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# **BOOK REVIEW**

## HINDU 22.2.11 BOOK REVIEW

### **Information rich, but short on analysis**

V. VASANTHI DEVI

ELEMENTARY EDUCATION IN INDIA - Status, Issues and Concerns: D. Jagannatha Rao; Viva Books Pvt. Ltd., 4737/23, Ansari Road, Daryaganj, New Delhi-110002. Rs. 895.

Education, particularly elementary education, is a terrain of profound thinking and fierce contestation. A century ago, the idea of 'India' and the dream of a national education grew together. The Constitution gave the new nation 10 years to shed the curse of illiteracy and turn educated. After half-a-century, the dream has faded and India's dismal record in education stares the nation in the face.

Many years ago, J.P. Naik, the great educationist, called education an "elusive triangle", with equality, quality, and quantity forming the three sides, none of which can stand without the other two. When 'elite India' and its policymakers rejected the dimension of equality, the triangle collapsed and the country has landed itself at the bottom of the human development index table.

India's education system, marked by an elaborately constructed multi-track schooling, is among the most exclusionary ones in the world. With neoliberalism sweeping across the country, the 'market' has triumphed and knowledge stands commoditised. Children are pushed into a merciless and mercenary world of fierce competition. What we have today is unabashed, unapologetic class education.

## Dimensions

In this book, Jagannatha Rao, a former Director of Public Instruction in Karnataka, seeks to present the manifold dimensions of elementary education. Packed with data and information, it contains a useful discussion on learning outcome measurement, an issue that is poorly addressed in elementary education, with even the Right to Education Act remaining silent on it.

The annexures are a mine of information about the mid-day meal scheme, early childhood care and education, and the various studies on learning achievement levels.

The chapter on 'financing of education', which makes a detailed presentation of the government's flagship programme, Sarva Siksha Abhiyan (SSA), should help one to grasp the nuances of the shortfall in resource allocation. Where the author stands in the raging debate on 'public vs private education' is clear.

He wants private schools to be regulated and monitored by a system that is "friendly" and "realistic" and, what more, given support (by way of assistance from the public exchequer, for instance) so that they are enabled to provide high quality education. This is not to say the author has no concern for improving public education. In fact, his concern is palpable throughout the book.

## Common school system

Drawing upon the experience he had gained as the head of educational administration in Karnataka, he pinpoints its many flaws and suggests the way ahead.

However, while the coverage is vast, the missing elements are many and cardinal to the debate on elementary education. The entire discourse on common school system that has been the dream and

demand of generations of educationists and nation-builders has been summarily dismissed in a couple of sentences. “No doubt the concept of the common school system that aims at ensuring equity is desirable. But in reality, it is not practical as ground realities are different.” The concomitant concept of ‘neighbourhood schools’ does not get even a cursory reference. Historically, the common school system with neighbourhood schools has been the bedrock of education and nation-building in advanced countries. It has also found favour with successive education commissions in India.

Another intriguing omission is a discussion on curriculum, which has a defining role in education. Curriculum is at the centre of the country's dreams of what the nation and its citizen should be. Gandhiji and Tagore are among the many thinkers and nation-builders who laid stress on designing the curriculum to reflect the self-image and identity of the nation and its flowering into a grand democracy.

More recently, the National Curriculum Framework of 2005 provided the ignition to much thought and action in this area. The debate on a large number of issues — the irrelevance of the curriculum to social reality and needs; work-centred education to integrate the head, heart and hand; the class character of the curriculum privileging the middle class child and denying the cultural and cognitive capital to the working class child and so on — does not figure in the book.

While initiatives by the state get a lion's share of space, experiments in alternative education are dismissed in a few paragraphs. Sadly, the renowned Hoshangabad Science Teaching Programme that profoundly impacted the most marginalised children does not find a place.

The entire educational development is projected as having flowed

from the state's own commitment, thereby ignoring the powerful people's movements that in fact prompted, often compelled, the state to act. Finally, one cannot engage with the foundational field of education without taking on upfront the politics of education, with all its ethical, human, and constitutional implications.

There is little doubt that the book, although devoid of a vision, is a useful source of reference.

# **CIVIL SERVICE**

## **Civil servants to tee off at Gaekwad Baroda Golf Club**

Tushar Tere

VADODARA: Top [Indian Administrative Service](#) (IAS), Indian Police Service (IPS) and Indian Forest Service (IFS) officials from the state will tee off on the greens at the [Gaekwad Baroda Golf Club](#) (GBGC) on Sunday. It is for the first time that civil servants from Gujarat will come together to play golf at GBGC that is located in [Laxmi Vilas Palace](#) premises. The IAS Officers' Association, Gujarat chapter, decided to organise the event and it chose the city to host its maiden golf tourney.

Over 40 IAS, IPS, IFS, revenue services, customs and excise and railways officials will participate in the tournament. "Golf as a game is gaining lot of popularity and many civil servants play this game. We decided to hold golf tourney to promote the game in the state. Also, the event will give opportunity for all the civil service officers to come together on a common platform and interact with each other," district collector Vijay Nehra said.

"The association chose Vadodara as it is a beautiful city with lot of heritage sites. The officers, who are not well-versed with the game, will visit the heritage sites and other popular spots on Sunday," Nehra told TOI. Many of the greenhorns, who have just started playing golf, will also try their hand at the 10-hole golf course.

Gujarat chief secretary A K Joti will inaugurate the first Gujarat Civil Services Invitational Golf Tournament that will also be attended by state DGP Chitranjan Singh, principal conservator of forests Pradeep Khanna and chief commissioner of income tax, Vadodara, A K Jain. Former chief secretary Sudhir Mankad, ADGP Pramod Kumar, joint managing

director, SSNNL K Srinivas and retired ADG RMS Brar, city police commissioner Rakesh Asthaana and Nehra will play in the tourney among others.

"Civil servants, who have a very busy schedule, will be able to take some time off and enjoy the weekend. We may make it an annual event in future," Nehra added.

# **CORRUPTION**

## HINDU 19.2.11 CORRUPTION

### **Jail for one corrupt politician**

V.R. Krishna Iyer

*After a long legal battle, the law catches up with a former Kerala Minister involved in a case of corruption dating back to the early 1980s.*

R. Balakrishna Pillai, the veteran politician who has been leading the regional political party named the Kerala Congress (B), was, on February 18, sent to jail for certain acts of corruption he committed some 20 years ago when he was Kerala's Minister for Electricity. Two others including a former Chairman of the Kerala State Electricity Board were also sentenced in the same case. The Supreme Court ordered this punishment on an appeal filed not by the State government but by the present Chief Minister of the State, V.S. Achuthanandan. He filed that appeal in the early-1990s in his individual capacity when he was the Leader of the Opposition, seeking a reversal of an acquittal that had been granted by the Kerala High Court.

It is a basic principle of criminal jurisprudence that the initial presumption of innocence enjoyed by accused persons is reinforced by an acquittal. On appeal it shall be upset by a superior tribunal only in rare cases and only on the strength of clear and loud grounds. Only in a small percentage of cases does the Supreme Court intervene in cases that involve such a presumption of innocence.

A ruling of the Supreme Court is final not because it is infallible; it is infallible because it is constitutionally final and structurally supreme. Prejudice or ignorance sometimes leads some robed

brethren into grave errors. Had there been a court above the Supreme Court, many of its judgments would have suffered reversal. Look at the case marked 1973 4SCC 225 where the view of 11 judges headed by Subbarao J. (Golaknath case) was upset by little reasoning in justification in the Kesavananda Bharathi case. Indeed, several decisions of the highest court have been found to be fallible and have suffered eclipse over the years.

In Balakrishna Pillai's case, the trial court convicted the accused but a single judge of the High Court set aside that judgment and ordered acquittal. The Supreme Court upset the High Court's decision. Curiously, the State government under the United Democratic Front, of which the Kerala Congress(B) was a part, did not file an appeal — presumably because it agreed in conscience with the acquittal. Mr. Achuthanandan, however, filed a special leave petition. The Left Democratic Front (LDF) government which came to power later also did not file an appeal. In short, neither the party that was in power during the initial relevant period, nor the LDF government which came to power later, challenged the verdict of innocence that was rendered by the High Court. The ultimate sentence issued by the Supreme Court is valid because the court has the jurisdiction. But it has been argued that the court supported the trial court's conviction without giving an opportunity to Balakrishna Pillai to show cause against the sentence.

It would be right for the public to draw the conclusion that the LDF government did not care to question the acquittal. It cannot take credit for the present conviction because it did not move the Supreme Court questioning the acquittal. Mr. Achuthanandan's appeal was not on behalf of the government but as an individual. The government objected to the acquittal, but only at the last moment. On the whole, had Mr. Achuthanandan not pressed his appeal in the Supreme Court, Balakrishna Pillai would have got off the hook since no proceedings had been initiated by anyone

including the government.

The Supreme Court's pronouncement is the final judicial verdict and it has to be accepted. The only remedy that is open to Balakrishna Pillai now is under the clemency jurisdiction. That is a different jurisprudence dependent on other public considerations governed by Article 161, as has been explained in Maru Ram (1980 AIR 2147).

Review, an illusion

The possibility of a review of the punishment, as has been suggested in sections of the media, is but an illusion. It has to be done before the same Bench and there can be no obligatory public hearing except where the same Bench prima facie concludes that it has committed a grievous error. That happens rarely. It is hard to imagine the same Bench now considering a strong judgment it has delivered as a blunder. Clemency in this case is more a matter for the President.

In this case, in its well reasoned judgment the Supreme Court has discussed every facet of the case and come to a conclusion and a verdict that sounds satisfactory. Two views are possible with respect to any conclusion. In this case it is a single judge of the High Court versus two judges of the Supreme Court. Having read the entire judgment it seems to me that it is difficult to hold the conclusion as untenable. That is why I hold the view that no review is possible and only clemency can operate to save Balakrishna Pillai from behind the iron bars. But a clemency has to be rational and not fanciful. This case is indeed a tough one where the principles of criminal justice are on serious trial — in full public glare as well.

I must express my deep appreciation of the real hero behind this prosecution and conviction, who persisted with the criminal case for close to a decade. Mr. Achuthanandan, who was then not in power but in the Opposition, chose to hold the flag of justice aloft all alone, and because of his persistence won a victory for justice.

## HINDU 16.2.11 CORRUPTION

### **Questions of accountability**

Era Sezhiyan

*The principle of ministerial responsibility should be invoked in the matter of the decisions involved in the 2G spectrum scam.*

The report of the Comptroller and Auditor General on the 2G spectrum deals, submitted in November 2010, revealed a presumptive loss caused to the Central government of about Rs.1.76 lakh crore. This is the largest single instance of corruption in monetary terms in India's political history. Furious indignation among the media and the public, and the demands of the Opposition parties, led to the resignation of Telecom Minister A. Raja. Human Resource Development Minister Kapil Sibal now holds additional charge of the Telecom Ministry.

On December 31, 2010, the Telecom Minister appointed a one-man committee comprising Justice (retd) Shivraj V. Patil “to examine the appropriations of procedures followed by the Department of Telecommunications in [the] issuance and allocation of spectrum during the period 2001-09.”

Justice Patil submitted his report on January 31, 2011. It was put on the website of the Department of Telecommunications (DoT) on February 10. In the report, material covering the eight terms of reference is examined separately in each chapter.

As the committee was appointed mainly to study the appropriations followed by the DoT and to give suggestions to streamline policy

regarding the future sale of spectrum, it did not go into past losses incurred by the government in the sale of spectrum. However, the terms of reference required the committee to “identify the public officials responsible in the cases of ‘deficiencies’ and ‘shortcomings and lapses.’” Accordingly, the report provides particulars of names and designations of the officials involved in taking decisions, responsible “for deviations in formulation of procedures” in 17 paragraphs of Chapter 6, and of the officials “responsible for lapses,” in 20 paragraphs of Chapter 7.

In 36 of the 37 paragraphs, the report lists the names and designations of officials, from the Secretary downwards. Invariably every paragraph concludes with the remark: “The officers named above appear to be responsible for the deviation,” or “for the lapses,” as the case may be. In these paragraphs dealing with officers taking decisions, the Telecom Minister is associated with the officials in the following paragraphs (given here without the names and designations of the officers):

Para 6.1(ii): “The decision was taken on the basis of note put up (by 10 officials) and approved by the then Minister.”

Para 6.1(iii) is about the recommendations of the Telecom Regulatory Authority of India that were not placed before the Telecom Commission. It states further: “This was endorsed by 2 officials and approved by the Minister.”

Para 6.1(iv) refers to the DoT seeking the legal opinion of the Attorney-General/Solicitor-General through the Ministry of Law and Justice on the procedure to be followed for the grant of new Unified Access Service Licences (UASLs).

The Law Minister gave the opinion that in view of the importance of the case, it was necessary that the whole issue be first considered by an Empowered Group of Ministers. However, based on a note by

two officers of the DoT, “the Minister took the view that the opinion of the Minister of Law and Justice was out of context and decided [that] the procedure for grant of new UASLs formulated earlier be continued.”

Para 6.1(vi): “Said decision was based on the contents of the letter of the Minister dated 26-12-2007 addressed to the Prime Minister. On the basis of [a] note by 3 officers and [as] approved by the Minister, [a] decision was taken to treat the contents of the said letter of the Minister as the policy of DoT.” Peculiarly, about the decision to issue a Letter of Intent (LoI) to amend the UASL on payment of additional fee, Para 7.1(xiii) states: “This is in deviation from the practice followed which accords priority on the basis of date of application and not on the date of compliance of LoI. This decision was taken by the Minister on 17-10-2007.” In this case, no officer is noted as having been involved in making the decision. In all fairness and according to the principles of natural justice, it should have been noted that the Minister alone was responsible for this deviation. But no such comment has been made about his act of deviation.

It is difficult to accept the conclusion that the officers who prepared the drafts were responsible for the ‘deviations’ or ‘lapses’; some of them were approved by the Minister himself. In particular, as per Para 6.1(vi), the decision was taken in the presence of the Minister to treat the contents of his letter to the Prime Minister as the policy of the DoT, which is stated in the paragraph to have been approved by the Minister himself. In this case also, the paragraph ends with the remark: “The officers referred herein above appear to be responsible for this deviation.”

It appears that there is a conspiracy to make the officials of the Ministry responsible and punishable for the actions of the Minister.

We should take note of the basic concept of ministerial responsibility, which is the prime tenet of a Cabinet system of government as developed in Westminster and adopted by the Constitution of India.

There are four principal features of the Cabinet system of government. One is that the Cabinet is a single unit accountable to the elected legislature. On every important piece of policy and performance, all members of the Cabinet stand and fall together. The second feature is that, in the presidential system the head of the executive, the President — apart from impeachment procedures — is answerable normally to the electorate, either directly or through a system of electoral college.

But in the parliamentary system, the Cabinet, led by the Prime Minister, is immediately answerable to the elected House. The third feature is that, while all members of the Cabinet are collectively responsible to the legislature, there is also individual responsibility for each Minister with respect to the performance of the Department or Departments under his charge. The fourth feature is that, although all members are equal and responsible for every decision taken collectively in the Cabinet, the Prime Minister represents the 'keystone of the Cabinet arch' and occupies a position of exceptional accountability on the performance of the Cabinet on the whole.

About the dual responsibilities of a Minister, Ivor Jennings stated: "The Cabinet is a general controlling body. It neither desires nor is able to deal with all the numerous details of the government. It expects a minister to take all decisions which are not of real political importance. Every minister must therefore exercise his own discretion as to what matters arising in his department ought to receive Cabinet sanction. The minister who refers too much is weak; he who refers too little is dangerous." (Page 233-234, Cabinet

Government, Third Edition, 1980)

Jennings also stated that the minister is fully responsible for the decisions of his civil servants. He wrote: “All decisions of any consequence are taken by ministers, either as such or as members of the cabinet. All decisions taken by civil servants are taken on behalf of ministers and under their control. If the minister chooses, as in the large Departments inevitably he must, to leave decisions to civil servants, then he must take [the] political consequences of any defect of administration, any injustice to an individual, or any policy disapproved by the House of Commons.

He cannot defend himself by blaming the civil servant. If the minister could blame the civil servant, then the civil servant would require power to blame the minister. In other words, then the civil servant would become a politician. The fundamental principle of our system of administration is however that the civil service should be impartial and, as far as possible, anonymous.” (Page 149, The British Constitution, Fifth Edition, 1971)

If a civil servant is found by an impartial enquiry to have exceeded or misused his authority or power to secure personal gain or advantage to other individuals or organisations, he should be duly punished under the law.

If, in the case of the 2G spectrum deals, the Minister had acted on his own to issue licences, he comes under his individual ministerial responsibility to be accountable for the huge loss and the consequences of the unprecedented scale of corruption.

Mr. Raja had claimed that the procedures he adopted in the allocation of spectrum licences had received the stamp of approval of the Prime Minister, as his letter of December 26, 2007 had been acknowledged by the Prime Minister in a reply thus: “I have received your letter of December 26, 2007 regarding developments

in the telecom sector.” If this assumption by Mr. Raja is acceptable, then the entire policy and procedures adopted in the grant of 2G licences will become a matter to be considered under the collective responsibility of all members of the Cabinet.

# **E-GOVERNANCE**

## **Delhi to scrap stamp paper altogether**

Ambika Pandit

NEW DELHI: After introducing a new circle rate regime, the [Delhi Government](#) is now planning to do away with stamp papers of all denominations and introduce a more foolproof system of e-stamping. Currently, e-stamping is applicable to values of Rs 501 and above. But there are plans to do away with all stamp papers of denominations of Rs 500 and less and replace them with e-stamps.

Speaking to Times City, chief secretary Rakesh Mehta said, "We are going to have a dialogue with Stock Holding [Corporation of India Limited](#) on how e-stamping can be expanded to lower denominations of stamp duty. The transition process is going to begin at the earliest." It is learnt that the process of shifting to e-stamping is expected to begin within two months.

Stamp duty is charged by the state government's revenue department at the time of registration of all documents that have a legal bearing. Nearly 80% to 90% of these registrations relate to immovable properties. However, stamp duty is charged for very small denominations as well. The stamp papers start from Re 1 onwards. Stamp duty of lower denominations are levied for registering affidavits for various purposes like registration of instruments, marriage certificates and name change among other things.

After the Telgi scam on stamp papers, the Central Government woke up to the need for a more foolproof system to ensure that the common man is not duped into buying fake stamp papers. With this

in mind the [Delhi](#) government shifted to e-stamping by doing away with [stamp paper](#) for denominations of Rs 501 and above.

Under the e-stamping system, instead of buying a stamp paper a person desirous of registering a document, which requires payment of stamp fees, will have to go to a bank or centre authorised by the revenue department where he will be given an electronically generated stamp on payment of the stamp fee.

This e-stamp will be a foolproof document that cannot be tampered with. Information that the stamp duty has been paid by a person is then transferred electronically to the state exchequer. The e-stamp then becomes the legal document which can then be registered.

According to the [Delhi](#) government chief secretary, it is also proposed to gradually develop standard forms for various types of registration for smaller denominations so that people are spared the trouble of getting the legal information typed on the e-stamp by deed writers.

Keeping in view that people may not find it convenient to go to a bank for e-stamps of small denominations, the revenue department is also exploring the possibility of setting up authorised kiosks and agents at various places like markets and malls.

# **JUDICIARY**

## **Justice in decay**

Tavleen Singh

The Supreme Court made some fascinating comments recently on the flaws in our justice system that were ignored by everyone. When our highest court pointed out that no government wants a strong judiciary and that this is the reason why less than 1 per cent of our annual Budget is spent on court infrastructure, I imagined that at least our scam-obsessed TV channels would join the dots and discover that politicians get away with looting public money because the justice system does not work as it should.

This did not happen, so I consider it my duty to point out this week that what the Supreme Court said was more important than A Raja cooling his heels in Tihar Jail and more important than last week's raids on Kalaingar TV. While the CBI is in its current state of hyper activity, can it please investigate how so many of our major political leaders acquire the hundreds of crores needed to run television channels? But, I digress and do not want to.

The Supreme Court, while commenting on Amar Singh's phone tapping case, said other things of great importance. Justices G.S. Singhvi and A.K. Ganguly said, 'This case should have been over in three months. Adjournments have become a cancer to the institutions.' They said, 'The system has already become sick. What can be the expectation of the common man for speedy justice? Even in the Supreme Court, a special leave petition takes eight years to

reach final hearing.’ They said, ‘We all give sermons. We go to the National Judicial Academy and give lectures to judicial officers asking them to speed up disposal of cases. But where is the infrastructure?’

The short answer is that it does not exist. Last week, it was reported in the Times of India that ten high courts in the country are desperately short of judges and that these ten account for 68 per cent of our backlog of 41.8 lakh cases that remain suspended at the high court level.

What is the point in sending Raja to jail? What is the point in catching Suresh Kalmadi’s gang of thieves? What is the point in trying to get justice at all in a country where your case may not come to court in your life time? Victims of the Bhopal gas tragedy wait for justice nearly thirty years after the worst industrial accident in human history. Victims of the Uphaar cinema fire have waited for justice for nearly twenty years. And, these are huge public tragedies. The Supreme Court is right to point out that there is no hope of justice for the common man. I have two small personal matters that have not come to court in twenty years. In one, my car was hit by a Delhi Transport corporation bus from behind. The case has not yet come to court. And, in the second, case officials of the Delhi government burst into my office and started breaking things up before realising that I was not in illegal occupation. The case has never come to court and never will.

It is an old Indian tradition for officials to get away with anything unless it is they who make a case against a private citizen. This they do needlessly and often so more than sixty per cent of the civil cases

that clog our courts have the government as the litigant. From personal experience, I can guarantee that in more than ninety per cent of these cases, the reasons for wasting taxpayers money on litigation are flimsy.

To return, though, to the observations made by the Supreme Court it needs to be emphasised that there is no hope of speeding up the process of justice in India unless we appoint more judges and spend money on 'court infrastructure'. Indian courts are in a disgraceful state. Fine buildings have been reduced to a state of terminal decay because there is often not even enough money to keep them clean. The Esplanade court in Mumbai is an example. It is a magnificent building from the days of the Raj and should be preserved as a national treasure but its corridors are covered in filth and it is not unusual to run into stray dogs and cats in the court rooms. In Ujjain, I once encountered a cow in the court room.

It is hard to talk of the 'majesty' of justice in such surroundings and harder still to speak flippantly of the law 'taking its course' as our politicians like to say. The only reason they say it is because they know better than anyone else that in India the course is long and filled with obstacles. They know better than anyone that justice may never be done unless you happen to have the power, influence and high connections to ensure that the course is made easier.

# **POLITICS AND GOVERNMENT**

## **A PM so helpless?**

Pankaj Vohra

No Prime Minister in India's history has ever expressed helplessness in facing challenges that have come up during his or her tenure. No PM has ever sought refuge in compulsions in dealing with crucial national matters. No PM has admitted to the failings of his or her Cabinet colleagues while trying to absolve himself or herself. No PM has ever tried to correct his image at the expense of his party or his coalition partners. The reason is simple: the buck stops at the PM's office.

But at last week's press conference, Manmohan Singh achieved a number of firsts for any Indian PM. While trying to correct his image, Singh did not come out as the king he was during the major part of his tenure. He emerged as a man not in control who, however, instead of accepting his own accountability, blamed his party and colleagues for all wrongs.

What is his helplessness all about even if he considers it is due to the compulsions of coalition politics? If Singh is the PM today, it is only because the Congress is in a coalition government. Had the Congress got a majority, he would not have been the chosen one. But coalition politics is not a licence for corruption or inefficiency. If anyone feels as strongly about the evils of coalitions, there is no compulsion of being associated with such politics or the offices it brings along with it.

When the PM says he is majboor (helpless), is he not letting down the aam aadmi? Is he saying that he is helpless in serving the poor who elected his government and have great expectations? The poor would

have wanted prices to be in check, corruption curbed and the influence of corporate giants contained.

Singh must realise that he is occupying a seat that was once occupied by a great visionary and statesman: Jawaharlal Nehru, the man who faced many challenges in his life including riots and a war with China. But he never said he was helpless. The same office was held by humble but strong willed Lal Bahadur Shastri, acclaimed for his strident defence of the country during the 1965 Indo-Pak conflict and someone who gave a call for ‘missing a meal’ every Monday so that food shortage could be tackled. He was never helpless.

Neither was Indira Gandhi, a leader whose mass base was astounding and who came to power after defeating Morarji Desai in the Congress parliamentary party (CPP) elections. She later also led a minority government after the Congress split in 1969 but did not yield to the pressure of the syndicate. She dug her heels to call for ‘Garibi hatao’ while nationalising banks and abolishing privy purses. She was never helpless when she even fought the Janata Party leaders with all chips down.

Even Morarji Desai, Charan Singh, Rajiv Gandhi, VP Singh, Chandra Shekhar, PV Narasimha Rao, HD Deve Gowda, IK Gujral and AB Vajpayee never displayed their helplessness. When their time was up, they just went but did not blame political situations, colleagues and circumstances. But perhaps all these leaders were from the political class and were not there after their tenures in other fields had ended. Perhaps they were made of sterner stuff. But they all realised and respected the fact that PMs can never show helplessness. If they were then what would happen to the country? If they lose relevance, they go.

Before going public with his limitations, Singh should have stated his piece before the CPP, which elected him as its leader and subsequently endorsed his elevation to the position of the PM. He must learn from his

predecessors and dig in his heels to fight corruption and inefficiency. He must always remember that the buck stops at his doorstep. Between us.

# **TERRORISM**

## HINDU 17.2.11 TERRORISM

### **Accused without any evidence**

Vidya Subrahmaniam

*Thanks to a Sessions Court judgment and a searing Minorities Commission report, we now know how young, innocent Muslim boys became accused in the Mecca Masjid terror case.*

A lot has changed in the nearly four years since the peace of Hyderabad was shattered — first by the May 2007 Mecca Masjid blasts and, three months later, by the twin blasts at the Gokul Chat Bhandar and Lumbini Park.

Some 20 Muslim boys who were picked up randomly in the aftermath of the blasts and charged with waging war on the nation, have won their freedom. A new term, Hindutva terror, has gained official recognition. The Andhra Pradesh police who, by instinct, habit and training, chased after Muslim “masterminds” and connected the dots between Muslim terror groups, have learnt the hard way that terror does not always have to have the “jihadi” prefix. Indeed, fresh trails have opened up, suggesting that the Muslim boys were deliberately framed.

And yet, these are at best cosmetic changes that have brought no tangible relief to those falsely implicated in the blast cases. For many of them, the feeling of living on the edge continues; the court may have acquitted them but the label of “terrorist” remains as does the lurking fear that the reprieve is temporary, that the cycle of police visits, interrogation, torture and incarceration can re-commence anytime — if there is a fresh terror attack or even if there isn't.

For Mohammad Rayeezuddin, who smartly chatted up customers at Hyderabad's grandest jewellery showroom before being picked up and tossed into jail, the experience was a life-altering one. Two facts went against him: he was witness to a shoot-out outside the office of the Director-General of Police in 2004 and he lived in the same locality as Shahid Bilal, a key terror suspect.

The dragnet began to close in on Mr. Rayeezuddin, now 28, after the Mecca Masjid blasts. First came the summons from the Special Investigation Cell, which put him through the wringer on Bilal's whereabouts, network and his specific role in the Mecca Masjid blasts. With the Gokul-Lumbini twin blasts, Mr. Rayeezuddin made the transition from “terror suspect” to “terror accused,” going through the inescapable drill of being blindfolded, shunted between shadowy farmhouses and tortured, before being formally arrested and fleetingly produced before a magistrate.

Mr. Rayeezuddin was picked up on August 31, 2007 but typically in the police records, the arrest date is shown as September 6, 2007. He was released on conditional bail on February 14, 2008. And on December 31, 2009, the Court of the VII Additional Metropolitan Sessions Judge cleared him and 20 others of all charges. But the freedom has been only in a manner of speaking, because, as Mr. Rayeezuddin says, “hum utthe baitthe dar me rahte hain” (I live in constant fear of the police). The men in uniform turn up often to give him company, when it is the anniversary of the Babri Masjid demolition, when a terror alert has been sounded, or when there is trouble anywhere in the city.

### Scarred for life

Mr. Rayeezuddin lost his job the day he visited the special cell. Today, scarred for life and stigmatised for having once been charged with terror, he sells watermelons on the pavement. Others acquitted along with him feel similarly wrecked: the torture marks have faded but the memories have not. To compound the injury, there has been much promise but no

action on compensating and rehabilitating the young men. Chief Minister Kiran Reddy and others in the Congress have offered to apologise for the injustice, which seems so much a mockery when the perpetrators of the injustice have not been prosecuted and punished. Says Mr. Rayeezuddin: “Please tell the Chief Minister that we have forgiven him. Now will he please punish those policemen who so brutally and calculatedly turned us into terrorists?”

The plight of the boys was formally recorded in an interim report as early as September 2007 by L. Ravi Chander, Advocate Commissioner for the Andhra Pradesh Minorities Commission. Mr. Ravi Chander, who visited the blast suspects in the Cherlapally jail, was left so shattered by the experience that he began his final report, submitted in September 2008, with a poignant quote from Vikas Swarup's debut novel, *Q&A*, made later into *Slumdog Millionaire*. In the story, the teenage protagonist is picked up from the Dharavi slums for winning a quiz show. But arrests are an everyday affair in Dharavi, and so the boy concludes that even if he had “kicked and screamed, protested his innocence, and raised a stink,” the neighbourhood would not have lifted a finger to defend him.

“Unfortunately, sometimes life imitates fiction,” Mr. Ravi Chander noted in his report, going on to detail the shocking lack of procedure in the detention of Mr. Rayeezuddin and others: “[The boys] reiterate with telling consistency the now familiar story of arrest without warrant, arrest without informing the kith and kin, being taken away to unknown places, torture, etc ... Typically a pigment on skin reflecting minor electric shocks are visible.

While time heals the physical wounds, [they have] left an indelible impression on the psyche of the persons.” It was like a macabre replay as each boy spoke — of being detained without knowing the charge, of extended periods of torture, of indifferent magistrates who somehow

always missed the distress signals from the prisoners, of being forced to confess to terror plots and of having to sign on blank papers.

Mr. Ravi Chander's report reiterated the procedure laid down by the Supreme Court for arrest and detention, including maintaining records of the time and date of arrests along with the names of officers executing the warrants; preparing a memo of arrest, signed by a witness preferably from the detainee's family and countersigned by the detainee; ensuring a tri-weekly medical examination of every detainee and keeping a memo of major and minor injuries, again countersigned by the detainee. The Supreme Court held failure to comply with the requirements to be punishable with departmental action and contempt of court proceedings. Mr. Ravi Chander concluded his report with this chilling passage: "To counter terrorism and "counter terrorism" [by the State] are not one and the same ... It is clear that all the victims belong to a single community and mostly to a single economic class. This may be insufficient to place the burden surely at a single door-step, namely the police. This however surely tells a pattern. A seriously dangerous pattern."

Mr. Ravi Chander's findings came as a surprise to civil rights activists. Because, as he himself laughingly told *The Hindu*, "I am not viewed as a Muslim-friendly person, as I had fought on the opposite side on the issue of Minorities reservation." But this fact has only enhanced the credibility of the report.

### Stunning exposé

If Mr. Ravi Chander underscored the arbitrariness of police detentions, the court proceedings turned out to be a stunning exposé on the state of Indian policing and the investigation-prosecution apparatus. The burden of the two charge sheets filed by the police was that Shahid Bilal (listed as Area Commander of Jaish-e-Mohammed/HuJI, and believed to have been killed since) and his associates conspired to wage war on the nation by organising bomb blasts in Hyderabad. In this they were helped by many others, including Mr. Rayeezuddin. And yet, astonishingly, neither

charge sheet linked the accused specifically to any of the three bomb blasts. While the first was filed against Bilal and his associates, the second named two other key actors, Abdul Sattar and Abdul Khadri. Having learnt bomb-making in Bangladesh, Sattar and Khadri helped Bilal with the logistics. Mr. Rayeezuddin and others pitched in by promising “their solidarity and support for the jihadi movement and the protection of Muslims all over the world.”

With Bilal presumed killed, the second charge sheet came up in the court, which threw it out, quashing the charges against all the accused. Against each of the 21 accused, the charge sheet had shown invariably the same recoveries: “Two VCDs containing seditious clips, rebellious Islamic activities, Urdu seditious matter and Muslim fundamentalism.” But not one of the panch witnesses produced by the prosecution accepted that he was present when the recoveries were made. Panch witness Mohammad Saleem testified that the police wrote up the seizure mahazer (memo) after seizing the papers and CDs from a fellow police inspector. In one instance “Urdu seditious literature” turned out to be in English. The inspector who framed the charge sheet confessed to not being able to read Urdu. “Except the alleged confessional statement rendered to a police officer, there is no other evidence available connecting the accused with the theory of conspiracy to wage war,” the judge noted.

Earlier, in December 2008, another Hyderabad court cleared some among the same group of Muslim boys of the charge that they had conspired to kill a local Bharatiya Janata Party leader, Sampath. In that case the police inspector had translated “Arabic literature” into English without knowing any Arabic. The prosecution witness could not even confirm the existence of Sampath!

The BJP and the Rashtriya Swayamsevak Sangh are furious that Aseemanand and some other Hindutva names have emerged in recent terror investigations. The parivar has every right to demand that due

process be followed in their cases. However, one wishes they had been similarly concerned about young Muslim boys jailed and charge sheeted without evidence.