

**LAW AND PROCEDURE OF PREVENTION OF CORRUPTION IN PUBLIC SERVICE (1981).** By K.P. Chakravarti. Vora Prakashan, Khadia, Gotini Sheri, Ahmedabad-380 001. Pp. xxxix+524. Price Rs. 80.

**CORRUPTION IS** an evil. An all out effort is needed to check and control it and, if possible, eliminate it. If no effort is made, it has the potential of spreading rapidly and engulfing the society like an epidemic. And once it assumes that proportion, probably we shall have no remedy to treat it. It is true that no society, at any point of time, may have been completely free from this evil but this, by itself, should be no ground, much less a sufficient ground, to surrender to it. A constant and concerted effort is, therefore, needed to deal with it.

Ancient India was not free from corruption. Modern India is full of it. It has been observed that there is top-to-bottom corruption in this country. However bad one may feel, the fact remains that in India, we have not been able to scale down corruption; rather it has gone up. Is it because we have not adopted sufficient legislative measures, or the measures have not been sufficiently implemented, or there have been some practical difficulties? The answer to all these questions has been provided in the work of K.P. Chakravarti under review.

Chakravarti has published a number of books in the area of public service and public servants. The present work is an addition on an allied theme—prevention of corruption in public service. This is a timely production as in recent times there has been so much of talk in Parliament and state legislatures regarding corruption in public offices. The author in his preface has spelt out the objectives of the book as (i) to analyze the causes of corruption; (ii) to assess the merit and adequacy of the existing laws to combat corruption; and (iii) to furnish guidelines to the police as well as to the departmental authorities as to how to tackle such situations within the defined limits of the law.

In order to achieve this three dimensional objective, the book has been divided into ten chapters. Chapter I is introductory in nature. It purports to define and explain corruption and bribery. It also traces the history of corruption. The position during early and medieval times, the British rule and the post-Independence era has been given. The readers would have been better informed had the author given detailed statistics showing the rise in number of cases of corruption in public services particularly during the last three decades. It does not augur well for the author when the book contains figures that are two decades old.<sup>1</sup> In any case, it indicates that

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1. K.P. Chakravarti, *Law and Procedure of Prevention of Corruption in Public Service* 12-14 (1981).

researchers in India have to work against many odds. Normally facts and figures are not easily and freely available.

Chapter II pinpoints the main causes of corruption and the preventive measures that have been adopted to tackle this gigantic problem. The measures have been listed under two heads—administrative and legislative. In the area of administrative steps, main emphasis has been on vigilance organizations and special police establishment. It has been rightly pointed out that these bodies are unable to perform their functions effectively and efficiently because of the non-cooperative attitude of government departments. The necessary information and documents are not easily made available and this hampers the investigative process.<sup>2</sup> It needs to be understood that the position of these organizations is like that of the patient and the doctor. If the patient does not want to share with the doctor the information relating to his ailment, the doctor will not be able to do his best. It is a question of trust and confidence. In the area of legislative measures, special mention has been made of the Prevention of Corruption Act 1947 and the changes introduced in the Indian Penal Code 1860 and the Code of Criminal Procedure 1898. The author has also referred to the changes made in the civil service conduct rules by the President under article 309 of the Constitution.

Chapters III and IV cover the law and procedure relating to corruption. The former deals with substantive portion of the law and the latter with the procedure which is necessary to be followed. In substantive law the provisions of the Indian Penal Code and the Prevention of Corruption Act have been covered. The author has rightly pointed out :

To secure probity in administration, not only is it necessary to weed out the corrupt elements in the administration, but it is at the same time necessary to protect the administration from the corrupt elements from outside.<sup>3</sup>

In this context the need for law in order to prevent corruption from outside has been justifiably emphasized.<sup>4</sup> One cannot differ with the author when he says :

[U]nless corruption becomes abhorrent both to the public and public servants, no law will be effective to prevent corruption in public service.<sup>5</sup>

It is, therefore, essential that the laws dealing with corruption and bribery should be made more stringent and that there should be no laxity in their application. It is submitted that here the deterrent theory can bring about

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2. *Id.* at 43-44.

3. *Id.* at 74-75.

4. *Id.* at 75.

5. *Ibid.*

positive results. Corruption is something which can neither be forced on anyone nor can it be indulged in unintentionally. Punishment for it should be made so hard that one should shudder even to think of it. If immediate effort is not made to check it, it may soon become a way of life. If it assumes that position, the return to normalcy will be almost unthinkable.

Chapter IV has been devoted to an important aspect—how to detect corruption in offices/establishments. First it deals with the internal and other sources which indicate corruption cases, and, thereafter, with how the cases are investigated. A detailed examination of this has been provided. The author has done well by providing a list of do's and don'ts for police officers engaged in investigation of corruption cases. These are essential in order to ensure that in the process of investigation there are no pitfalls. The theme is that no corrupt person be left out and no innocent person be wrongly implicated.

Chapter V contains the Central Civil Services (Conduct) Rules 1964 made under article 309. Not only it lists the various rules, it also deals with the consequences which flow from their violation. There are two possibilities—either departmental action or criminal prosecution. It is departmental authorities which exercise the option. The public servant has no say in this matter. The author is justified in pinpointing the most vulnerable spot of corruption. It is the award of government contracts and the issuance of licences and permits.<sup>6</sup> The author could have meaningfully referred to two important pronouncements of the Supreme Court : *R.D. Shetty*<sup>7</sup> and *Kasturi Lal*.<sup>8</sup> The ratio of these two cases is that the government cannot confer or withhold largess in its "arbitrary discretion" and that the government must act according to some standards which are not arbitrary or unauthorized. Obviously, the government is not like the private individual. Public servants will find it somewhat difficult to show favours for considerations not germane to the contract.

Chapters VI and VII catalogue different details relating to departmental enquiries in corruption cases. These details are necessary to be observed; otherwise any action taken would be violative of the relevant rules and the provisions of the Constitution. The author is of the view that the provisions of article 311 hamper effective and speedy handling of corruption cases.<sup>9</sup> He has advocated a separate classification involving charges of corruption, bribery and lack of integrity and providing simplified procedure to deal with them.<sup>10</sup> This suggestion deserves serious consideration by Parliament.

Chapter VIII pertains to the second wing of public service—the political personnel. This wing is no less important; probably more.

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6. *Id.* at 189.

7. *R.D. Shetty v. International Airport Authority*, (1979) 3 S.C.C. 489.

8. *Kasturi Lal v. State of Jammu and Kashmir*, A.I.R. 1980 S.C. 1992.

9. *Supra* note 1 at 199-201.

10. *Id.* at 201.

Therefore, the need for effective measures in this area cannot be over emphasized. In this chapter, the author has dealt with the lack of integrity and corruption among ministers, legislators and political parties. It is submitted that the author has not subjected this area to thorough scrutiny. It seems that only a "surface" treatment has been given to it. Some of the important aspects could have been examined: (1) Whether in the last three decades Parliament has been successful in monitoring effectively the activities of ministers? If not, how to achieve it? (2) How far the commissions of inquiry under the Commissions of Inquiry Act 1952 have been able to unearth the shady deals of ministers? What have been the main pitfalls of these commissions? And how to plug them?

Curiously enough, the author has not considered it necessary to deal with the Indian experience with *lokayuktas*<sup>11</sup> in some of the states. It has not been thought appropriate even to make a mention of it in the concluding chapter IX where a number of suggestions have been given. It is submitted that a vigilant press coupled with ombudsman and a system of courts can be a good recipe for bringing light in those areas which have hitherto been kept purposely dark. The mask must be removed if the system is to survive.

Chapter X contains relevant portions of different legislations and rules. This is good because any interested reader will have the advantage of all the information at one place.

The book deserves a place in law libraries and government offices.

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11. *Lokayukta* is the term used at state level in India for ombudsman.

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