

GS FOUNDATION
BATCH FOR CSE (2023-24)
ETHICS IN GOVERNANCE - HANDOUT 15

Probity in Governance

Challenges of Corruption

- **Legal & Administrative Framework**
 - ✓ Pre-Independence [IPC]
 - ✓ Delhi Special Police Establishment Act, 1946
 - ✓ Prevention of Corruption Act, 1947
 - ✓ Santhanam Committee (1962)
 - ✓ Central Bureau of Investigation, 1963
 - ✓ Central Vigilance Commission (1964)
 - ✓ Prevention of Corruption Act, 1988
 - ✓ Prevention of Money laundering Act, 2002
 - ✓ Central Vigilance commission Act, 2003
 - ✓ Lokpal Act, 2013
 - ✓ Whistle Blowers Protection Act, 2014

Prevention of Corruption Act, 1988

- **Objective – prevention & prosecution in case of corruption [Public servants]**
- **Major Provisions**
 - ✓ Corruption – “Undue advantage” [taking gratification other than legal fees]; Criminal Misconduct [Disproportionate Assets, Malafide intentions in performance of duty]
 - ✓ Prior sanction for prosecution
 - ✓ Trial by Special Judges
 - ✓ Attachment of Property
 - ✓ Penalties

Amendment to Prevention of Corruption Act, 2018

- Definition of Undue Advantage expanded
 - ✓ for himself or others in lieu of performance of public duty
 - ✓ any gratification other than legal remuneration or fees [Monetary & non-monetary]
- Bribe giver can also be prosecuted [Coercive & Collusive Bribery]
 - ✓ Is there an exception?
- Commercial organizations covered
- Criminal Misconduct diluted [Disproportionate Asset or Misappropriation of resources]
- Prior sanctions for investigation
- Attachment of Property
- Time bound trail

Positives – Expansion of definition of undue advantage, Comprehensive [Bribe givers], Protecting honest civil servants [Bonafide mistakes], enhancement of punishment, time bound trail etc.

Causes of corruption

- Complex Procedures [Rules & Regulations]
- Administrative discretion
- Regulatory functions
- Lack of transparency & accountability
- Poor rate of detection & conviction
- Poor work culture [Ethical & Moral Standards]

Administrative structure to deal with Corruption

- Central Vigilance Commission
 - ✓ supervise cases related to corruption [AIS & Central Services]
 - ✓ Vigilance [Intelligence & surveillance]
- Central Bureau of Investigation
 - ✓ Investigation – cases related to corruption, serious economic offences & criminal cases

Administrative structure to deal with Corruption

- Enforcement Directorate
 - ✓ PMLA & FEMA – enforcement
- Lokpal
 - ✓ Objective – establish anti-corruption body to enquire, investigate & prosecute certain public officials & civil servants engaged in acts of corruption
 - ✓ Jurisdiction - PM; Ministers; MP's; Central Govt. officers – Group A, B, C & D
 - ✓ Procedure - Preliminary Enquiry -> Investigation -> Report -> Lokpal -> Permission for Prosecution -> Special Court / Departmental Enquiry
 - ✓ Supervisory powers – CBI & CVC
- Whistle Blowers Protection Act, 2014
 - ✓ Competent Authority & mechanisms to receive complaints
 - ✓ Safeguards from Victimization
 - ✓ Protection of identity of complainant
 - ✓ Penalty of Identity disclosure [3years]

Practice Case Study – 1

Suppose you are the CEO of a company that manufactures specialized electronic equipment used by a government department. You have submitted your bid for the supply of this equipment to the department. Both the quality and cost of your offer are better than those of the competitors.

Yet the concerned officer is demanding a hefty bribe for approving the tender. Getting the order is important both for you and your company. Not getting the order would mean closing a production line. It may also affect your own career.

However, as a value-conscious person, you do not want to give bribe. Valid arguments can be advanced both for giving the bribe and getting the order, and for refusing to pay the bribe and risking the loss of the order.

What those arguments could be, Could there be any better way to get out of this dilemma? If so, outline the main elements of this third way, pointing out its merits.

Practice Case Study – 2

The Supreme Court has banned mining in the Aravalli Hills to stop degradation of the forest cover and to maintain ecological balance. However, the stone mining was still prevalent in the border district of the affected State with connivance of certain corrupt forest officials and politicians. Young and dynamic SP who was recently posted in the affected district promised to himself to stop this menace.

In one of his surprise checks with his team, he found loaded truck with stone trying to escape the mining area. He tried to stop the truck, but the truck driver overran the police officer, killing him on the spot and thereafter managed to flee. Police filed FIR but no breakthrough was achieved in the case for almost three months.

Ashok who was the Investigative Journalist working with leading TV channel, suo moto started investigating the case. Within one month, Ashok got breakthrough by interacting with local people, stone mining mafia and government officials. He prepared his investigative story and presented to the CMD of the TV channel. He exposed in his investigative report the complete nexus of stone mafia working with blessing of corrupt police and civil officials and politicians.

Practice Case Study – 3

The politician who was involved in the mafia was no one else but local MLA who was considered to be very close to the Chief Minister. After going through the investigative report, the CMD advised Ashok to drop the idea of making the story public through electronic media. He informed that the local MLA was not only the relative of the owner of the TV channel but also had unofficially 20 percent share in the channel. The CMD further informed Ashok that his further promotion and hike in pay will be taken care of in addition the soft loan of `10 lakhs which he has taken from the TV channel for his son's chronic disease will be suitably adjusted if he hands over the investigative report to him.

- (a) What are the options available with Ashok to cope up with the situation?
- (b) Critically evaluate/examine each of the options identified by Ashok.
- (c) What are the ethical dilemmas being faced by Ashok?
- (d) Which of the options, do you think, would be the most appropriate for Ashok to adopt and why?
- (e) In the above scenario, what type of training would you suggest for police officers posted to such districts where stone mining illegal activities are rampant?

(a) What are the options available with Ashok to cope up with the situation?

1. Accept the offer given the CMD
2. Convince the CMD to set up a meeting with the owner & brief him the situation
3. File an FIR ignoring the advice given by the CMD
4. Submit the report to the CM cell and forward a copy of the report to a leading news media.

(b) What are the ethical dilemmas being faced by Ashok?

1. Clash of Interest [Personal Interest Vs Professional Responsibility]
2. Justice for the deceased officer Vs Injustice to self & family
3. Rule of Law Vs Personal Cost

(c) Which of the options, do you think, would be the most appropriate for Ashok to adopt and why?

(d) In the above scenario, what type of training would you suggest for police officers posted to such districts where stone mining illegal activities are rampant?

- Local Terrain & Geography
- Appropriate Barricading Techniques
- Danger Sensitization
- Close Combat + Arms Training [Refresher Training]
- Intelligence Collection, Patrolling & CCTV surveillance etc.
- Co-ordination with other departments [Liasoning]