vice President Cihan Karanci and were jailed after their extradition from Switzerland on March 10, 1997, They were released on bail after being in custody for about six years.116

Another accused Brazilian broker (middleman) A.E. Pinto, who was brought from England, had also been released on bail after being in jail for about five years.117

Among the other accused in the case were former Prime Minister P.V.narasimha Rao’s relative Sanijva Rao, former fertilizers Minister Ram

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117 Ibid.
Lakhan Singh Yadav’s son Praksh Chandra Yadav, former NFL Chairman C.K.J. Ramakrishan and its Executive Director D.S.Kanwar.\textsuperscript{118}

New Delhi, Sept 4, 2006 (PTI) The Supreme Court restrained Tunckay Alankus and other foreign nationals accused in the Rs. 133 crore Urea scam case from withdrawing the money from their bank accounts in Switzerland.

Tunkay Alankus meanwhile has used the time of brush up his “I can understand Hind,” he said. The scam involved former prime minister Narasimha Rao who deal with Turkey to supply 2 lakh tones of urea to India. India claims it paid the money but did not get the urea. At the time is Swiss banks after India lost the case for it in Swiss courts.

At a time when sons of political fathers are on the rise, this was an ignominious fall. Last week. P. V. Prabhakar Rao, the youngest son of former prime minister PV Narasimha Rao, was finally arrested by the Enforcement Directorate (ED) in a surprise raid at his Mehboobnagar hideout near Hyderabad.\textsuperscript{119}

For almost three years, the ED had been chasing Prabhakar for his alleged involvement in the Rs 133 crore urea scam. But he evaded arrest despite the ED getting non-bailable warrants issued against him. It was a comic situation: investigating agencies "struggled" to trace him though Prabhakar was provided Special Protection Group (SPG) cover. The SPG argued that its job was to protect the WIP and disclosing his whereabouts would be a violation of the Blue Book.

\textsuperscript{118} Ibid., p. 2.
\textsuperscript{119} “Netting the Big Fish”, India Today, December 14, 1998, p. 42.
The scam originated in September 1995 when NFL floated a global tender for the supply of 2 lakh tonnes of urea. In March 1996, the NFL under Ramakrishnan, who was appointed CMD by the Rao government bypassing established procedures, advanced the entire amount of Rs 133 crore to Karsan without any bank guarantee. It is still a mystery as to how the RBI/SBI waived stiff conditions attached to such deals. In fact, the Swiss bank which received an invoice for making payment to Karsan, raised certain objections and sent it back. But there was no response either from NFL or the RBI and the SBI.\textsuperscript{120}

The company took the money but did not deliver the goods. When the matter was referred to the CBI in May 1996, it did not even touch Prabhakar though he had been identified as the "hidden hand" in the deal. Despite several leads and testimonies of prosecution witnesses, the CBI says there was no evidence against Prabhakar. ED officials, however, say that vital evidence may have been lost due to the inordinate delay in arresting him.

The investigating agencies have the arduous task of bringing the money back from Switzerland. Prime Minister Atal Bihari Vajpayee raised the subject of remitting the frozen $7 million back to India with the visiting Swiss President and got a positive reply. But a major part of the Rs 133 crore is untraceable as it was transferred to Turkey by Karsan executives.\textsuperscript{121}

O. JHARKHAND MUKTI MORCHA CASE

The Jharkhand Mukti Morcha Alleged Bribery Case (JMM case), is the first of its kind in many ways. It is for the first time in the fifty year history of

\textsuperscript{120} Ibid., p. 43.
\textsuperscript{121} "Urea scam. Turkish nationals make unique offer", NDTV.com, May 3, 2007 (New Delhi)
our parliamentary democracy that the principal investigating agency of the Central government, the CBI, belatedly launched a prosecution against, besides others, a former prime minister of the country, on charges of criminal conspiracy to bribe members of Parliament for their support to save his minority government. The CBI charge sheet also included, amongst others Buta Singh, Captain Satish Sharma, both former ministers, Bhajan Lal, a member of the Lok Sabha and a former chief minister of Haryana, and Ajit Singh.

This was the first time that an allegation of bribery of such magnitude involving the seniormost leaders of the country and members of the Lok Sabha were made public. The CBI charge sheet dated 30.10.96 against Narasimha Rao and others, categorically states that the result of the division of votes that took place in the Lok Sabha on 28 August 1993 incorporated in the government publication of the Lok Sabha debates of that date, indicated that Suraj Mondal, Shibu Soren, Simon Marandi, and Shailendra Mahato of the Jharkhand Mukti Morcha and seven other MPs, namely Ram Lakhan Yadav, Ram Saran Yadav, Abhay Pratap Singh, G.C. Munda, Haji Ghulam Mohammed Khan, Roshan Lal and Anadi Charan Das, who broke away from Janata Dal (Ajit) on the eve of voting, were among those who cast their vote in favour of the Narasimha Rao government in the ‘No confidence’ motion moved by the Opposition.

The CBI moved in the matter only under direction from the high court and in the process earned severe strictures. When the matter first came up before the Delhi High Court, the CBI registered a case on 23.3.96 on the basis
of a First Information Report, drawn on 'Own Information'. It was only when the Delhi High Court passed orders that the CBI should treat the original written complaint of February 1, 1996, of Ravinder Kumar, president of the Rashtriya Mukti Morcha, as the FIR and take up investigation, that they registered another case No.RC-5(a)/96 dated 11.6.95 against P.V. Narasimha Rao, V.C. Shukla, Ajit Singh, Bhajan Lal, R.K. Dhawan, Captain Satish Sharma, Lalit Suri, Suraj Mondal and the other three MPs of the JMM, and others.

After the general elections to the tenth Lok Sabha in 1991, the Congress (I) emerged as the single largest party. The effective strength of the Lok Sabha at the time was 528 and the Congress (I) had only 251 members. The monsoon session of the Lok Sabha began on 21.7.93 and was due to take up a 'No-confidence' motion against his government moved by Ajay Mukhopadhyaya, a CPI(M) MP. The government was short of 14 members in the Lok Sabha to survive the vote. Although formally the motion of 'No-confidence' was tabled on 26.7.93, members of the Opposition had made it well known much earlier that they proposed to move such a motion. When eventually it came up for a vote, the Narasimha Rao government succeeded in getting it defeated with the support of the members of the JMM and a faction of the Janata Dal (Ajit Singh).

Much later the CBI received a written complaint dated 1.2.96 addressed to the director from Ravinder Kumar, president, Rashtriya Mukti Morcha, 37, Angat Nagar Extension, Delhi.
Virtually no action was taken by the CBI on this written complaint though it contained very specific and serious allegations. On 27.2.96, the Jharkhand People's Party (JPP) chief secretary general, Suraj Singh Besra, at a press conference at Jamshedpur, Bihar, demanded a CBI inquiry into the activities of the Jharkhand Mukti Morcha MPs and vice-chairman of the Jharkhand Area Autonomous Council, Suraj Mondal. Besra alleged that Rs 2 crore had been paid to four JMM members of parliament to save the Narasimha Rao government in 1993. Giving details of the extent of the bribes that had been allegedly paid to the JMM MPs for their support of the favour of Narasimha Rao government, Besra stated that Rs 30 lakh had been deposited in Mondal's and JMM supremo, Shibu Soren's accounts. According to him, the saving bank account of Simon Marandi had a balance of Rs 12 lakh, while Rs 39.8 lakh were deposited in the account (no. 1711) of Shailendra Mahato on 26.2.96. The Delhi edition of the Statesman carried a report on the alleged bank deposits of six JMM MPs who had saved the ruling party from certain defeat in July 1993 by voting with them. The report filed by no less a person than its resident editor, Raju Santhanam, gave the following details:

FDR No.195 for Rs 30 lakh for 60 months favouring Shibu Shoren M.P., Suraj Mondal M.P., Simon Maranal, M.P., Shailendra Mahato, M.P. This account was closed on 18 May 1994, and converted into special FDR No. 2000 for Rs 30 lakhs.

FDR No.196 of 12 months for Rs 39.80 lakh favouring Shailendra Mahato and Aba Mahato.

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FDR No.197 of 12 months for Rs 12 lakh favouring Simon Marandi and Sushila Hansada.

A savings bank account - No.17108 - was opened in the name of all the four MPs and the balance in September, 1995, was Rs 52 lakh.

Savings Bank account No.18914 in the name of Suraj Mondal, M.P.

Savings Bank account No.18983 in the name of Shailendra Mahato M.P.

Savings Bank account No.19037 in the name of Simon Marandi, M.P.

Savings Bank account No.19100 in the name of Shibu Soren, M.P.

On August 12, 1993, a fixed deposit account (FOR No.197) for Rs 21 lakh favouring Simon Marandi and Sushila Hansada was opened.

The *Statesman* report added that these deposits appeared to suggest that within two or three days of the JMM members of Parliament having voted with the Rao government, large sums of money found their way into their accounts. The Opposition charged that there had been horse-trading. Mondal's unsteady appearance in Parliament house caused many an eyebrow to be raised.

In the meantime, Ravinder Kumar of the Rashtriya Mukti Morcha moved the Delhi High Court on 12.2.96 to issue directions to the CBI to take action on his written complaint to the director, CBI, on 1.2.96. The matter came up before the Delhi High Court on a number of days. Amidst the hearings on the Ravinder Kumar petition, the CBI registered four (criminal) cases namely, (i) RC-l(a)/96 dated 25.3.96 against Suraj Mondal, MP (LS);
(ii) RC-2(a)/96 dated 25.3.96 against Shibu Soren, MP (LS), resident of 17 GR Road, New Delhi; (iii) RC-3(a)/96 dated 25.3.96, against Simon Marandi, MP (LS), resident of 70 North Avenue, New Delhi; and (iv) RC4(a)/96 dated 25.3.96 against Shailendra Mahato, MP (LS), resident of 51 South Avenue, New Delhi. All the cases were registered by the CBI on their 'Own Information', and excluded the allegations against P.Y. Narasimha Rao and others, and other facts of a sensitive nature cited in Ravinder Kumar's petition.\textsuperscript{123}

The FIR stated that he had obtained pecuniary advantage to the extent of Rs 30 lakh from some unknown source without public interest and deposited this sum in a fixed deposit A/c no.194 opened with Punjab National Bank, Naoroji Nagar branch, New Delhi, in the joint names of self, his wife Rupi, and their two sons named Hemant Kumar and Basant Kumar on 1.8.93. The FIR gave other such details of bank deposits.

In the FIR against Shailendra Mahato, it was alleged that he had obtained pecuniary advantage to the extent of Rs 39.80 lakh from some unknown source without any public interest and deposited the sum in fixed deposit A/c no.196 opened with Punjab National Bank, Naoroji Nagar branch, New Delhi, in the joint names of self and his wife, Abha Mahato on 1.8.93. The FIR gave other such details of bank deposits.

Ravinder Kumar, president, Rashtriya Mukti Morcha, in his petition filed in the Delhi High Court on 22.4.96 inter alia stated that the cases

\textsuperscript{123} Singh, N.K., op.cit., p. 185.
registered regarding the alleged bribery of some members of the Lok Sabha clearly indicated that the organization was acting in a malafide manner by, as he put it, making a 'mockery of investigation.

The CBI did not take any action. The court was told that the preliminary inquiry had not commenced and only a complaint had been registered in the complaint register which was being verified. Two days later, on 20 March 1996 the court was informed by the CBI that it was on the point of registering a regular case and commencing investigation, and this was done on 25 March 1996. This fact was brought to the notice of the court on 27 March 1996.

The Delhi High Court, on 17.5.96, directed the CBI to forthwith register a regular case on the basis of Ravinder Kumar's written complaint and reiterated that the CBI should expedite and promptly complete its investigation of the case. Eventually, in the light of these orders, the CBI registered RC-5(a)/96 of 11.6.96 against P.V. Narasimha Rao, other political figures, and others, treating Ravinder Kumar's written complaint of 1.2.96, as the FIR. This disclosed offences under section 120(b) (criminal conspiracy) read with Section 7, Section 12 and Section 13(2)(2) read with Section 13/1(1)(2) of the Prevention of Corruption Act, 1988.124

During the investigation of the case, the Jharkhand Mukti Morcha MP, Shailendra Mahato, made a confessional statement, and was accepted as an approver. The investigation of the case was periodically monitored by the Delhi High Court and on, perhaps, every occasion, the court made some

124 Ibid., p. 187.
adverse observation or the other regarding the CBI. The agency, no doubt, has its own problems but once it had lost its credibility in investigation of some such politically sensitive cases, not many were in a mood to pay attention to these. For instance, the agency is overburdened. It is still working under the outdated Special Police Establishment Act of 1946. The investigation of cases, even by the best officers, is time consuming. The accused, particularly powerful and resourceful ones, create all sorts of problems. However, in the light of developments in Bofors, the hawala cases, St Kitts, the JMM bribery cases, and a few others, the CBI had by now become 'suspect' in the public eye so far as allegations against high political functionaries were concerned and it was paying a very heavy price.

The agency eventually arrested four JMM leaders on 5 September 1996, Shibu Soren, Suraj Mondal, and Simon Marandi in Delhi, and Shailendra Mahato in Jamshedpur, and remanded them to judicial custody. Finally, on the basis of the evidence collected during investigation, though belatedly, the agency submitted the first charge sheet on 30.10.96, in all the regular cases taken together, i.e. the cases registered on 23.5.96 on their 'own information' as well as regular case no.5 of 1996, registered on 11.6.96 under the orders of the Delhi High Court, treating Ravinder Kumar's written complaint as the FIR. In the first charge sheet, the CBI launched prosecution against P.V Narasimha Rao, former prime minister, Captain Satish Sharma, former minister, Shibu Soren, Suraj Mondal, Simon Marandi, Shailendra Mahato, and Buta Singh, also former minister, and other unknown persons, under section 120(b) for criminal conspiracy and various sections of Prevention of Corruption Act. The charge sheet refers to the statement by
B.N. Safaya, additional personal secretary to Satish Sharma, then minister of petroleum. According to the statement, sundry industrialists, in particular Prithvi Raj Jindal of Messrs Jindal Saw Pipes, Hissar, V.N. Dhoot of Messrs Videocon International Ltd., Shanti Rai of Messrs Essar Group of Companies, Mukesh Ambani of Messrs Reliance Industries Ltd., and Abhay Oswal of Messrs Bindal Agro Industries were frequent visitors to Sharma's official residence. From January 1993 onwards these industrial houses had paid money either at his residence or office (A-2). From April 1993 till 1994, the following amounts were paid by the industrial houses with whom Sharma had official dealings:

1. Jindal Saw Pipes : Rs. 50 lakh in April/May 1993
2. Videocon International Limited : Rs. 1 crore in July 1993
3. Essar Group : Rs. 3 crore in Nov. 1993 and Rs. 4 crore in Feb. 1994
4. Reliance Industries : Rs. 1 crore in June 1993, Rs. 1 crore in Oct. 1993
5. Bindal Agro Industries : Rs. 1.5 crore in April-May 1993

On receipt of the money, Safaya would inform Sharma of this over the telephone and then carry the suitcases in the official Ambassador car to deliver them to the latter. Safaya also stated that around 30 or 31 July 1993, the accused Simon Marandi came to his official residence at Pandara Park and stated that he had come to collect the money that Captain Sharma had promised. After obtaining a confirmation from the latter, Safaya asked Simon

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125 Ibid., p. 189.
Marandi to return later, which he did that evening and collected Rs 10 lakh which Safaya had in the meantime brought in a cardboard box from Sharma residence.

According to the charge sheet filed by the CBI, accused Suraj Mondal, Shibu Soren, Simon Marandi, and Shailendra Mahato, in order to account for the huge deposits in the accounts at PNB (Punjab National Bank), Naoroji Nagar branch, in their own names, fabricated evidence and created false documents such as donation coupons, proceedings of JMM Central Executive Committee and books of accounts.

The charge sheet also stated that 'one S.M. Jha, PA to Shibu Soren, had told P. Manoranjan, former member of JMM Central Committee, in August 1993, that JMM MPs had received bribes in crores for voting against the no-confidence motion'. S.M. Jha has been missing since May 1994 and his whereabouts are still shrouded in mystery. A criminal case registered by the CBI in this connection is still under investigation. According to newspaper reports of 15 August 1998, the CBI has succeeded in tracing S.M. Jha’s skeleton in Ranchi.

After collecting further evidence, u/s 173(8) of the Cr.P.C the CBI filed a second charge sheet in the same set of cases on 9.12.96, to the effect that some of the hitherto unknown accused persons had been identified. They were V. Rajeshwara Rao, MP (RS), H.M. Revanna of Bangalore, Ramalinga Reddy, MLC, Karnataka, M Veerappa Moily, Member, Legislative Council, B.K. Audikesavalu, managing director, Messrs Karnataka Breweries and

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126 Ibid., p. 10.
127 Ibid.
Distilleries, Bangalore, and S.M. Thimmegowda, managing director, Messrs SBE Group Holding Pvt. Ltd., Bangalore. The CBI charge sheet, inter alia, states that M.S. Chelavuraju, Partner of Messrs Ranganatha Group and T. Sivarama, proprietor, Messrs Yellamma Enterprises issued 'self' cheques no.945416 dated 30.7.1993 for Rs 60 lakh and no.755587 dated 30.7.1993 for Rs 25 lakh respectively, and the funds were withdrawn in cash. Similarly, M. Thimmegowda also withdrew a sum of Rs 15 lakh against a 'self' cheque drawn on the account of Messrs SPR Group Holdings (P) Ltd. After collecting all the aforesaid funds, M.S. Chelavuraju accompanied M. Thimmegowda to his residence, and thereafter the latter left with two large VIP suitcases. The amount withdrawn by them against the cheques issued by them on the respective accounts was received by M.Thimmegowda. The documents provided by him to explain that these funds had been utilized by him for payment of excise duty at different talukas had been fabricated, since, from documents collected from the office of the assistant commissioner of income tax, Bangalore, it has been fully established that the excise duty paid by M. Thimmegowda was found to have been paid from proceeds of day-to-day sales of country liquor at different places.

The CBI charge sheet goes on to state that M. Thimmegowda visited the official residence of M. Veerappa Moily at Bangalore on the evening of 30.7.1993 with two suitcases and delivered these. H.M. Revanna and Ramalinga Reddy had also arrived there when these were delivered to. M. Veerappa Moily, H.M. Revanna and Ramalinga Reddy and remained with the former for some time. The CBI investigation further revealed that D.K. Audikesavalu contacted K. Narayanan, resident manager of Messrs Mohan
Breweries and Distilleries Ltd. Guest House, New Friends Colony, New Delhi over the telephone on 30.7.93 and directed him to send the company's vehicle as well as a taxi as some VIPs were accompanying him to Delhi at about 10:30 p.m. K. Narayanan, in turn, advised Ahir Taxi Stand, New Friends Colony, New Delhi, to detail a tax. Accordingly taxi No. DLY 1862 driven by Roop Ram, was despatched to the Delhi airport in the evening, as was Bachan Singh, driver of Maruti car no. DNC 3136 belonging to the company to receive D.K. Audikesavalu, who also came from Bangalore on 30.7.93 with one VIP suitcase. H.M. Revanna, Ramalinga Reddy, and D.K. Audikesavalu left Bangalore by an Indian Airlines flight no. IC 404 which landed at Delhi airport at about 10:30 p.m. Further investigations disclosed that Buta Singh also left Bangalore on 30.7.93 by the same flight.

The CBI finally filed a third charge sheet on 22.1.97 in continuation of the two charge sheets filed earlier in this group of cases concerning the alleged bribing of members of Parliament to secure their support in defeating the 'no confidence' motion against the Narasimha Rao government. The third charge sheet also says that as a result of further investigation, the identity of the remaining accused persons was established, they being Bhajan Lal, MP and former chief minister of Haryana, Ajit Singh, former minister in the Central government, and MP (LS), Ram Lakhan Singh Yadav, former MP (LS), Roshan Lal, former MP, Abhay Pratap Singh, former MP (LS), Anadi Charan Das, former MP (LS), Haji Ghulam Mohammed Khan, former MP (LS), Ram Sharan Yadav, former MP (LS), and G.C. Munda, who died on 19.2.96. The third charge sheet, inter alia, states that even after securing the support of the four JMM MPs, the Congress (I) government still required the
support of some additional MPs and that with this objective the Congress (I) led by P.V. Narasimha Rao made efforts to win this including some MPs from the Janata Dal (A). To this end various Congress (I) leaders, including Bhajan Lal, the then chief minister of Haryana, M. Veerappa Moily, and K. Karunakaran, the then chief ministers of Karnataka and Kerala respectively, arrived in Delhi a week prior to the 'no-confidence' motion.\(^{128}\)

According to the CBI charge sheet, Bhajan Lal also told Ajit Singh that Narasimha Rao had specifically sent him to secure his support, and delivered three packets from the rear seat of his car to the latter when leaving. These packets were unloaded by Captain Dilawar Singh, and after Bhajan Lal had left, Ajit Singh asked Dilawar to open one of them. It was found to contain two hundred wads of currency note of Rs. 500 denomination, which indicated that the three packets delivered by Bhajan Lal contained Rs 1 crore each.

The CBI charge sheet goes on to state that Ram Lakhan Singh Yadav called on Ajit Singh on the morning of 26.7.93, and during their discussion there were long, noisy, and heated arguments between the two. In course of these, the cm charge sheet states\(^ {129}\):

Ram Lakhan Singh Yadav demanded his share of Rs 15 lakh from the amount which Ajit Singh had received from Bhajan Lal. Ram Lakhan Singh Yadav even threatened Ajit Singh that he would not allow him to swallow his share this time. Ajit Singh abused Bhajan Lal and stated that Bhajan Lal himself was a corrupt person who accused others of corruption. This incident compelled Ajit Singh to change his party's strategy. He decided to vote in favour of the no-confidence motion to avoid further bad publicity and

\(\text{\(^{128}\) Ibid., p. 194.} \)
\(\text{\(^{129}\) Ibid.} \)
defamation. Accordingly, Ajit Singh called a meeting of MPs belonging to his party on 27.7.93 at the party office. During the discussions Ajit Singh expressed his desire to vote in favour of the no-confidence motion against the Congress (I) government. This led to further heated exchanges between Ram Lakhan Singh Yadav and Ajit Singh and hurling accusations on each other for hobnobbing and bargaining with Congress leaders. Ram Lakhan Singh Yadav then walked out of the said meeting. Ram Sharan Yadav, Roshan Lal, Abhay Pratap Singh, Anadi Charan Das and late G.C Munch also followed him. However, by a majority vote of Janata Dal (A), it was decided to support the 'no-confidence' motion and later a whip to this effect was also issued by the JD (A).

The charge sheet proceeds to say that the seven MPs, Ram Lakhan Singh Yadav, Ram Sharan Yadav, Roshan Lal, Abhay Pratap Singh, Anadi Charan Das, Haji Ghulam Mohammed Khan, and G.C Munda again assembled at the residence of Ram Lakhan Singh Yadav at about 4.00 p.m. on 27.7.93. During this meeting, also attended by Captain Satish Sharma, they decided to form a separate group under the leadership of Ram Lakhan Singh Yadav and vote against the no-confidence motion. When the meeting was in progress Bhajan Lai visited Ram Lakhan Singh Yadav and had some secret discussions. The latter then spoke telephonically to Narasimha Rao and assured him that his group would split by the evening. Rao was also assured of the fact that the government would survive and also that the prime minister should take care of the rest of the things. During the discussions, Bhajan Lal assured the MPs of large sums in cash, while Captain Satish Sharma assured the allotment of petrol pumps to them and/or members of their families.

The investigation also disclosed that on 28.7.93, six of the above mentioned barring Haji Ghulam Mohammed Khan MPs, of the JD(A)
breakaway group, again assembled at the residence of Ram Lakhan Singh Yadav. That day V.C. Shukla, Captain Satish Sharma, Bhajan Lal, K. Karunakaran, and Jitendra Prasad also visited and met these MPs. According to the CBI, it has been established that Bhajan Lal had delivered suitcases on the same day to the residence of Ram Lakhan Singh Yadav upon which Prakash Yadav, the latter's son informed the members belonging to the breakaway group of JD(A) that Bhajan Lal had fulfilled the promises he had made.

According to the CBI, the investigation further revealed that V.C. Shukla contacted Bhajan Lal over the telephone at Ram Lakhan Singh Yadav's house and informed him about the presence of Haji Ghulam Mohammed Khan in his Parliament House office. Bhajan Lal went to Shukla's office and returned half an hour later, with Gulam Mohammed Khan, to Ram Lakhan Singh Yadav's house. His son, after hearing about the presence of Khan, informed the gathering that they had acquired the necessary strength. The CBI also found that Bhajan Lal and Captain Satish Sharma had given an assurance that petrol pumps would be allotted and a sum of Rs 20 lakh would be paid to every member of the splinter JD(A) group led by Ram Lakhan Singh Yadav before the vote on the motion and another sum of Rs 20 lakh would be paid after the vote. From Ram Lakhan Singh Yadav's house, all the seven MPs of his group proceeded to Parliament house along with Bhajan Lal. Each MP of the breakaway group of the JD(A) had received his respective share of Rs 20 lakh each before leaving for Parliament on 28.7.93.
The CBI also found that subsequently, on 28.7.93, i.e. on the date of the 'no-confidence' motion, seven MPs led by Ram Lakhan Singh Yadav and including Ram Sharan Yadav, Roshan Lal, Abhay Pratap Singh, Anadi Charan Das, Haji Ghulam Mohammad Khan, and G.C. Munda voted against the motion. The remaining thirteen members of the JD(A), however, voted in support of the 'no-confidence' motion which was defeated and the government headed by Narasimha Rao survived.

It was found during investigation that Bhajan Lal had arranged for Mohammed Khan's and G.C. Munda's accommodation at Hotel Rajhans, Surajkund, Haryana, from 1.8.93 to 3.8.93, and that the bill for Rs 40,000 for this was borne by him. In addition, he had arranged for the accommodation of Mohammed Khan in Haryana Bhawan immediately after their stay at Hotel Rajhans; and the latter was also provided with a taxi by Bhajan Lal for a period of about a month. An expenditure of Rs 17,000 for this was also borne by Bhajan Lal.\(^\text{130}\)

The CBI charge sheet goes on to say that Ram Lakhan Singh Yadav's son, called a certain Anil Sanghi, chartered accountant, in August 1993, i.e. immediately after the 'no confidence' motion, and informed him that his father had received some money that needed to be regularized. Accordingly, it was arranged that a company in the name of Messrs Patliputra Credit and Securities Ltd. was registered with Registrar of Companies, Delhi, in December 1993, and Prakash Chandra Yadav and his wife Manju Yadav were shown as its director. Anil Sanghi opened two current accounts in the name of Messrs Anil Sanghi and Associates and Messrs Ganpati Investment

\(^{130}\) Ibid., p. 197.
Consultants with Jammu and Kashmir Bank, Noida Branch, on 1.3.1994. During the period 5.3.1994 to 31.7.1994, Anil Sanghi deposited about Rs 1.5 crore in these accounts in cash provided by Prakash Chandra Yadav. Against this cash deposit, Sanghi issued cheques in favour of the former's company and got them deposited in its account with the SBI. Besides these deposits, Sanghi also arranged for other cheques from his clients by delivering cash to them obtained from Prakash Yadav. This company has not started any business activities so far, though it has acquired some property. It has also come in evidence that the company does not exist at the address shown as its registered office.

Ram Sharan Yadav had acquired a plot of land in the Mohan Garden area, Uttam Nagar, New Delhi, for Rs 2.75 lakh during October 1993, for which negotiation had started in the first week of August 1993, i.e. immediately after the 'no confidence' motion. Evidence proves that soon thereafter, the construction of a palatial house costing over Rs 20 lakh was initiated on the plot. Currently, that building consists of three floors with six flats. His son Ajay Kumar 'Akela' was allotted a petrol pump at Khagia district in Bihar in September 1994, for which he had applied on 10.3.93. A plot in HUDA, Gurgaon from the discretionary quota of the Haryana chief minister, Bhajan Lal was also allotted to Ram Sharan Yadav on 11.9.95.

After the defeat of the 'no confidence' motion, Roshan Lal deposited approximately Rs. 12.80 lakh during July to November 1993, in South Indian Bank, Dehradun. He also acquired a flat on 6 September 1993 for a sum of approximately 9 lakh of which he has to date paid around Rs. 5,51,000.
A crucial prosecution witness in the case would be JMM leader Shailendra Mahato himself. He made a confessional statement and was granted pardon by the competent court. This was done all the basis, as laid down by the law, of full disclosure of facts. Shailendra Mahato, of course, will be subject to cross-examination and his evidence will be subject to the satisfaction of the court. Also, as a measure of abundant precaution, the court will perhaps look for corroboration.

According to Mahato's (approver), confessional statement, discussions with the JMM MPs were initiated by the Congress soon after the session of Parliament opened on 26 July 1993. One of the accused, Andhra Pradesh MP and Narasimha Rao's relative, V. Rajeshwara Rao, organized the first meeting betwren the MPs and Buta Singh. That very evening, according- to Mahato's confessional statement the four JMM MPs:

reached the residence of the prime minister at 7 Race Course Road, where we met P.V. Narasimha Rao. There Narasimha Rao, Suraj Mondal and Buta Singh held private discussions. Later, Rao sought our help to save his government, and he promised to help us in return. He also told us that the commitments he made to Mondal would be honoured.

Mahato goes on to say:

On the morning of 29 July, I reached Suraj Mondal's house on his invitation and found him sitting with V. Rajeshwara Rao holding discussion. Mondal told me that Rs 50 lakh had been paid that day, and that the balance would follow in a day or so. When I asked Rajeshwara Rao, he told me that

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131 Ibid, p. 199.
Ram Lakhan Singh Yadav and his group had also been given Rs 50 lakh each, petrol pumps and plots of land from HUDA.

On the basis of these facts, the CBI launched a third prosecution against these accused persons to stand trial in the case for offences of criminal conspiracy and under various sections of the Prevention of Corruption Act and substantive offences thereon. Judge Ajit Bharihoke held on 6 May 1997, that there was 'sufficient evidence on record to justify framing of charges against all the accused' under sections of the Prevention of Corruption Act and Section 120-B of the Indian Penal Code, which deals with criminal conspiracy. Nineteen of the twenty accused, including Narasimha Rao, moved the Delhi High Court against Bharihoke's decision to allow the charges to be framed. Rao and Satish Sharma also moved the Delhi High Court for grant of anticipatory bail and raised certain legal objections including the fact that the members of the Parliament were not 'public servants' and could not therefore be prosecuted because of the protection provided to them under Article 105 of the Constitution, the relevant portion of which reads:

Powers, privileges, etc., of the Houses of Parliament and of the members and committees thereof:

(1) Subject to the provisions of this Constitution and the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.

(2) No member of Parliament shall be liable to any proceedings in any court in respect of anything said or any vote given by him in

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133 Ibid., p. 201.
Parliament or any committee thereof, and no person, shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.

The Delhi High Court, under Justice S.K. Mahajan, passed orders on the petitions on 1 January 1997. The high court held that prima facie, it appeared that the immunity granted to members of Parliament under Article 105(2), cannot be extended to those cases where they commit an offence outside Parliament or enter into criminal conspiracy to do something in Parliament. The court also held that members of Parliament were public servants within the meaning of Section 2(c)(viii) of the Prevention of Corruption Act. The court also observed that merely because there was no sanctioning authority for the prosecution of an MP it could not be said that the provisions of the act would not be applicable to him. The court, in fact, felt that the act was passed to make more effective provision for the prevention of bribery and corruption, which is a social evil. While interpreting a statute, the high court held that a construction that would promote the general legislative purpose underlying the provision in question was to be preferred to one that would not. It also held that if MPs were exempted from the provisions of the act merely because there is no sanctioning authority for their prosecution, the entire objective of the act would be frustrated. It went on to say that it was of the view that MPs were public servants who could be prosecuted under the provisions of the Prevention of Corruption Act. It held the petitioners, namely P.V. Narasimha Rao and Satish Sharma, had been accused of having committed an offence punishable under Section 130(b) of the Indian Penal
Code read with Section 12 of the Prevention of Corruption Act. No sanction was therefore necessary under Section 19 of the Act to take cognizance of an offence punishable under Section 12. The court, however, allowed the prayer of the petitioner for grant of anticipatory bail. But of significance was the observation in the order that even the counsel for the CBI was not averse to the grant of this until the petitioner appeared in the court of the special judge.

Narasimha Rao and others thereafter appealed to the Supreme Court against the Delhi High Court order again raising the same issues. The order of the Constitution Bench of the Supreme Court on 17 April 1998, was a landmark both in what it did, and what it undid. The Bench, endorsed by a majority decision, upheld the decision of the special judge and Delhi High Court to the fact that MPs were public servants.

The key issue raised before the highest court, however, was whether protection under Article 105 of the Constitution should be extended to members of the Lok Sabha in the alleged JMM bribery case. The purpose of this article was to defend the independence and integrity of the Parliament. Twenty years ago in 1978 a Royal Commission on Standards of Conduct on Public Life, chaired by Lod Salmon, submitted its report. During the course of the debate in the House of Lords, Lord Salmon said:

To my mind equality before the law is one of the pillars of freedom. To say that immunity from criminal proceedings against anyone who tries to bribe a Member of Parliament and any Member of Parliament who accepts the bribe, stems from the Bill of Rights is possibly a serious mistake.

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134 Quoted to Parliamentary democracy, Article 9 of the Bill Rights British of Noorani, A.G., "Ministers Misconduct", 1688-89.
After quoting the Bill of Rights, Lord Salmon continued, 'Now this is a charter for freedom of speech in the House. It is not a charter for corruption. The crime of corruption is complete when the bribe is offered or given or solicited or taken.' A.G. Noorani quotes this in his article 'Bribes in Parliament', and adds that Article 105(2) is based on the British Bill of Rights. Also, Chief Justice Warren Burger of the US Supreme Court is quoted as saying:

*taking a bribe is, obviously, no part of the legislative process or function, it is not a legislative act. It is not by any conceivable interpretation, an act performed as a part of or even incidental to the role of a legislator.*

The moot question, therefore remains, whether an MP facing criminal proceedings for allegedly taking a bribe to vote, can claim the protection granted to his legitimate right to speech and in Parliament? Put simply, the prosecution of the JMM and Janata Dal (A) MPs was taking place not because they had voted to save the Narasimha Rao government, but because they had allegedly taken bribes to do so. The *raison d' etre* of Article 105(2), the minority of judges in the case aptly held, was to defend the integrity of the legislative process and the independence of the Parliament and bribe giving simply subverted that independence. Nor could the acceptance of a bribe to vote by any reasonable construction be read as part of either the legislative process or legislative act. The minority view, many felt, was absolutely correct, for Article 105 could not have been enacted to protect the corrupt. The majority of judges, however, were unwilling to tamper with the constitutional framework of Article 105(2), but in the process, they delivered
a judgement granting immunity to MPs who allegedly accepted the bribe while holding that the trial of those prosecuted for bribing MPs should proceed. Thus, Narasimha Rao, Buta Singh, Satish Sharma, V Rajeshwara Rao, Ram Linga Reddy, Veerappa Moily, Bhajan Lal and others have to stand trial. The judges also did not extend the protection under Article 105(2) of the Constitution to Ajit Singh against the charge of accepting a bribe because he in fact eventually voted against the 'no-confidence' motion. The Bench, by majority decision, held that all those who cast their votes in Parliament for the notion enjoyed the protection and not those whose vote did not have a direct relationship with the way they voted. The alleged bribe takers, Suraj Mondal, Shibu Soren, Simon Marandi, Shailendra Mahato, Ram Lakhan Singh Yadav, Roshan Lal, Anadi Charan Das, Abhay Pratap Singh and Haji Ghulam Mohammad have got immunity from prosecution under Article 105(2) of the Constitution.

P. THE HAWALA SCANDAL

Although known as the ‘Hawala’ Scandal, it assumed unprecedented political dimensions because of allegations of corruption against political leaders and thus far of the largest number. Also, the scandal brought discredit to the CBI both for what the agency did and what it failed to do, and the way in which it went about its business; the flippant and reckless way in which it launched prosecutions, totally disregarding its age-old work culture.

Also, it was unprecedented in the fifty year history of parliamentary democracy in India for the Supreme Court to pass orders that while investigating the Hawala cases, the CBI would report to it direct and not to
the political executives in its order of 1 March 1996, the Supreme Court directed that the CBI should not take any instructions from, report to, or furnish any particulars thereon to any authority personally interested or likely to be affected by the outcome of the investigation into any accusation. This direction applied even in relation to any authority without exception that exercised administrative control over the CBI by virtue of the office he held. The order of the Supreme Court, it may be added, was more of a reflection of its lack of confidence in the political executive of the day than on the CBI. The CBI, as it is under our legal system, is not supposed to take instructions from the government or ministers in their investigation, that is whom to arrest and whom not to, where searches should be conducted, who should be interrogated, etc. The CBI also takes its own decision regarding the evidence collected during the investigation whether a case is fit for prosecution or not. This, of course, is subject to the legal provisions in the Prevention of Corruption Act or Section 197 Cr.P.C that requires prior sanction of the competent authority before a prosecution is launched against public servants under some circumstances.

This matter first came to the CBI as a Hawala case with allegation of funding militants in Jammu & Kashmir, when it registered a criminal case RC-5(s)/91 in its SID 'V' branch under Section 120(b) IPC, Sec. 3 & 4 of the TADA Act of 1987, and 256 read with Sec. 8(1) of Foreign Exchange Regulation Act (FERA), 1973, on transfer from police station Chandni Mahal from the Delhi police on 20 April 1991. 'Hawala', in simple words, means an illegal transaction in foreign currency, which is an economic offence punishable under the FERA Act of 1973. In a hawala transaction, payment is
taken abroad in foreign currency and remittance is made here in rupees. A hawala transaction leads to a loss of foreign exchange to the country, which we as a developing nation acutely need. Towards the last week of April 1991, the Delhi police arrested one Ashfaque Hussain Lone, reportedly the deputy chief of intelligence of Hezbul Mujahidin and recovered a very substantial amount of cash from him, which was allegedly meant for militants in the Kashmir valley. After the case was transferred to the CBI, it discovered that one of the conduits was a student of Jawaharlal Nehru University, Shahabuddin Ghore. Lone and Ghore disclosed the network from which they were receiving money, and also that the block of money from foreign countries was coming through hawala channels. On 30 May 1991, the CBI conducted a series of simultaneous searches, including one at the premises of J.K. Jain at G-30, Saket, New Delhi. In due course recovered, besides other articles and documents, two diaries, two small notebooks, and two files containing details of receipts of amounts from different sources and payment to different persons, recorded in an abbreviated form.

According to the account given in a book, Bad Money, Bad Politics by Sanjay Kapoor, chief of the Delhi bureau of Blitz, the then director and joint director of the CBI have had a look at the diaries, which were stored in the CBI ‘malkhana’ (safe store where case properties are kept at police stations or in a CBI branch handling the case). In a sensational development, on 16 June 1991, which incidentally, was the last day of Chandrashekhar’s government, the CBI conducted raids at the house of its own DIC in charge of

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136. Ibid.
the case, O.P. Sharma. He was subsequently suspended by the Narasimha Rao government and prosecuted by the CBI on charges that included possession of assets disproportionate to his known sources of income. O.P. Sharma was in favour of taking follow-up action on explosive entries against politicians in Jain diaries which had been seized from the house of J.K. Jain. It is also clear that the source of the account in Sanjay Kapoor's book and Vineet Narayan's video-magazine *Kalchakra*, the person who ultimately took the matter to the Supreme Court, was none other than O.P. Sharma, former DIG, CBI. It is he whom Kapoor describes as the 'deep throat' in his book. The account given in the book, however, also says that the CBI had laid a trap at O.P. Sharma's house when the latter was expecting a certain L.K. Goel, who entered the house carrying a suitcase, the door being closed thereafter. The latter claimed that he was speaking from the office of Kamal Morarka, a minister in the Chandrashekhar government. Earlier, the book says Kamal Morarka had informed the CBI that election funds had been parked in Jain's house.

Be that as it may, there is no denying the fact that the CBI failed to take any action on the diaries, notebooks, and files seized from the premises of J.K. Jain on 3.5.91. Indeed, even a 'scoop' carried by *Blitz* on 10.8.91, on its front page in which it claimed it was laying bare, the 'Multicrore Hawala Scandal' and its cover-up by the government and by the top brass of the agency, did not induce the CEI to move on the corruption aspect of the allegations. It only filed a charge sheet against five individuals, Hussain Lone, Shahabuddin Ghore, Mohammed Yusuf Shah, Mohammed Ahasan Dar, and Dr. Mohammed Ayub Thakur on 23.3.92, for offences of criminal conspiracy and the TADA act. This is corroborated by a letter written by CBI DIG Amod
Kanth in January 1996, to the director, CBI, Vijay Rama Rao. The letter published in *India Today* dated 29 February 1996, quotes Amod Kanth as telling the director, CBI\(^\text{137}\):

> You are aware that when I took up this [Jain Hawala] investigation in 1993, the crucial documents, i.e. Jain diaries and files, were practically kept under sealed cover without any concrete action being taken since 1991. The most crucial investigation was carried out under my supervision during 1993-95.

Eventually, writ petitions were filed on 4 October 1993, in the public interest under Article 232 of the Constitution by Vineet Narayan and journalist Rajinder Puri. The gist of the allegation in the writ petition was that, (i) the CBI and the revenue authorities had failed to perform their duties and legal obligations inasmuch as they had failed to investigate matters arising out of the seizure of the 'Jain diaries'; (ii) the apprehension of terrorists had led to the discovery of financial support to them by clandestine and illegal means using tainted funds obtained through hawala transactions; (iii) this had also disclosed a nexus between politicians, bureaucrats and criminals, who were recipients of money from unlawful sources, given for unlawful considerations; (iv) the CBI and other government agencies had failed to investigate the matter and take it to its logical conclusion and prosecute all persons who were found to have committed an offence; (v) this was done with a view to protecting the persons involved who were very influential and powerful; (vi) the matter disclosed a nexus between crime and corruption at high places in public life and it posed a serious threat to the integrity, security

and economy of the nation; (vii) probity in public life, the rule of law, and the preservation of democracy required that the government agencies be compelled to duly perform their legal obligations and to proceed in accordance with law against every person involved, irrespective of where he was placed in the political hierarchy. The writ petitions prayed, inter alia, for the following reliefs:\(^{138}\):

(i) That the above said offences disclosed by the facts mentioned in the petition be directed to be investigated in accordance with law.

(ii) That this hon'ble court may be pleased to appoint officers of the police or others in whose integrity, independence and competence the hon'ble court had confidence for conducting and/or supervising the said investigation.

(iii) That suitable directions be given by the hon'ble court and orders issued to ensure that the culprits were dealt with according to law.

(iv) That directions be given so that such evil actions on the part of the investigating agencies and their political superiors were not repeated in future.

The first order was passed by the Supreme Court on 5 December 1994 with the CBI director being required to personally take over charge of the investigation being carried out by the agency and to report to the court on progress made from time to time. Subsequently, on 30 January 1996, the Supreme Court further observed that the facts and circumstances of the case did indicate that it was of the utmost public importance that the matter be

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examined thoroughly by the court. All this was necessary to ensure that all
government agencies discharged their responsibilities impartially without fear
or favour, while investigating all the accusations without exception and
irrespective of the position and status of the person, and to complete this
expeditiously in its order dated 1.6.96, the Supreme Court directed that the
CBI should not take any instructions from, report to, or furnish any particulars
thereon to any authority personally interested or likely to be affected by the
outcome of the investigations into any accusation.

It may be emphasized here that it was only after the Supreme Court
intervened and passed these orders that the CBI moved in the matter. The
agency first registered a PE No. 1 (a)/95-ACV (VI) dated 13.1.95 to inquire
into the corruption aspects of the case. In the affidavit filed by the CBI in the
Supreme Court, it was clarified that the PE was registered with the specific
object of correctly identifying and verifying the names of the persons
appearing in the diaries in coded form and collecting evidence that would
enable prosecution under the Prevention of Corruption Act. Eventually, the
CBI registered a regular case no.1(a)/95ACV(VI) dated 4.3.95 under Sec. 7 &
12 of PC Act of 1988, Sec. 56 read with Sec. 81(i) of FERA, 1973, against
S.K. Jain, B.R. Jain, N.K. Jain, B.C. Jain, some public servants and others.
Thus began the CBI’s investigation into the corruption angle regarding the
entries made in the 'Jain diaries' after about four years of having seized the
diaries and books from the premises of J.K. Jain. This FIR was very general
in nature and revealed that there were a total of 115 persons against whom
there were entries relating to payments. The total amount dispersed to them
was Rs 65.47 crore between 1980 and 1981 with an additional amount of Rs
2.63 crore having been paid to 119 officials under the head 'departmental expenses', etc. talked in general terms of the scrutiny of files collected from public sector undertakings which had revealed that the Jains and their companies were engaged in large scale power and steel sectors of the Government of India, etc. It was on the basis of such a general and CBI filed till December as many as thirty-four charge sheets against fifty-four persons in court, and the persons against whom the charges were filed were no ordinary individuals. These included Balram Jhakar, former Speaker of the Lok Sabha, Madhav Rao Scindia, an MP who enjoys a very high reputation for honesty and integrity, Devi Lal, former deputy prime minister, V.C. Shukla, former minister in the Central government, and Arjun Singh, former governor and chief minister of Madhya Pradesh, Kalpnath Rai, former minister. The list also included Arif Mohammed Khan, former minister, and BJP leaders Madan Lal Khurana, former chief minister of Delhi and now a minister in the Union Cabinet, and above all, L.K. Advani, former BJP president and currently Union home minister. Others prosecuted by the CBI also included Motilal Vohra, former governor of UP, R.K. Dhawan, Ajit Singh, Ajit Panja, K. Natwar Singh, Kamal Nath, C.K. Jaffer Sharif, Harmohan Dhawan, B.D. Dhakne, Buta Singh, L.P. Sahi, Sharad Yadav, president, Janata Dal, Arvind Netam and Chand Ram. Against Arif Mohammed Khan, former minister, who faced charges of having received one of the largest amounts of Rs6.5 crore, the CBI filed a charge sheet for possession of assets far disproportionate to his known sources of income.

According to information furnished by the government to the Parliament in July 1998, of the thirty-four charge sheets filed by the CBI in
the Hawala cases, twenty-nine had been dropped till then by the courts and those prosecuted discharged. In several cases, the discharge has already been confirmed by the Supreme Court. Reviewing the book, *Bad Money, Bad Politics* by Sanjay Kapoor, in mid-1996 itself, I had made the following observations on the hawala cases:

The investigation in quite a few ... is still in progress ... Some cases are before the court... The Supreme Court is still monitoring the progress .... In between, therefore, nothing much can be said ... But a few questions do arise: Whether holding the office of a minister more than fifteen years prior to the alleged hawala payments could be included as a relevant fact in the charge sheet? Whether a charge sheet could be filed before completion of investigation and the trial can be delayed by the prosecution on the ground of nonavailability of some documents? The history of (the) CBI has been otherwise. It was always the CBI which pressed for framing of charges and accused adopted delaying tactics. It is hoped (that) thorough homework, which has been the hallmark of CBI working, has gone into each case before filing the charge sheet. Otherwise the results could be counter-productive.

In some cases, particularly that against L.K. Advani, it seemed also to have acted with a political motive. Not only, as the highest court ruled later, was there no corroboration as required by Sec. 34 of the Evidence Act (the last clause of which clearly says, 'but such statements shall not alone be sufficient evidence to charge any person with liability'), even the coded entries were not in main notebook, which the CBI termed the 'mother document', but on loose sheets. The Delhi High Court, hearing L.K. Advani's petition, repeatedly asked the CBI to show any evidence that they had to establish even any social contact between Advani and the Jains. L.K.Advani

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had never been involved in any official dealings with the Jain firms. This dealt a severe blow to the crusade against corruption, because those who have been discharged may not really be innocent.

According to newspaper reports, the former deputy prime minister, Devi Lal, was discharged by the Special Court, which directed him to pay the expenses incurred by the government in taking S.K Jain to Norway in 1991 as part of the official delegation to attend the funeral of the Norwegian king. Devi Lal had commandeered an Air India jumbo jet for the journey, which he undertook with a large entourage. Special Judge Ajit Bharihoke stated that Devi Lal, by taking S.K. Jain as part of the delegation, had grossly misused his position. The CBI charge sheet filed against Devi Lal on 22 May 1995, stated that Devi Lal in his capacity as agriculture minister between November 1990 and June 1991, had caused advantage to the Bhilai Engineering Corporation of S.K Jain, and that he had received Rs 56 lakh from the Jain brothers. The court only directed Devi Lal to deposit in the state exchequer the entire sum of the air fare, hotel bills, and other expenses incurred on S.K. Jain's visit to Norway. What dispensation of justice is this, one may with due respect ask the court? The court also discharged Pradeep Singh, grandson of Devi Lal's brother, who had allegedly received a sum of Rs. 14,63,700 from the Jains. Perhaps a thorough and painstaking investigation would have plugged the loopholes and cast-iron cases could have been made out.

The cases of L.K Advani and V.C. Shukla went up to the Supreme Court. The court in its judgement delivered on 2 March 1998, (quorum: Justice M.K. Mukherjee, Justice S.P. Kurdukar, and Justice KT. Thomas)
expatiated at length on the question of whether the entries relating to them in the Jain Hawala diaries would be admissible under Section 34 of the Evidence Act. The section reads:

34. Entries in books and account when relevant:- Entries in books of account regularly kept in the course of business, are relevant whenever they refer to a matter into which the court has to inquire, but such statements shall not alone be sufficient evidence to charge any person with liability.

The Supreme Court held that the notebook (MR 71) which the CBI called the 'mother document' seized from the premises of J.K Jain in April 1991, would be deemed to be 'books of account' kept in the course of business, which was regularly kept, within the meaning of Section 34 of the evidence act. The court, however, held that entries in other books and loose sheets were not admissible. The court accepted the argument of Ram Jethmalani, counsel for L.K Advani and Kapil Sibbal, counsel for V.C. Shukla, that by mere proof of a document the truth of its contents is not proved, without independent evidence of that. In the absence of any such evidence, the counsels argued, no liability could be construed under Section 34 of the Evidence Act. In this connection, the Supreme Court referred to the last provision in Section 34 saying 'such statements shall not alone be sufficient to charge any person with liability'. The court in this connection, made a reference to Beni vs. Bishan Dayal (AIR 1925 NAG 45: 89 IC 391) in which it had been held that there must be independent evidence of the transactions to which the entries related and in the absence of such evidence no relief could be given to a party relying upon the entries to support his

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140 Singh, N.K., op.cit., p. 172.
claim against another. The court, therefore, held that even if they proceeded on the assumption that the entries made in the Jain diaries were correct and entries in other books and loose sheets (which the court had already found to be not admissible as evidence under Section 34) were admissible under Section 9 of the Evidence Act to support an interference, the entries would by themselves not be sufficient to charge L.K Advani and V.C. Shukla with the accusation leveled against them for 'there was not an iota of independent evidence in support thereof'.

As regards L.K Advani, the Supreme Court further held that according to the case of the prosecution itself, his name found place only in one of the loose sheets (sheet no.8) and not in MR 71/91 (the 'mother document', according to CBI), and therefore, in their view, Section 34 could not be pressed against Advani. As regards V.C. Shukla, the Supreme Court held that the statements of witnesses recorded by the CBI did indicate that he was known to the Jain brothers and had visited their residence on formal occasions, but that was about all. So far as L.K. Advani was concerned, the court found that no one had ever mentioned him in their statements. Hence, the first requirement of Section 10 of Evidence Act, i.e. of 'things said or done by the conspirator in reference to common design' was also not fulfilled. On these and other grounds, the Supreme Court dismissed the appeal filed by the CBI against the order of the Delhi High Court, dismissing the charges against L.K. Advani and V.C. Shukla.

Many other cases ended in the discharge of the accused persons on similar grounds or lack of any corroboration.
That was taken on some of the very serious allegations. Whether a case was registered on the basis of the statement made by the Jains to the CBI? If not, why? Was any follow-up action taken to investigate these allegations? Transparency in administration, particularly in a parliamentary democracy, demands that all these facts should be made public at the earliest. This will be the first step towards fighting corruption. The CBI owes an explanation to the nation for its failure to act demonstrably on these very serious allegations vis-a-vis the flippant way in which it went about launching prosecutions without proper investigation in other cases.

Q. IRAQ OIL FOR FOOD SCAM

(a) Volcker Committee Report

The UN-appointed Volcker Committee, which probed irregularities in Iraq's oil-for-food programme during the regime of Saddam issued its report in October 2005.

In his report, Paul Volcker, former chairman of the US Federal Reserve who headed the committee, named Natwar Singh party as 'non-contractual beneficiaries' of the programme, triggering the political controversy that forced him to resign as a minister on November 8, 2005.

He, however, continued as minister without portfolio till he finally quit the government almost a month later. The government" former diplomat Virender Dayal as a special envoy to lease with the UN to collect documents related to the oil-for-food scam.
About 135 Indian entities figured in the 630-page Volcker Committee report, and the Income Tax department carried out the transactions of some of the Indian individuals and firms listed in the document.141

The Volcker Committee, which extensively examined the oil-for-food programme that was meant to enable Iraq to use for humanitarian supplies to its people, found irregularities in both Iraqi earnings from oil exports and the use of these revenue relief materials.

Between December 1996 and March 2003, Iraq sold oil worth $64.23 billion to 248 companies under the programme. USA purchased $34.5 billion of humanitarian supplies from 3,614 companies from across the world.142

The Volcker Report alleged Saddam Hussein's regime levied an 'illicit' surcharge on oil contracts between September 20, 2002. It estimated the regime mobilised $228.8 million from such surcharges paid by 139 companies.

The panel also alleged that 2,253 companies that sold humanitarian supplies paid 'kickbacks' worth $1.55 billion to the report panel estimated the total 'illicit' income accruing to the Iraqi regime at $1.779 billion.

Natwar Singh and the Congress were named in the Volcker Committee's report in a section that provided details of oil all contain then Iraqi government to various entities and individuals. All these entities, classified 'non-contractual beneficiaries,' were allocations, according to the report.

The reports said 'Iraq dispensed oil allocations to and on behalf of a wide array of individuals and groups whom it consider respective countries and who espoused pro-Iraq views or organised anti-sanctions activities.'

Virender Dayal collected documents from the UN, Iraq and Jordan, running into more than 1,100 pages and a CD contain 82,000 pages. Among these were documents from Iraq's State Oil Marketing company and banks in Jordan.

But it is not just Natwar and the Congress alone who are in dock. The role of India Inc too is under the scanner. According to the report, 125 Indian companies are among the 2,400 firms worldwide who made illicit payments to the erstwhile Saddam Hussein regime in order to secure lucrative contracts under the OFFP.143

"These include private sector companies like Reliance Industries, Kirloskar Brothers, Godrej & Boyce Manufacturing Company Ltd Ranbaxy Labs, Cipla, Wockhardt and Tata international. Besides them, public sector companies like State Trading Corporation, Indian Oil Corporation, RITES Ltd and Balmer Lawrie & Co, too, figure in the report.

The OFFP launched in December 1996, was an attempt by the UN to allow Iraq — which had been under international sanctions since 1990 — to export a limited amount of its oil and use the proceeds for the import of goods required for humanitarian purposes.

Both the exports and imports were monitored by a committee of the Security Council and all funds were routed through a UN-controlled escrow account.

143 Volcker report: India Inc. in dock NDTV.com, Nov. 17, 2005, p. 3.
Illicit Income

Despite these precautions, the Iraqi authorities devised mechanisms for earning "illicit income," primarily through levying charges of one kind or another for both the sale of oil and the purchase of goods.

In September 2000, Iraq imposed a surcharge (which was finally increased from 10-30 to 50 cents) on every barrel of oil it sold. Most of this money was deposited in Iraqi-controlled bank accounts in Jordan or Lebanon. In some cases, it was paid as cash and deposited at several Iraqi embassies.

A surcharge was also levied on imports from 2,400 companies from 60 countries, including India, which supplied food, medicines, auto components and engineering goods. According to the Volcker Committee, this became the largest source of kickbacks and illicit income and contributed nearly $1.8 billion to Saddam's coffers.

From the outset of the OFFP, Iraq preferred to sell its oil to companies and individuals from companies that were perceived as 'friendly' and were in a position to influence foreign policy and international public opinion in its favour.

Russian companies received nearly one-third of all oil contracts, while French companies came in second.

By the time the programme ended in May 2003, the Government of Iraq had sold $64.2 billion worth of oil to 248 companies while 3,614 companies worldwide sold $34.5 billion worth of humanitarian goods to Iraq.
Of this, oil surcharges were paid in connection with contracts of 139 companies amounting to a total of $229 million in surcharges, while "humanitarian kickbacks" were paid in connection with the contracts of 2,253 companies.

Non-contractual Beneficiaries

The report alleges that oil allocations were made to four specific Indian "noncontractual beneficiaries" — Natwar Singh, Panthers Party chief Bhim Singh, the Congress Party and Reliance Petroleum Ltd.\(^\text{144}\)

While Natwar was allotted two million barrels each in two contracts (M/09/120 and M/09/54), the Congress was allocated four contracts totaling four million barrels. Of these, only one contract for 1.9 million barrels against Natwar's quota and one million of Congress' allocation (M/10/57) were lifted. Ironically, Masefield AG, a Switzerland-based oil trading company executed both these contracts.

In the case of Reliance Petroleum Ltd, the company figures both as a contractual and non-contractual beneficiary. The petroleum giant was allotted 19 million barrels of oil, of which 15.7 million barrels were lifted by Alcon Petroleum Ltd, a Liechtenstein-based energy trading company.

(b) The Justice R.S. Pathak Commission\(^\text{145}\)

The Justice R.S. Pathak inquiry Authority has been set up to inquiry into the source of information, materials and documents that were available with the Independent inquiry committee (appointed by the Secretary


\(^{145}\) Justice Pthak, R.S. Inquiry Authority.html.
General of the United Nations to investigate administration of the UN Oil-For-Food Programme headed by Mr. Paul Volcker, (former Chairman of Federal Reserve) in its Fifth and Final Substantive Report (including the Table) pertaining to contracts bearing number M/9/54 and number M/10/57 and to give its opinion on authenticity and reliability of the said sources, materials and documents, and whether, in its opinion the purported transactions in oil are genuine or not.

Further, the Authority is to inquire into the aforesaid information, materials and documents and any other material or evidence that may be obtained by it and to give its are justified or not references to Indian entities and individuals pertaining to these contracts are justified or not a whether any Indian entity or individual received any money or other consideration from or paid any money or other consideration to any government/ agency/ company/ firm or individual with regard to these contracts.

The Inquiry Authority shall inquire into any other aspect or matter relevant to the enquiry pertaining to these contracts and make any recommendations or suggestions that the enquiry authority may consider necessary or proper.

The Authority with its Headquarters at Delhi has been mandated to complete it finding and submit its report within a period of six months unless extended by the Government, the authority has been vested with powers to regulate its own procedure including the fixing of places and the timings of its sittings.
A resolution setting up the Authority and containing the Terms of Reference has been published in the Gazette of India on 11.11.2005.

After nine long months the Pathak Commission, which is looking into the alleged mis-appropriation of fund in the “Iraq Oil for Food” scam has come out with its report, Reports CNBC-TV18. The Justice Pathak Committee on Thursday, August 03, 2000 indicted former external affairs minister K Natwar Singh and his legislator son Jagat Singh for procurement of contracts in the United Nations oil-for-food programme in Iraq during Saddam Hussain's regime.146

However, no money has been traced to them.

The copy of the 110-page report, including 22 pages of annexures, was handed over to Prime Minister Manmohan Singh by Justice R S. Pathak, who headed the one-man inquiry authority.

The authority is believed to have exonerated the Congress of all charges of being a non-contractual beneficiary in the scam in 2001.

Andaleeb Sehgal, a friend of Jagat Singh, and Aditya Khanna, a relative of Natwar Singh, are understood to have received financial payoffs in the deal by getting oil coupons based on the letters of recommendation given by Natwar Singh.147

The authority has found that Natwar and his son had misused their position in helping Sehgal and Khanna bag three oil contracts from the UN sanctioned Saddam regime.

147 Ibid
Sehgal and Khanna, in turn, passed the contracts on to Swiss oil company Masefield AG which drew the oil and paid them a commission, the report says, adding that on a cut of five cents a barrel, Sehgal and Khanna received a total commission of $1,46,000, which they divided between themselves in a ratio of 4:1.\textsuperscript{148}

Former Indian Ambassador to Croatia and Congress leader Aniel Matherani, who was part of a four-member delegation led by Natwar to Baghdad in January, 2001, was also exonerated of any wrong doing.

Natwar Singh and his son Jagat have been found to misuse their official position, in fact Natwar Singh has gone ahead and written letters to the Iraqi Oil Minister on official letter heads of the All India Congress Committee, AICC

The Pathak Commission's reconstruction of the story of how contract M/09/54 and M/10/57 in which Natwar Singh and the Congress party have been listed as non-contractual beneficiaries in the oil-for-food programme in Iraq, reads like a paperback thriller.

It tells the story of the friendship of Andaleeb Sehgal and Aditya Khanna, both businessmen, who along with Jagat Singh decide to leverage Natwar Singh's position in the Congress Party to secure oil contracts from Iran, only to resell them to foreign companies at a premium.

Throughout the report, Justice Pathak emphasises that Natwar Singh used his position in the Congress Party to secure personal favours. However, the report

\textsuperscript{148} Supra note, 107.
also says that there is no evidence of money having reached Natwar Singh or his family.

The report says how a string of offshore accounts received money that Hamdaan Exports got as fees for securing three contracts of oil which were subsequently lifted by Masefield AG, a UK based company.

However, while Masefield bought the oil - as only UN registered companies were allowed to purchase oil from sanctions hit Iraq - it was finally lifted by a company called Vitol which bought it from Masefield for a 46 cent per barrel premium, revealing the seamy underbelly of the Oil for Food programme for Iraq under which Iraq charged "surcharges" for allotter oil quotes to friendly regimes which resold these allotments in the market at a premium.

The commission observes: "It was apparent that Shri Natwar Singh tried to project himself as speaking for the entire Congress Party while in fact he was addressing a personal request to the Iraqi government".149

The report describes how Andaleeb Sehgal, Aditya Khanna and Jagat Singh leveraged Natwar Singh position and influence to secure the contracts, the fees of which were salted away in several bank accounts. Motilal Vora, treasurer of the party, has deposed that the Congress party got none of the money.

However, while the enquiry committee absolves the Congress of any wrongdoing, sceptics are asking how this is and are wondering if this is a response to the veiled threats that Natwar Singh has been sending out.

The opportunity comes in 2001 as a delegation from the Congress party is to visit Iraq to express solidarity with the people of Iraq. Aneil

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Mathrani does all the preparatory work. Natwar Singh, AR Antulay, P Shiv Shankar and Mathrani. The names of Jagat Singh and a sixth member whose name is not available are added to the list. The Indian Embassy is asked to make arrangements. Jagat Singh goes to Iraq as a member of the Youth Congress. (Youth Congress President Randeep Singh Surjewala, in his deposition says he had not authorised Jagat Singh to go but Singf produces a letter to this effect) Andaleeb Sehgal joins Jagat Singh on the flight. He stays in the same hotel as the delegation. He is, for all intents and purposes, part of the delegation, including at dinner with the Indian Ambassador in Jordan, but denies this. But he tries to distance himself from the delegation - he travels from Amman to Baghdad by car while the rest of the delegation goes by air.

The most crucial piece of evidence that shows Natwar Singh used his position in the Congress Party to help Andaleeb Sehgal is a letter written on the official letterhead of the AICC, sent by Natwar Singh to Amer Mohammad Rasheed, the minister of Iraq. This says Sehgal "enjoys my full support and confidence and I would appreciate you giving him your full assistance and cooperation".\(^{150}\)

The letter further says: "The Congress Party greatly values fraternal links with the Arab Baath Socialist Party. I believe that these links have been further intensified during our stay in Baghdad".

In 2001, Natwar Singh writes another letter addressed to the Minister of Oil, Iraq. This is also on the letterhead of the AICC and is marked 'personal'.

\(^{150}\) Ibid.
While in Baghdad, a meeting of Natwar Singh, Jagat Singh and Andaleeb Sehgal takes place with Iraq's oil minister.

This is followed by a visit by Aneil Mathrani, Jagat Singh and Sehgal to the State Oil Marketing Organisation (SOMO). Indian members are explained the procedures of the United Nations Oil For Food Programme. Officials of SOMO are under the impression this is an official delegation from the Congress Party. In January 2001, immediately upon his return from Iraq, Sehgal writes to SOMO for the allocation of 2 million barrels of crude oil. He also provides an authorisation letter from the leader of the Indian delegation (Natwar Singh) authorising Andaleeb Sehgal of Hamdaan Exports to lift or negotiate the allocation with SOMO, a letter of undertaking from Hamdaan confirming that 25 cents for a Far East or European ports and 30 cents for a US port would be paid to SOMO 30 days from the issue of the Bill of Lading; and authorisation from Hadmdaan Exports to the buyers for lifting of this quantity.

This is where Masefield enters the picture. Almost simultaneously Nick Swan seeks a visa to come to Baghdad to "accompany Andaleeb Sehgal when he signs the contract". Swan and Sehgal return to Baghdad to tie up the deal in February 2001.

Masefield is crucial to the deal because only companies approved by the United Nations can lift Iraqi oil.

Hamdaan Export gets the contract for the oil, Masefield buys it from Hamdaan Exports for a fee. Sehgal now opens Hamdaan Exports Limited in the British Virgin Islands. He also opens two accounts, in the Bank of Jordan,
one of which in Cyprus. It is in this account that that a part of the commission (from Masefield) is transferred. This is then further transferred to another account of a person Mrs Nawzat A Al Qudsi. Who is this person? No one knows.

The oil has to be lifted. It is not Masefield which lifts the oil - it is a company by the name of Vitol which pays a premium 41 cents over and above the price fixed by the UN. Masefield has become rich.

It pays its helpers in India, including a company called Coburg associates. What is this? no one knows. The same modus operandi is used for a second contract of oil. There is a third contract "for the benefit of the Indian Congress Party but negotiations dry up with Masefield after this.

The Pathak committee says: "It is apparent that Shri Natwar Singh tried to project himself as speaking for the Congress party while in fact he was addressing a personal request to the Iraqi Government". 151

Highlights of R.S. Pathak Commission Report 152

Following are the highlights of the R S Pathak inquiry authority on UN oil-for-food programme:

1. Former External Affairs Minister K Natwar Singh, a non-Advertisement contractual beneficiary in UN programme, was a "beneficiary" as role played by him in "influencing and facilitating" procurement of oil contracts from Iraq "fructified".

2. There is "absolutely no evidence whatsoever" to link Congress party to the transactions, except the fact that Natwar Singh and his son, Jagat Singh, belonged to that party.

3. There is no material evidence to show that Natwar Singh derived any financial or other personal benefits from the contracts.

4. Aditya Khanna, Andaleeb Sehgal, Sehgal Consultants and Hamdaan exports

were Indian entities or individuals who received any money or other consideration in the programme.

5. The Pathak authority believes that "no wrong-doing" can be attributed to the Congress party.

6. Government has examined the report and has accepted the conclusions.

7. Government has decided to the Enforcement forward the report in its entirety to the Enforcement Directorate, Central Board of Direct Taxes and Central Board of Excise and Customs for such action "as may appear to them warranted under law".

8. All documents available with UN's Volcker committee on Oil-For-Food programme were ‘authentic and reliable’.

9. Transactions in oil covered by two contracts, bearing numbers M/09/54 and M/10/57 Were "genuine".


A day after suspending him from the primary membership of the party, The Congress on
Wednesday served a show cause notice to former External Affairs Minister and Party leader K. Natwar Singh. Ten day after on 18 August 2006, Jagat Singh son of K. Natwar Singh who was indicated by the Pathak Inquiry. Authority in the Oil-for-Food scam. Jagat Singh Congress MLA from Rajasthan. In an interview to NDTV to be telecast on Friday, Oct. 26, 2006 Sonia Gandhi said, "Is it became earlier that it was true that my colleague had misused the name of the party in some ways. I felt extremely betrayed ....... He was a colleague in whom I had placed trust and I felt very terribly betrayed".