

WHISTLEBLOWER PROTECTIONS IN CORPORATE LAW: ENSURING ACCOUNTABILITY

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ABSTRACT

The definition of a whistleblower is basically someone who alerts others to wrongdoing. It's similar to raising your voice to alert others to impending danger. When someone is referred to be a whistleblower in any bank or business, it indicates that they are taking a risk by voicing their concerns. They are raising awareness of a problem that requires attention by utilizing their voice. You become a whistleblower when you speak out against anything that is wrong or illegal. What is it, then, it is an act in which we divulge certain information to the whole public. Whistleblowers essentially leak information regarding wrongdoings that are taking place and make it publicly visible. "We discuss major topics in an open manner so that everyone is aware of the situation. If anything goes wrong, everyone knows about it. We thus define whistleblowing as, it's similar to an act in which someone divulges information. Employees or stakeholders disclose any unethical or illegal activities occurring inside a company. Therefore, it is obvious that whistleblowing occurs when someone does this. If an error occurs in any organization, it must be brought to everyone's notice. Individuals in positions of authority or anybody who isn't afraid to speak out. We call this whole conduct "whistleblowing," and those individuals are similar to whistleblowers. If we discuss a significant problem that has come to light, the Panama Papers were one of the main ones. The Panama Papers disclosures brought to light the widespread practice of tax avoidance. The whistleblower policy prompted the revelations, which were all connected to Uber's records. As a result, the whistleblower revealed all of Uber's activities. It indicates that the whistleblower exposed their efforts to maintain a dominant position on a worldwide scale. One of the most significant instances of whistleblowing is this one. Regarding India, the basis for the Protection Act was created in 2014. Now, let's examine the particular law. The Protection Act was first proposed in 2011, but it wasn't formally put into effect until 2014. Therefore, anybody worldwide may report any kind of corruption thanks to the Protection Act of 2014. Under this Act, it is possible to report instances of power abuse by persons in positions of authority, such as when a public official commits a crime or abuses their position of dominance for personal benefit. In essence, it includes every detail of any disclosures made about these issues. Anyone may denounce any corruption or abuse of power by a public official if they choose to be a whistleblower. Our organization now states that you must inform them of any complaints of this kind. If a whistleblower scenario arises, you must notify them in accordance with the appropriate requirements included in the Company Act of 2013 and later. Both of them will have to deal with the Securities and Exchange Board of India in the future. Since they are subject to these laws and regulations, they must respond to the notifications and complaints. Therefore, every listed business or any firm that belongs to this class or those classes must set up a system, according to Section 177 of the Companies Act 2013 and the relevant regulations adopted under it. For their directors and staff, this is essential. "Anyone with legitimate worries or problems must be able to report them via a system in place. According to someone, Sector

177 should have a suitable structure for this so that any employee or director may appropriately disclose any issues they are aware of.

KEYWORDS: panama papers, whistle-blower, whistleblowing, divulges information

INTRODUCTION

When formulating a policy, it is important to ensure that the appropriate goals are included. First and foremost, we must provide directors and workers a suitable channel for voicing their opinions. They need the room to express their worries, discuss their issues, or bring up anything they've seen, such as unethical business practices or policy infractions. It should be simple for children to inquire as to why things are the way they are if anything looks strange or raises questions. We want to ensure that no actions are taken that could result in monetary losses. Any problems that arise might have a significant impact on the company's image. Therefore, if such an event occurs, the directors and staff need to be allowed to publicly address it. To keep them comfortable, we must provide them the proper amenities. This should be supported by the way policies are written. However, we should also take an unbiased stance; if there is a whistle-blower, we must assist them and make sure they are not subjected to any kind of victimization or discrimination. We shouldn't ignore someone who points out an error. Rather, we need to properly tweet about it. If a unique whistle-blower emerges, we must consider them with integrity and make sure they get the appropriate protection. Clarifying the purpose of your policies is also crucial, particularly with relation to reporting, investigations, or settlements that comply with your rules. In other words, we must take seriously any facts or concerns that a whistle-blower may have. The problem is that someone wants to inform superiors about anything that is going wrong. They must be aware of who they should report to, how the inquiry will go, and where all of these problems will be resolved. All workers and stakeholders in the organization should be informed of the appropriate rules that are in

place. In this manner, any issues may be appropriately reported if they arise. Direct access to the HR chairman or head, or via your audit committee, should also be available.

kinds of whistleblowing

i. internal whistleblowing

This can be referred to as internal whistleblowing. This has the benefit of protecting the company's reputation without anyone else knowing. Your manager or head can resolve the matter behind the scenes. Someone who uncovers illegal misconduct in the workplace is the right definition of an internal whistleblower. For instance, if you're an employee and you learn that there are unlawful activities occurring at work. And you make the decision to share your findings with your boss. You proceed to notify your manager or the person in charge.

ii. external whistleblower

You go ahead and tell the media or some other agency instead of telling your boss. You may even leak it on social media or tell your friends about it. For instance, you could record a video as evidence of any unethical or illegal activity occurring at the company and post it on social media. This is referred to as external whistleblowing. Someone who informs someone outside of an organization about unlawful, immoral, or unethical activities is known as an external whistleblower. This indicates that they are a non-employee—in other words, they are not connected to or employed by that company.

iii. Corporate whistleblowing

if a firm is operating, there may be drug trafficking or smuggling going on, correct. do Some dubious contracts, such as those with terrorists or anything associated with terrorism.

Therefore, it involves disclosing information regarding illicit commercial operations, such as drug trading or smuggling. the legal representative must provide material that was previously unknown, something that was previously hidden but that you now learn about, or the company's involvement in those actions. Corporate whistleblowing is the act of disclosing or leaking a secret that you are keeping. Corporate whistleblowing is the act of disclosing or leaking a secret that are keeping.

iv. Anonymous whistleblowing

When the identity of the whistleblower is kept secret, this is known as anonymous whistleblowing. Let's take an example where you see a suspicious activity occurring inside your organization. "You can inform an agency that you have information about the misconduct, but you have one requirement: you want to keep your identity private and undisclosed." Anonymous whistleblowing is when someone chooses not to disclose their identify while coming forward with information.

v. Personal whistleblowing

an instance of misconduct within an organization. Not every employee is going to be involved in that situation, Even if only one individual is implicated, it is still considered misconduct. Therefore, the accusations are not directed at the entire organization or system, but rather at that single individual. In other words, just a specific element of the company is implicated in the misconduct." t can't happen that just one person, even just an individual employee, gets involved and you inform them that the corporation is alright, but this particular employee is doing something wrong here. That's when personal whistleblowing comes into action. The allegations aren't against the organization itself, meaning you're not moving against the company or your supervisor. You're competing against one individual. That individual could be an employee, for example, it could even be your supervisor.

Whistle-blower protection framework in India:

Its origins can be traced back to 2001. In 2001, the Law Commission was active and emphasized the necessity of halting the corruption that is currently occurring. Therefore, in order to To prevent corruption within organizations or public services in India, particularly among public officers, a dedicated authority must be established to monitor these issues and ensure that corruption does not occur. In the event that corruption occurs, it is imperative that individuals have a straightforward method of filing complaints and informing the appropriate authorities. In essence, India must establish a mechanism that offers guidance and support to effectively combat corruption. he Highway Authority of India has some crooked persons, and those who are honest frequently end up being injured. A person called Satyendra Dubey, who was a whistleblower, was killed back in 2003. This occurred because the Central Vigilance Commission didn't safeguard his identity. To avoid similar things from occurring in the future, in 2004, they created something called the Public Interest Disclosure and Protection of Informants. This was supposed to encourage individuals to share information. However, it's crucial for those who provide this information to be safeguarded." Protecting life is vital, right? So, what priority has been devoted to the protection of whistleblowers? This all began because of the Satyendra Dubey lawsuit back in 2003. In 2001, the Law Commission looked into it, and then in 2004, the government approved a resolution for public interest disclosure and the protection of whistleblowers. Basically, they put up certain criteria to safeguard anybody who comes out, as Satyendra Dubey did. Under this decision, it was announced that the Central Vigilance Commission (CVC) will address these problems. There's going to be a monitoring body. So, let's pretend I'm the one who has to blow the whistle on some corruption.

Where do I submit my complaint? I'll take it to the CVC (Central Vigilance Commission). They'll determine who to send over that information or

case to. But how can I really make my complaint, They stated it should go to the CVC as specified in the PidP resolution. However, there's one issue that's been pointed out: in the past, with the Satyantra Dubey case, the identity of the complainant was released, but that won't happen longer with the CVC. When I submit a complaint, the CBC will manage the issue in a manner that they won't expose my identity as an informer, so my life may be safeguarded. That's one thing to notice. After the Central Vigilance Commission was founded in 2005, we now act as a sovereign nation and correct several norms. For instance, there's a United Nations treaty against corruption that India ratified in 2005, making India a signatory to that convention. So, back in 2005, when we began taking a position against corruption, that really cranked up our obligation. We have to concentrate on prevention and safeguard the lives of whistleblowers, particularly because it's a massive worldwide problem. In 2005, the Companies Act was enacted, and it said that every company and public office shall have an anti-corruption committee. There should be an anti-corruption wing in every corporation to deal with any shady deals or difficulties that could be going on.

Key highlights of whistle-blower protection act, 2014

i. the first provision is about accepting complaints connected to the revelation of accusations. If someone wishes to disclose corrupt practices, unlawful acts, or abuse of authority, they need a mechanism to submit a complaint or alert someone. So, what's the process? Where does that individual go? Who do they complain to? This statute offers all those facts.

ii. if someone wishes to protest against a person, like a union minister, where do they go, For example, if I have a complaint against a union minister, where can I register, I think I could take it to the Prime Minister, right, So, it's been mentioned that if you want to complain against someone in public office, you need to

know which authority to contact. If I want to protest about a union minister, I would go to the Prime Minister to register my complaint."

iii. the problem of anonymous complaints is highly crucial. What this is stating is that you may register a complaint, but here's the catch: if you don't provide your information—like who you are and where you're coming from—your complaint won't be accepted. Basically, anonymous concerns won't be taken seriously. So, when you're filing a complaint, at least your name will have to be provided. The reason for such is to prevent someone from simply randomly filing complaints against others without any genuine basis, or to trap someone. That's why this clause was inserted. But the abuse occurs in such a manner that the impoverished informal laborers occasionally get caught up in it. So, this entire problem is that the statute doesn't deal with anonymous complaints

iv. The maximum time you have to submit a complaint is 7 years, If anything occurred now, like corruption or other type of problem, complain about it inside that 7 years. Once that period is over, do not register a complaint about it anymore. If come with an old problem, like something that occurred 7 years ago, they won't take it. So, you need to be sure to submit your complaint inside those 7 years.

v. Court of Appeal. If I filed a complaint against someone and the verdict went in their favor, but I'm not pleased with it or it didn't come out the way I imagined it would, then I may appeal. I have the right to appeal." I may appeal to the High Court within 60 days after the first ruling, So there are some provisions for this since 2014.

Case

study

i. Satyendra Dubey:

Satyendra Dubey, one of the early Indian whistleblowers, was an Indian Engineering Services (IES) officer who was assigned as a project director under the National Highway

Authority of India. He was managing the building of a segment of the Aurangabad-Barachatti stretch of the NH 2 (The Grand Trunk Road), a highway which was a component of former Prime Minister Atal Bihari Vajpayee's massive infrastructure project, the 'Golden Quadrilateral Project', at Koderma district of Jharkhand. Dubey brought to light the financial irregularities in the project operations and triggered the suspension of three engineers by the contractor. On November 27, 2003, while Dubey was returning from a wedding in Varanasi, he was shot dead after he reached Gaya. Dubey's driver spotted his dead lying on the road side near A.P colony. Dubey was posthumously given the

'Whistleblower of the Year' award by the London-based nonprofit, Index on Censorship.

ii. Shanmugam Manjunath

A computer science engineer and a grade 'A' government worker at the Indian Oil Corporation (IOC), Shanmugam Manjunath revealed the wrongdoing at two fuel stations in Lakhimpur Kheri in Uttar Pradesh. Under his authority, he locked the two petrol stations, which were selling contaminated gasoline and performed surprise raids when they resumed functioning again after a month. On November 19, 2005, Manjunath was shot dead with six gunshots in the town of Gola Gokarannath in Lakhimpur Kheri and his corpse was recovered in the backseat of his own automobile, driven by two workers of the gas station.

iii. Lalit Mehta

Lalit Mehta, an engineer by profession, was actively engaged in the activities of the 'The Right to Food' movement in Palamu district of Jharkhand. Mehta discovered corruption in the functioning of the Mahatma Gandhi National Rural Employment Guarantee project. He did a social audit of the plan with the aid of economists and was assassinated before he could expose the complete swindle. On May 15, 2008, Mehta was assaulted when he was

commuting on his bike in Chhatarpur area of Madhya Pradesh.

iv. IPS Narendra Kumar Singh

In 2012, Indian Police Service (IPS) inspector Narendra Kumar Singh found a mining fraud in Morena area of Madhya Pradesh, which is noted for its good quality of sand for building. He was assigned in Morena in 2009 and despite many threats Singh was actively engaged in tracing the operations of the sand mafia, who were mining sand illegally out of the area to other parts of MP. On March 8, 2012, he was warned of unlawfully mined stones being delivered on a tractor. When he reached the area to intercede, Singh was ran over by the tractor and he died on the spot.

v. Sanjiv Chaturvedi

As an Indian Forest Services (IFS) officer, Sanjiv Chaturvedi is well-known for revealing illicit tree cutting by the contractors engaged in the building of Hansi Butana canal in Uttarakhand in 2002. After numerous assignments, he was named the Chief Vigilance Officer of the All India Institute of Medical Sciences (AIIMS). At AIIMS, Chaturvedi initiated action against the physicians who conducted unapproved international visits and uncovered unlawful actions involving higher officials. Between 2012 and 2016, during his employment at AIIMS, he probed roughly 200 corruption cases. Currently, he is serving as the Chief Conservator of Forest at Haldwani in Uttarakhand.

vi. Vijay Pandhare

Vijay Pandhare was the Chief Engineer of the Maharashtra Water Resource department. In 2012, he made headlines for uncovering corruption in the irrigation projects in the state. Pandhare wrote to the Chief Minister regarding financial irregularities in the irrigation projects, pointing out that although Rs 120 billion was spent on lift irrigation, 99 percent of the entire 227 projects in the state were non-functional. The letter led to the resignation of the deputy chief minister Ajit Pawar.

CONCLUSION

Whistleblowing is a fundamental act that fosters openness and accountability in organizations, enterprises, and government sectors. It is a key process that brings unethical and unlawful acts to light. Whether it's internal, external, corporate, anonymous, or personal whistleblowing, the purpose remains the same—to disclose injustice and achieve justice. The value of whistleblowers in exposing corruption, fraud, or wrongdoing cannot be disregarded, as demonstrated in incidents like the Panama

Papers or Uber's stolen data. In India, the Whistleblower Protection Act, 2014, offers a framework for defending persons who expose corruption and abuse of authority. However, problems remain, such as the ban on anonymous complaints and the time constraint of seven years for filing charges. While the legislation tries to protect whistleblowers, occurrences like the murder of Satyendra Dubey emphasize the dangers involved, highlighting the need for additional safeguards. From a larger perspective, whistleblowing is not simply about exposing corruption—it is about building a culture where truth and ethical behavior are prized above fear and personal benefit. Employees, stakeholders, and persons in power must have the trust that they may report misbehavior without incurring reprisal. Every company should have a suitable whistleblower system to enhance openness. In conclusion, whistleblowing is an act of bravery. It is a duty that guarantees a fair and just system. While laws and rules exist, their execution must be effective to genuinely safeguard people who come forward. Organizations and governments must strive towards enhancing the structure to guarantee true security to whistleblowers, making ensuring that justice wins over injustice.