



Officers' Cause
July - 2016



GLOBALIZATION SPARKED BREXIT

World woke up recently with a sensational news about the referendum held in Britain over their continuance in European Union(EU).The country decided to quit from the European Union by a slender majority of 51.7% vote. The development was the reflection of the fears and challenges brought by globalization. It made Britain to bear the brunt of the financial meltdown created by certain member countries in the European Union over them. As such the exit is with the expectation that they can have their own policies and programmes towards country's economic growth, while facing many challenges after getting isolated by the European Union. It will also be the beginning of many uncertainties the country is likely to face on the socio- economic -political situation in future.

After the II world war, the disintegrated countries in Europe excluding Britain have decided to unify into a single economic community in the year 1957 with the object of creating economic stability and a common market. Britain later joined in the union in the year 1973 when Edward Heath was the Prime Minister.

The object of formation of European Union was also to make Europe a powerful economy with a common currency and also to check the growing economic surge of Japan. The EU did help the weaker members of the Europe to consolidate their position under the banner of EU.

Ever since Britain joined in the European Union they never had been comfortable with the functioning of the union. But they were comfortable when the continent absorbed bulk of British Export and their gain exceeded their loss. British also enjoyed the dual freedom of pursuing their own economy and monetary policy while remaining with European Union. Most of the economic policies of the union was set by Germany and France much to the discomfort of Britain. Many of the conditions proposed by Britain to solve their domestic crises could not be accommodated by the EU.The Divine Right theory made the British people to believe that nobody else could put condition over their economic policy especially when they were the rulers of the world once. The growing sentiments, resentments and the apprehension against globalization by the members of the European union made them to have re-think on the continuance in European union. This situation had made the British Prime Minister David Cameron, to go for referendum on the continuance in EU, though he personally opposed to such a move. He even promised to re negotiate for more favourable agreement for Britain in European Union, with more freedom in their economic policy including restriction on migration. In fact when a similar question arose in the year 1975 a referendum was conducted on the continuation in the European union, when 67.2% of the people rejected the exit option.

After global financial meltdown in the year 2008, followed by euro zone crisis in many European countries, Britain started facing huge unemployment problem with the migration of people from various European countries, affecting the employment prospects of local Brits. The US financial meltdown due to excessive military spending by USA and the UK being their natural ally has also pushed UK into economic bankruptcy. The financial meltdown made the British government to take many drastic steps to control their economy including controlling the expenditure, cutting down various welfare measures etc., This, followed by the migration of people from European and other middle east countries, all led to discontent among the locals.

The modern concept of the capitalist economy and the resultant financial crisis made the Brites to come out from the European union to take care of their own economy.

Brexit teaches us that globalization is no longer a growth engine as advocated by the IMF and world Bank especially to the third world countries. In fact Brixit is a warning shot against globalization. It also reflected a deep distrust among the developing nations against the benefit of global economic system. In the name of globalization people were made to invest hundreds of thousands of dollars in various countries in their long journey in search of profit. Their motive was only profit at the cost of common

man. It is also possible that the investment made by people from various countries is likely to be withdrawn to take care of their own economy. As such we need to be more cautious while inviting FDI in various sectors of our economy. The foreign investment that we are consuming as a pain killer to balance our monetary system and industrial growth may give only a temporary relief, still we need to stand on our own with our own capital, production and market with the aim of the Make in India policy of the government.

Though India is better placed to deal with any global storm due to this situation that does not mean that our economy will not be affected especially when the countries are engaged in free trade with regard to employment and export. India has got centuries old business relationship with England and that Indians are the single largest ethnic minority in England with 1.5 million people. India is also the third largest foreign investors in the UK and vice versa. Still European Union is India's largest trading partner. The major factors to India's advantage that may provide us edge over other economies to deal with the current situation are our strong fundamentals, robust reserve and high domestic demand. The Indian economy having withstood the impact of the US recession, the present situation in Europe on account of Britain walking out of Europe will have very little impact on our economy. ■

Organisational
Matters

NATIONWIDE STRIKE CALL CONCILIATION MEETINGS BEFORE DEPUTY CLC/ALC

Text of AIBOC Circular No. 33, dated 17th June, 2016.

QUOTE:

Our members are aware that AIBOC gave a nationwide strike call on 11.12.2015, on the residual issues of our Salary Revision, demands of retirees, Changes in Labour Laws, Industrial Relation Problems in Dhanlaxmi Bank and against Government policies. In response to our strike notice, the Dy. CLC (C) Mumbai held Conciliation meeting on 08.12.2015 at Mumbai and on the specific assurances given by the

IBA about removal of anomaly due to fifth stagnation increment, advisory to be issued on not calling officers on Sundays and Holidays, their commitment for reimbursement of domiciliary medical expenses to retirees and consideration of our demands on DA neutralization and revision in family pension, the strike was deferred. Thereafter, the follow up conciliation meetings were held on 15.03.2016, 05.05.2016 and latest on 15.06.2016.

You have already been informed vide our various communications that the issues of anomaly due to fifth stagnation increment and advisory on not

SUCCESS AWAITS AT THE DOOR WHERE DILIGENCE IS

calling officers on Sundays and holidays have been resolved. However, we have once again represented to IBA for grant of stagnation increment from 01.11.2012. We reiterated our demand of compensation/ compensatory off, if the officers are called on Sundays and Holidays in emergent circumstances. On the other issues discussed on 15.06.2016, the following developments took place:

- On the issues of privatization of Public Sector Banks, pension to all who joined the Banking Industry after 01.04.2010, appointment of Officer / Workmen Directors, IBA categorically told that these issues are not within their jurisdiction. However, ALC asked them to refer these issues to the Government with their recommendations. We requested the ALC to invite the representatives of DFS also in the next meeting for the Government's views on the issues.
- On the issue of DA neutralization for pre 2002 retirees, IBA informed that the figures /information from the member banks have already been received and actuaries are working on that. They hope to receive the cost implications from the actuaries in next 10-12 days, the issue will be placed before Management Committee for taking appropriate decision.
- On the issue of revision in family pension also, the IBA informed that the IBA is working

on that, however, no commitment is possible at this juncture.

- On the issue of vacancies of Officer / Workmen Directors on the boards of majority Public Sector Banks, we very strongly put forth the need for our representatives on the boards. We made it very clear that any decision taken by incomplete boards will have wider ramifications. We also made it explicitly clear if the vacancies on the boards are not filled forth with, AIBOC may go on strike only on this single issue.
- With regard to the issue of Industrial Relation problem in Dhanlaxmi Bank, the ALC advised that IBA should persuade Dhanlaxmi Bank to resolve the issue amicably. He also suggested that Dhanlaxmi Bank Management should also be made a party to the dispute.

We, by our written communication, requested the ALC to conclude the proceedings and file a failure report as no satisfactory action has been taken by IBA so far so that we can restart our agitation including strike. However the ALC once again asked the IBA to look into the demands and take up the issues with respective Government departments / Ministry / individual banks in order to sort out the issues. The proceedings were adjourned to 18.07.2016 with a direction to IBA to take up those issues which are not within their control with the individual banks and the Government. ■

CAREER DEVELOPMENT SCHEME (CDS)

The CDS Scores of individual officers has created lot of apprehension in the minds of all. The very low scores of officers who have performed extremely well, the scores of 'Zero' in many instances, including top executives of the Bank, the discrepancies in the KRA's, deputation of officers to different branches, allotment on non-specific work not mapped by KRA's, issues related to RMRO's/ CRE's, inconsistency and seasonal nature of returns from Agri advances etc., vis-à-vis equal distribution of budgets are some among the many issues that have led to the confusion and low scores.

2. The Federation had taken up this issue with the

Chairman, DMD & CDO, CGM(HR) and GM(HR) at Corporate Centre on 8th, 9th & 10th June, 2016 and during the discussions they have been assured that there will be no discrepancies or heart burns for any of the officers in the Bank. They were also informed that, an AGM (CDS), is designated in every circle to look after all the discrepancies of the officers of the respective circle, with regard to CDS scores.

3. As such members may represent their grievances to AGM (CDS) posted at respective LHO immediately and have their grievances redressed.

4. The CGM of the Circle is also empowered to

ARISE, AWAKE, STOP NOT TILL THE GOAL IS REACHED

rectify the performance assessment of upto 3% of the total officers in the Circle, over and above the rectification done by AGM (CDS) of the circle.

5. It was also assured that after completion of grading on the basis of percentile of marks for all the officers, no officer will be in grade "C" as per CDS manual, for this year.

6. There are two cohorts namely "Measurable" and "Non-Measurable". It has come to light that officers under the 'non measurable' cohorts are usually given high marks/full marks leading to heart burn amongst the officers under measurable cohorts, whose scores are extracted directly from the system/CBS. Therefore in order to provide more weightage to officers under measurable budgets, it has been decided to rate 30% of such officers under "AAA" as compared to officers in 'non measurable' cohorts which will be around 25%.

7. After the Cohorts are identified and mapped officer wise, the marks attained by each officer will

be converted to percentile and gradation will be done, based on which the officers' performance is assessed. We have been assured that when the grades are awarded, if there are still discrepancies then such issues would be rectified immediately.

8. Members may represent their grievances to the Circle AGM(CDS) & get the redressal done wherever it is beyond the discretion of the AGM (CDS), they should represent to Circle CGM for more corrections and redressals of un-resolved grievances of upto 3% of the total officer members of the circle.

9. For this year's promotions since 3 out of 4 years scores or 4 out of 5 years score will be reckoned, the CDS scores may not have a direct impact on promotions. But low scores of this year will affect the next year's promotions.

10. Federation is still in the process of pursuing all the issues pertaining to CDS continuously and to resolve the matter. ■

CAREER PROGRESSION FOR VISUALLY IMPAIRED OFFICERS

The Bank started recruiting Visually Impaired persons as Probationary Officers since 2005. Bank also promoted Visually Impaired employees from Clerical Cadre to Officers Cadre as Trainee Officers and JGs in the past few years. As a result, there are significant number of Visually Impaired officers in our Bank as Deputy Managers, Assistant Managers, POs and TOs. These young officers have a long career ahead of them in the Bank.

2. With regard to promotions for Visually Impaired officers, as per the extant policy, completion of mandatory Operational and Rural and Semi-urban (RUSU) assignments stand as impediments. Operational assignments in the Bank include roles/jobs like Field Officer, Accountant, RMPB, etc., which invariably involve going through physical documents like vouchers, documents, hand written material. Assistive technology used by Visually Impaired like Screen Reading Software and OCR software do not enable them to navigate through hand written texts. Unless human assistance is provided, these jobs are difficult to handle for the Visually Impaired. Moreover, roles/tasks identified by Bank for Visually Impaired officers vide its Circular CDO/P&HRD-PM/

98/2011-12 dated 10.02.2012 do not include any of the operational assignments. Even for posting them in jobs identified in the said Circular. Completion of mandatory assignments is a prerequisite. As a result, Visually Impaired officers in the Bank are being deprived of opportunities for growth in their career.

3. Bank vide its circular clearly states that persons who joined the Bank under Physically Handicapped category should not be denied promotional opportunities merely due to their physical disability. However, the circular also states that they would be eligible for such promotion for only such posts which are identified for persons with disabilities. Hence it is necessary invariable to identify more jobs/roles for Visually Impaired officers at various scales. This will enable better career growth for them ensuring their true empowerment.

4. In the present scenario where information is available and exchanged in electronic format, more jobs in Customer Relationship Management, HR, HRMS, research in ATIs, FPWM, E-learning, balance sheet analysis, risk rating, NPA/SMA monitoring/controlling, follow up in RBO/AO/business units etc.,

can be performed by Visually Impaired by optimally utilizing technology. These jobs/roles are only indicative, and a thorough study can be carried out for identifying more Jobs/roles for Visually Impaired officers.

5. SBI stood as pioneer in empowerment of Visually

Impaired by providing assistive technology, training, and setting up Inclusion Center. As such the Federation had taken up the career growth of the visually impaired officers with the corporate centre to ensure that career growth through identification of more roles/jobs including the roles/jobs for enabling them to complete the mandatory assignments. ■

SBI STUDENT LOAN/SBI SCHOLAR LOAN/SBI GLOBAL ED-VANTAGE LOANS TO WARDS OF STAFF

The Bank had introduced a new scheme SBI Global ed-vantage to the Public vide their Circular No. NBG/ PBU/ PL-Education/ 58/ 2015-16 dated 8.2.2016. The same facility was not extended to staff on the terms and conditions with the concessional terms existing under SBI student loan scheme. Federation had taken up the issue with Corporate Centre and made it clear that the education loan is a welfare measure and denying the benefits extended to staff was unfair.

2. The Corporate Centre has acceded to the

request and extended the SBI global ed-vantage scheme to all the staff. The salient features of the scheme are:

(i) **Rate of Interest** : 8% on applicable to existing scheme, and 0.5% concession on interest is available for girl child.

(ii) **Margin** : 10% margin at the time of each disbursement.

All other terms and conditions applicable to Public are same to the staff also. ■

WITHDRAWAL OF PROVIDENT FUND – MEMBERS’ CONTRIBUTION PERMISSION FOR 2ND WITHDRAWAL

Federation had taken up the issue of withdrawal of provident fund with the corporate centre vide their letter dated 23/06/2016 as follows.

Please refer to our earlier letter Nos. 6528/66/2014 dated 25th August, 2014 and 6528/74/15 dated 22nd December, 2015 and the CNC agenda during the last two years, including the one at Shillong on 25.2.2016, on the captioned subject. In this connection, we would once again, like to bring to your notice the following points:

1. The Housing loan ceilings have been enhanced to Rs. 60 lacs/ 80 lacs. The Officers are required to bring in substantial amount in terms of margin.
2. At a time when the Housing loan eligibility was 1.10 lacs, later 7 lacs, then 20 lacs, and so on, our members had withdrawn their PF balance to meet the margin etc. The amounts withdrawn by them were less than 15,000/- or 20,000/- in the early nineties as per their eligibility and balance available.

3. Later the housing loan limits have been enhanced to 7 lacs, then 20 lacs and now 60/ 80 lacs. They are also now, permitted to avail the 2nd or 3rd Housing loan. However, our members are finding it difficult to meet the margin and hence resort to outside borrowings paying exorbitant rates of interest.

4. Many Officers who had withdrawn nominal amounts of Rs.10,000/- or less from their PF in the early nineties are now deprived of utilizing this facility as 2nd withdrawal is not permitted as per extant instructions.

5. Under circumstances, we request you to amend the guidelines and permit 2nd withdrawal from the member’s contribution of Provident Fund for Housing purpose.

6. Please look into the matter and arrange to issue suitable guidelines accordingly. ■

LET CUSTOMER SERVICE BE OUR MOTTO

SBOA Public School in Aurangabad secured 100 percent results with their exemplary performance

in SSC Board Exam for the academic year 2015-2016. The following students achieved ranks

NAME	PERCENT	RANK
Master Bidwe Anuja Ramling	97.8%	I
Miss Chillarge Rajeswari Subhash	97.6%	II
Miss Kulkarni Shweta Sachin	97%	III
Master Sabnis Onkar Nagesh	97%	III

"Officers' Cause" congratulates all the students of the school who appeared for SSC Board exam for the academic year 2015-16 for their

exemplary performance especially those rank holders and wish them all success in their future endeavors. ■

NEW GUEST HOUSES IN BENGAL CIRCLE

New Guest House at Gangtok, Darjeeling and Lolegaon have been opened on 1st June 2016 under

the aegis of SBIOA Multi State Co-Operative Credit Society Ltd., for the benefit of the members.

For reservation may contact : Shri. Sudhansu Mukherjee –Mobile : 09874969100
Website : sbioamscoop.com

MIGRANT LABOUR TRAFFICKING LAWS IN INDIA - OUT OF THE SHADOWS, AND INTO THE LIGHT?

Despite making steep socio-economic progress since independence, India remains the source, transit and destination country for labour trafficking. To put in brief, labour trafficking can be defined as the trafficking of an individual by use of coercion, duress or fraud with the underlying aim of exploiting him for purposes ranging from forced labour to slavery, including but not limited to involuntary servitude, debt bondage and peonage. Migrant labour trafficking is a subset of human trafficking, where unsuspecting individuals are deceived by agents or economic conditions to be a part of exploitative forced labour.

The approximate number of people trafficked into forced labour in India to be around twenty to sixty-five million. The reason for keeping such a wide range is that there exists a practical difficulty in calculating the number of trafficking victims, owing to the confusion caused by migrant labourers voluntarily looking for employment and labourers lured into forced labour by virtue of being trafficked. Also, several migrant workers start off voluntarily and later become victims of trafficking, due to them being unable to find suitable employment or after being terminated from their original work in the place of migration.

While India is a prime target for trafficking labour and exporting them to Middle-East and European nations, our country also has an acute problem of

internal labour migration trafficking. The majority of housemaids working in homes across New Delhi, drivers at taxi companies such as Ola or Uber in Noida, construction workers in Kerala or agricultural labourers of Punjab are migrants. Approximately one-third of the population of India is migrant population. Majority of these people migrate from rural to urban areas in search of work and earning their livelihood. Absence of employment opportunities and professional development in the village areas of India are the key causes of such migration.

Root Causes of Migrant Labour Trafficking

Poverty is the core cause of labour trafficking in India. Ancillary factors that aid it are unemployment, our patriarchal society, lack of women's rights, illiteracy, discrimination and societal norms like dowry. Along with poverty, the steady demand of cheap labour in the national / international market and lack of remedial initiatives by the administration has resulted in India becoming a hub for trafficking- Excessive migrant labourers in certain parts of India has also given way to other social evils like demand for sex workers and trafficked brides.

The caste system present in our society has further caused detriment to the situation. If a person comes

from a lower caste, the discrimination he / she will face in day-to-day life will further make them vulnerable to trafficking. Even worse is the case of lower caste women, who are discriminated on the basis of both caste and gender; thereby denying them access to education and most forms of employment. Such a condition makes them easy targets for the recruiting agents of trafficking.

Although globalization has impacted India's society and economy in many a positive way, it has contributed substantially towards the increase of trafficking. Developments in technology and communication have indirectly benefitted traffickers by giving them a greater reach via media such as televisions and mobile phones. The travelling time and cost between countries and States has also been reduced significantly. Just as globalization worked wonders to develop the standard of living across all nations, at the same time it brought inequality within and between nations. It successfully provided an impetus to capital movements and international trade, but did not check the ramifications of the same on migrant labour trafficking.

Also, lack of awareness on the issue of human trafficking coupled with our fragile legal framework has resulted in such becoming a grave threat to our society. It is apt to mention here that the recent Criminal Law Amendment Act, 2013 (the Amendment Act) has attempted a serious revamp of the existing legal structure. But, the effectiveness of this amendment in preventing and prosecuting labour trafficking is yet to be seen.

Like many other transnational legal issues, labour trafficking has cross-border implications and therefore to govern these peculiar problems there are numerous legal rules and policies both at international and domestic levels. There are a number of international instruments which have a bearing on labour trafficking under U.N. Conventions in general and International Labour Organization ('I. L. O. ') in particular.

One of the most significant conventions, namely - the United Nations Convention against Transnational Organized Crime, was adopted by the General Assembly to fight against transnational organized crime. To supplement this Convention and to address specific problems of trafficking, the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and

Children (' U.N. Trafficking Protocol') was put in place. The U.N. Trafficking Protocol was the first global instrument providing a comprehensive framework to address the trafficking of persons internationally and domestically. This Protocol mandates the States to criminalize not only trafficking, but also any form of attempted trafficking.

I.L.O. Conventions and Forced Labour

International outrage against forced labour provided the impetus for two of the most fundamental I.L.O. Conventions: the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No.105). According to the I.L.O. Forced labour Convention 1930 (No. 29) forced or compulsory labour shall mean "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

Assessing Recent Efforts of The International Labour Organization

Despite long-running international efforts being manifested in these Conventions, it was felt that significant implementation gaps existed in eradicating labour trafficking. There was an urgent need to bring in additional measures aimed at combating this issue. After rounds of discussion and deliberation, the I.L.O. in 2014 adopted a legally binding protocol to supplement Convention 29 and complement existing international law by laying specific guidance on effective measures to be taken to prevent all forms of forced labour.

Arguably, the issue of forced labour and trafficking is the least controversial area of international labour standards and there exists a greater consensus among countries to embrace reinvigorated standards for the same. But, it is a very pressing concern that anti-trafficking legislation in several countries is not in consonance with the aforementioned international conventions.

India's Labour Trafficking Laws - A Toothless Tiger?

The problem of labour trafficking in India has been steadily rising every year due to its complex cross borders situation. Needless to say, the pernicious issue of migrant labour trafficking in our nation requires a coordinated and multi-disciplinary

response. The trafficking laws in India (particularly the Immoral Traffic Prevention Act, 1956) have exclusively focused to combat trafficking done for the purpose of sexual exploitation. As a result of such exclusivity, victims of human trafficking for the purposes of forced labour are not protected adequately. Article 23 of the Constitution of India prohibits human trafficking and all forms of forced labour. Further, Article 39(e), which is part of the DPSP, directs that health and strength of individuals should not be abused and prohibits exploitation of persons to perform work unsuited to their age or strength. In addition, Article 39(f) protects children and youth against any form of exploitation.

Bonded Labour System (Abolition) Act, 1976- An Archaic and Ineffective Legislation

Twenty-six years after the adoption of the Constitution, the legislators enacted the Bonded-Labour System (abolition) Act, 1976 (the Act) which sought to abolish the bonded labour system. Though the definition of bonded labour in the Act is similar to the definition of labour trafficking provided in the U.N. Trafficking Protocol, the Act fails to specify that trafficking of persons can take place for the purposes of bonded labour. The offence can only be triggered if the labour is rendered to be 'bonded labour' as per the Act. Thus, in a situation where a person has been trafficked and labour has been rendered, prosecution of the traffickers is not possible under the Act if the master-labour relationship does not constitute a 'bonded labour system.

The Criminal Law (Amendment) Act, 2013 — A Shaky Beginning?

It is amply clear that the existing legislations on forced labour in India do not adequately address the intricate problems associated with labour trafficking. Furthermore, India lacks any comprehensive definition of human trafficking. The Justice Verma Committee ('the Committee') that was constituted to address the gaps in criminal law opined that human trafficking has become a grave issue due to the lack of definition of trafficking and the ineffectiveness of law enforcement in relation to trafficking. The Committee recommended that our Legislature should adopt the definition of 'trafficking' contained in the U.N. Trafficking Protocol.

Based on these recommendations, the law-makers

enacted the Criminal Law (Amendment) Act, 2013 which defined human trafficking by amending Section 370 of the Indian Penal Code. The newly amended Section has been heavily borrowed from the U.N. Trafficking Protocol's definition of trafficking. It expanded the types of offenses that is criminalized as trafficking violation and ensured that the perpetrators involved at each and every stage of the trafficking chain is prosecuted.

The amended Section by protecting only sex trafficking victims, fails to protect the majority of trafficking victims in India.

Conclusion-Is There Light at the End of the Tunnel?

It can be said without an iota of doubt that the new amendment has brought India's labour trafficking law in close conformity with the U.N. Trafficking Protocol. But, there continues to remain a crevice between the Indian legislative framework and its implementation; and the U.N. Trafficking Protocol's stipulations.

To begin with, the Amendment Act has to be modified to the extent that the stringent sentences prescribed for persons indulging in sex trafficking has to be made applicable on those perpetrating labour trafficking. Then, the Bonded Labour Act needs to clearly include the concept of "bonded labour" as a part of "human trafficking". Further, the Amendment Act needs to explicitly mention that forced labour falls under the definition of exploitation, or that "physical exploitation" in itself signifies forced labour.

The focus of India's policy makers has been on the prevention and prosecution of sex trafficking, despite labour trafficking being more prevalent here. To add to that, the Legislature has made no efforts to set up measures for the safety, rehabilitation and compensation for victims of forced labour'.

Therefore, in pursuance of India's own Constitution and her obligation towards international conventions, the time is ripe for the Government to take note of migrant labour trafficking as an important matter and take rapid steps to curtail it in consonance with the laws, policies and guidelines laid down by the United Nations and the International Labour Organization. ■

**Abhishek Sarkar & Anand Vardhan Narayan
National Law University, Odisha.**

Source: 2016-II-LLJ

INDIAN PARLIAMENTARY DEMOCRACY

India attained freedom at the stroke of midnight of 14th August 1947, thereby ending centuries of colonial rule. The freedom of independence was fought through a unique methodology of non violence preached by Mahatma Gandhi, Father of the Nation. Parliamentary Democracy was established in India under the principles of liberty, Equality and Fraternity and India became the largest democracy in the world.

India saw many great Parliamentarians in the past both in the ruling as well as in the opposition, reputed for their constructive debate, whose names were written in the annals of Indian history. Every leader of the political party debated in the Parliament with his own style of eloquency maintaining the Parliamentary ethics. Still there were trying times for every government, unable to implement their own policies and programmes.

The recent general election saw a single political party came into power at the center after three decades of coalition politics. The new NDA government promised "acchedin" for the people giving them more hope on economic growth, controlling the price of essential commodities and inflation, creating more employment opportunities, bringing back the black money stashed abroad, with their 'minimum government maximum governance' slogan. Taking advantages of the situation the opposition parties has started attacking the government on their every policies and programmes. Many cases of intolerance, question of nationalism, and religious killings for which they have been agitating have been there in the country ever since independence, which was never a focus point when media was weak. Now when the media is pro active every incident in the society is being exposed and circulated with newly invented term on every issue or incident. Now nationalism and secularism are the words abundantly used by the political parties and the media for their advantage.

Constructive debate as in the past by many political stalwarts is not seen in the recent parliament. Whereas the current situation in the Parliament looks like that the country is slipping back to the

medieval age, as the proceedings saw tempers running high, display of acrimony between the members leading to chaos, suspension of members for their misbehavior. Seeing such a situation in the past Pt. Jawaharlal Nehru the First Prime Minister of the country had remarked that leaders are sinking into the level of ordinary politicians who have no principle to stand by and their conduct and functioning are marked by opportunism. Parliament is the sanctum sanctorum in a democracy where proper sanctity needs to be maintained. Unlike in other countries where a healthy convention and tradition prevent matters getting out of hand. India is yet to evolve in that direction. People of the most countries give a long rope to their government to implement their policies and programmes, especially on foreign policies and national security. They leave these issues to the wisdom of those who are in power.

Though the ruling party has got majority in the lower house, opposition with their slender majority in the upper houses are trying to defeat every reform of the government forgetting the damage they are creating on the economic growth of the country and taking care of the problem of the common man. Consequently many sessions in the Parliament was washed out, causing heavy loss to the ex chequer. Representatives of the people should have allowed for a constructive debate on any subject on which they have any reservation and ensure that the national interest should have come before party politics taking cue from our former leaders. Their attitude has gone beyond a point of reasonableness. Any effort for sake of scoring political point adds nothing to their credibility when public will be the best judge. With collective opposition the country is also witnessing a coalition of various political parties of different ideologies coming together like the coalition government in the past.

The President of the country recently while addressing the student community has out lined the responsibility of the Parliamentarians and the consequence if they fail to discharge their responsibilities. If the Parliamentary process is to regain its credibility it is necessary for both the government and opposition members to make efforts to maintain its sanctity.

Indians do not send their representatives to parliament to watch them to disrupt it.

Having completed two years in office, government on their part should have introspection over their performance so far and start implementing various policies promised by them such as bringing back black money stashed abroad that will improve the economy and take the people in to confidence, with a sense of urgency, commitment and dedication. The promises of Achhedin have placed a huge responsibility on the government. The Prime Minister also should have curtailed the tendency of the Ministers, Members of Parliament and the party cadre in indulging in divisive politics, hurting the sentiments of the minority

communities as it is the duty of the government to uphold the fundamental freedom though the Prime Minister has already made clear that the new government think, work and lives for the poor.

In a democracy elections are won by rallies and political canvassing. In politics every leader debates his strength and demolish the strength of the opponent by his eloquence. However voters are entitled to know the credentials and performance of every member and minister otherwise the elocution will be a farce. If the democracy need to survive there need a matured polities and the strength of democracy should be shown through debate not disruption while having confidence in their ability to debate. ■

Judicial Verdict

2016-II-LLJ-311 (Jhar)
LNIND 2015 JHAR 10166
IN THE HIGH COURT OF JHARKHAND
Present:
Hon ' ble Mr. Justice Prashant Kumar
W.P.(S). No. 3066 of 2014

9th December, 2015

Shiv Kumar Verma, son of Sudama Verma, resident of Village
Purandaha, P.O. , P.S. & District-Deoghar
Versus
State of Jharkhand and Others

... .Petitioner

... .Respondents

Dismissal — Principles of Natural Justice - Violation - Constitution of India, 1950 (Constitution) - Article 311 - Petitioner engaged as jeep driver with Respondent- Charges framed against Petitioner for misconducts - Petitioner dismissed from service — Appeal filed by Petitioner before Commissioner also dismissed - Hence present writ petition challenging order of dismissal — Whether order of dismissal of Petitioner justified — .Held, contention of Respondent that Petitioner admitted guilt in charge report not correct - Petitioner submitted that he could not receive relieving letter as he was suffering from typhoid and was unconscious — Department has not produced any witness to prove charges levelled against Petitioner - In spite of that, inquiry officer submitted his report against Petitioner and Petitioner was dismissed based on that inquiry report - Appellate Authority failed to consider materials specifically stated by Petitioner in memo of appeal — Impugned orders violative of principles of natural justice and provisions of Article 311 of Constitution - Impugned Orders cannot be sustained and quashed - Respondent directed to reinstate with full back wages — Application allowed.

ORDER

This writ application has been filed for quashing the order dated 08.07.2011 as contained in Order No.

133 of 2011 passed by the Deputy Commissioner, Dumka whereby , he dismissed the petitioner from the service. Petitioner further prayed for quashing the order dated 05.09.2013 passed by the

NEVER BEND BEFORE THE INSOLENT MIGHT

Commissioner, Santhal Pargana Division at Dumka whereby, he dismissed the appeal of the petitioner bearing Appeal No. 02 of 2011-2012.

2. It appears that the petitioner was working under the Resp. No. 3 as a Jeep Driver. It appears that while, he was posted in the District Revenue Office, Dumka, he was transferred to Ramgarh Circle Office, Ramgarh. However, it is alleged that he refused to receive the relieving order from two peons, namely, Surendra Paswan and Dhaneshwar Murmu. It is further alleged that the Additional Collector had also asked the petitioner to receive the relieving order and hand over the key of the Jeep to the new Driver but he disobeyed the aforesaid oral instruction of the Additional Collector. It is also alleged that while the petitioner was working as Driver under the Additional Collector, Dumka, he had not properly maintained the Log Book. It is also stated that on demand, he had not produced the Log Book.

3. On the aforesaid allegations, charges framed against the petitioner on 28.09.2010 and Mr. Sanjay Kumar Bhagat, Land Reforms Deputy Collector, Dumka was appointed as Inquiry Officer. By the same order, Block Development Officer, Ramgarh. was appointed as Presenting Officer. It is stated that after issuance of first charge sheet, another charge sheet also issued on 29.12.2010 relating to misconduct of the petitioner at the Ramgarh Circle Office. For the said charges also, the L.R.D.C., Dumka was appointed as Inquiry Officer and B.D.O., Ramgarh was appointed as Presenting Officer. It is stated that thereafter the Inquiry Officer asked the petitioner to file written statement, which the petitioner filed on 15.01.2011, wherein the petitioner denied all the allegations made against him. It then appears that the Inquiry Officer asked the Presenting Officer to give his opinion on the written statement given by the petitioner. It further appears that after receiving the aforesaid opinion, the Inquiry Officer submitted his inquiry report on 09.05.2011 and 10.05.2011. Thereafter the Deputy Commissioner, Dumka gave 2nd show cause notice to the petitioner and after receiving the reply of the 2nd show cause notice, he dismissed the petitioner

from service vide order dated 08.07.2011 (Annexure-5). It appears that against the aforesaid order, petitioner filed an appeal before the Commissioner, Santhal Pargana Division at Dumka vide Appeal No. 02 of 2011-2012, which was also dismissed by the Commissioner vide order dated 05.09.2013 (Annexure-8). Against the aforesaid two orders, i.e. Annexures — 5 and -8, this writ application filed.

4. Sri Vishal Kumar Tiwari, learned counsel for the petitioner submits that petitioner has been dismissed from service without holding the departmental proceeding in accordance with the provisions of Subordinate Services(Discipline and Appeal) Rules. It is submitted that without any evidence, the Deputy Commissioner, Dumka has come to the conclusion that acts and omissions of the petitioner is highly indisciplined and therefore, he does not deserve to continue in the services. It is submitted that from the records of the departmental proceeding, which has been produced today, it is clear that the Inquiry Officer has not carried out any inquiry. He submitted his report only on the basis of opinion given by the presenting officer and the Deputy Commissioner, in most mechanical manner, has relied upon the said inquiry report and dismissed the petitioner. Thus, the order of dismissal is violative of Article 311 of the Constitution of India.

5. Sri Jay Prakash, Additional Advocate General, appearing for the respondent-state submits that since the petitioner has admitted his guilt in the charge handing over report dated 31.08.2009, therefore, the charges stand proved against him. Hence, there is no illegality in the orders impugned. However, after going through the record of the departmental proceeding, learned AAG, fairly stated that the aforesaid charge handing over report has not been exhibited in the departmental proceeding. He also fairly submits that none of the witnesses produced by the department for proving the charges levelled against the petitioner, nor petitioner was given any opportunity to cross examine them.

6. Having heard the submissions, I have gone

through the record of the case as well as the records of the inquiry proceedings produced by Deputy Commissioner, Dumka, and Land Reforms Deputy Collector, Dumka, who are present in Court in compliance of order dated 02.12.2015. From perusal of charge handing over report dated 31.08.2009, I find that in fact, petitioner has not admitted that the relieving letter served upon him, rather he specifically stated therein that on 29.08.2009, he was suffering from typhoid and admitted in the Sadar Hospital, Dumka and while he was in unconscious state on 30.08.2009, a peon of Additional Collector, came and tried to serve the relieving letter, which in fact, the petitioner could not receive, because at that time he was unconscious. Thus, the submission of Sri Jai Prakash, learned A.A.G. that the petitioner admitted his guilt in the charge report is not correct. The record of the departmental proceeding further shows that the department has not produced any witness to prove the charges levelled against the petitioner but in spite of that the Inquiry Officer submitted his report against the petitioner and the Deputy Commissioner, Dumka, dismissed the petitioner from the services on the basis of above inquiry report. Thus, I find that the order of

dismissal is against the provisions of Article 311 of the Constitution of India. I further find that even the appellate authority (Commissioner, Santhal Pargana Division, Dumka) has not considered the aforesaid materials, which were specifically stated by the petitioner in the memo of appeal. Thus, the order passed by the appellate authority (Commissioner, Santhal Pargana Division, Dumka) is also not sustainable.

7. In view of the discussions made above, I find that both the impugned orders are violative of the principles of natural justice and Article 311 of the Constitution of India, therefore, cannot be sustained.
8. Accordingly, I allow this writ application and quash the impugned orders as contained in Annexures- 5 and -8 to this writ application.

9. The respondents are directed to reinstate the petitioner with full back wages.

Application allowed.

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