

"BLOWING THE FACTS" WHISTLE BLOWING POLICY IN INDIA

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Abstract:

"Whistleblowing can be effective only when it is followed seriously and sincerely"

Whistle blowing can be defined as an act of disclosure of information by people within or outside an organization and that which is not otherwise accessible to public, generally activities of organization that are against public interest. Whistle blowing as a channel of unveiling information about illegal or unethical activities thus helping to take a positive step towards reduction of corruption.

Here comes the question of Whistleblower protection Act. What if a Whistleblower take a step to blow any of illegal, unethical, or harmful practices? Now in India Whistleblower Protection Act, 2011 introduced. The past is witnessed many corporate scandal can be rectify earlier if they are handled by concern authority when whistle blows. In number of cases whistleblowers has lost their lives, job, mental agony etc.

So this article will throw some light on importance of whistleblower policy. The article broadly will speak whistle blower policy in India and why all company must follow robust whistleblower policy?

KEY WORDS:

Whistleblower protection policy, Public Grievance Law and Justice.

INTRODUCTION:

To frame a whistle blowing policy in organization is vital for all organization. All organizations, whether public, private, or non-profit (including governmental) should, as a best practice, adopt a robust whistleblower system to induce its employees to internally report illegal or excessively risky activity directly to its board of directors or trustees. Without a robust whistleblower system, directors/trustees of the organization may fail in their oversight responsibilities.

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The alleged misconduct may be classified in many ways; for example, a violation of a law, rule, regulation and/or a direct threat to public interest, such as fraud, health and safety violations, and corruption. Whistleblowers may make their allegations internally (for example, to other people within the accused organization) or externally (to regulators, law enforcement agencies, to the media or to groups concerned with the issues).

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Generally, whistleblowing raises three question in mind of whistleblower like:-

What information is collected?
How the information is collected from different sources?
For whom the information is to be passed to concerned authority?

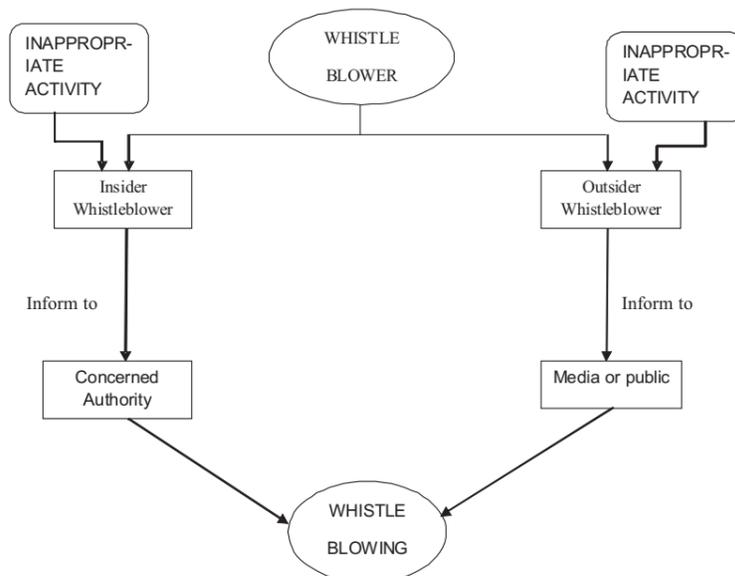
EVOLUTION OF WHISTLEBLOWER

The Government of India has been considering adopting a whistleblower protection law for several years. In 2003, the Law Commission of India recommended the adoption of the Public Interest Disclosure (Protection of Informers) Act, 2002. In August 2010, the Public Interest Disclosure and Protection of Persons Making the Disclosures Bill, 2010 was introduced into the Lok Sabha, lower house of the Parliament of India. The Bill was approved by the cabinet in June, 2011. The Public Interest Disclosure and Protection of Persons Making the Disclosures Bill, 2010 was renamed as The Whistleblowers' Protection Bill, 2011 by the Standing Committee on Personnel, Public Grievances, Law and Justice. The Whistleblowers' Protection Bill, 2011 was passed by the Lok Sabha on 28 December 2011. The Bill is however currently pending in the upper house of Parliament, Rajya Sabha for discussion and further passage. The Bill was introduced in Rajya Sabha on 29 March 2012 by V. Narayanasamy, Minister of State for Parliamentary Affairs.

As of December 2013, India does not have a law to protect whistleblowers; however, The Public Interest Disclosure and Protection to Persons Making the Disclosures Bill, 2010 was approved by the Cabinet of India as part of a drive to eliminate corruption in the country's bureaucracy. And Passed by Lok Sabha. Whistleblower protection refers to laws and policies meant to protect anyone who exposes alleged wrongdoing. The wrongdoing might take the form of fraud, corruption or mismanagement.

WHO IS WHISLEBLOWER?

Any person who blow a whistle and inform to public or concerned person of any of inappropriate activity going on inside the organization. He could be an employee or any person who is insider or outsider of an organization. Anyone can raise a voice if any illegal or inappropriate activity going on inside the organization. If person is a inside whistleblower than he has to report directly to Chief executive officer or any of concerned authority or if he is an outsider than he must be reported to the media, enforcement agencies of public interest groups.



REVIEW LITERATURE

According to Arpita saha, every employee of the organization know about the facts of any irregularity happening in the organization. So they always bothered to blow a whistle of illegal or wrongdoings in the workplace. Still, today both in developed and developing countries, scope of laws and protection of whistleblower is limited. She said, In United Kingdom the attitude of people changes towards disclosure of illegal acts and law also permits to go through proper channel of media. In United States, the concept of whistle blowing is easily accepted by peoples, greater public acceptance and support people get.

According to Miss P R Rajshree, It is important to initiate a protection policy for those who blow whistle against corruption or any inappropriate behavior of any person in organization. So in this situation a country must adopt strict rules regarding whistle blowing activity. It is vital for a country to provide legal protection to whistle blower and follow strict laws in country. Otherwise, whistleblower may lose their lives, Jobs etc. In India, whistleblower bill has narrow applicability so it must be further reconsidered and require more clear provisions under whistleblower bill.

According to Dr. Arup Barman, define the concept of self governance through learning from failures and discussion failures of company as they arises. Through this they can learn their loopholes in a very short period. Corporate fraud rises in country, only stringent rules and policy can help corporate to reduce such a fiasco. So, there is a need to emergence of whistleblower policy in framework of corporate. She said to increase intensity of whistle blowing in organization must follow good governance education and Human resource development.

According to Dr. Siddharth G. Das, An ethical organization must require and create improved channel for whistle blowing. An employees should be personally responsible for maintenance of high standards and make a report to concerned authority whenever need arises. It is high time for business to think that ethical business practice is key for a good governance. She also indicates an organization adopting high ethical standards, which obviously have led to significant lessening of the need to blow the whistle. It leads to competitive advantage. It definitely creates a positive image in the minds of the public and other stakeholder.

According to Gladys Lee and Neil Fargher, whenever firm is earning huge losses from several years and has weaker growth in organization than participants involved with no. of unethical practices like manipulation in financial disclosure than there will be birth of whistle blower. If whistle blower is an employee than he will be retaliate by management. They said, only ethical leaders and outside directors (Independent director) act as a guardian. Only in that case outsiders and ethical leaders can protect them from retaliation.

Exercises of whistle blowing in Indian Corporation

1. The Wipro Company has adopted an Ombuds process policy wherein it has established procedures for receiving, retaining and treating complaints received, and procedures for the confidential and anonymous submission by employees of complaints regarding possible violations of the code of conduct and ethics. Under this policy, Wipro employees are encouraged to report questionable accounting matters, any reporting of fraudulent financial or other information to the stakeholders, any conduct that results in violation of the company's code of business conduct and ethics, to management (on an anonymous basis, if employees so desire). Likewise, under this policy, the company has prohibited discrimination, retaliation or harassment of any kind against any employees who, based on the employee's reasonable belief that such conduct or practice have occurred or are occurring, reports that information or participates in the investigation.

2. Tata Motors Whistle Blower Policy has been formulated with a view to provide a mechanism for employees of the Company to approach the Ethics Counsellor/ Chairman of the Audit Committee of the Company if they found any irregularity going on. The audit committee will investigate the matter as a neutral fact finding process. The outcome of the investigation may not support the conclusion of the Whistle blower. The identity of Whistle Blower will be kept confidential and give him all legal protection. The investigation will be done by the committee in 45 days. After investigation, committee will disclose its result with investigation report and report shall be kept by the company for a minimum period of 7 years.

3. The Steel Authority of India Limited, whistle Blower policy provide safeguard for the protection of employees from reprisal or victimization. SAIL decided to follow the Whistle Blower Policy of Central Vigilance Commission (CVC). So, CVC will received complain and then forwarded to organization for investigation. CVC will not disclose the identity of informant. The commission shall be authorized to call upon CBI or police authority as need arises. If commission thought about legal protection to informant than they will approach to concerned government authorities.

4. Reliance Industries Limited recognizes that issues concerning such breaches can sometimes be extremely

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sensitive and it's vital to deter employees from open communication on it. Company has also mentioned in their policy without sufficient evidence of misconduct, employee can file report. If any employee has reasons to believe that any employee of Reliance has displayed inconsistent behavior. Then, he has inform to Ethics office and can handover facts which support to complain. The Ethics office will acknowledge receipt of the report/ complain. The office will investigate the matter and they have right to involve any other investing agency. The investigation will be completed in not more than 90 days. If investigation concluded that it is really breach of code, the ethics office will take immediate action against it. The Ethics Office will maintain a log of all cases whether or not accused found guilty. The log and copies of related documents will be retained in organization for a period of 2 years.

5. Tata Consultancy Service has a Whistle Blower Policy, with the necessary mechanism for employees to directly without fear of reprisal or victimization, report concerns about unethical behavior. If an employee wishes to 'blow the whistle' in the matter of a significant dishonesty or other inappropriate behavior in TCS or any other Tata Company, he or she can make 'protected disclosures' directly to the highest authority for this purpose, namely, the Chairman of the Audit Committee who is a member of the Board of Directors of TCS. This policy protects the rights of the employees who make protected disclosures to the Company. In FY 2006/07, one case under this policy was reported; the Audit committee closed this case after a detailed investigation.

The cost of Act and number of Whistle Blower lost their live in India

Corruption which become a Plague running the economical environment at the industrial level in India, often goes unchallenged when people are frightened to raise voice about it. From exposing high profile scandals to financial scam, whistle Blower play a critical role in saving both resources and lives. Timely disclosure of wrongdoing sometime became dangerous for whistle blower. Now the question arises here that what they did wrong while blowing whistle? Today in India it's become very risky for the person who blow whistle because no legal protection should be given to them from an unauthorized practices, humiliation, or even physical abuse. Mostly whistle blower are retaliate from organization or group. In that case only one thing can protect whistle blower which is "Whistle Blower Act". Only act can provide safeguard which will help people to speak about corruption. In below there are number of cases where whistle blower raise their voice against corruption but they sacrifice their live.

Name of whistle blower	Designation	Murdered by	Date /Year of Murder	Case	State
Shanmughan Manjunath	Markettin Manager, Indian Oil corporation	Oil Mafia	2005	Check petrol adulteration	Lakhimpur Kheri, Uttar pradesh
Narender Kumar	IPS, Morena, 2009	Mining Mafia	March, 2012	Case related corruption, mining	Madhaya Pradesh
Sanjiv Bhatt	IPS, Gujrat	Politicians	Novemb er, 2013	Alleged role of Narender Modi in 2002 Gujarat riots	Gujarat
J.N.Jayashree	Housewife, Karnataka	-----	-----	Government Officials of Taking bribes and kickbacks	Karnataka

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Lalit Mehta	Indian RTI, activist (Vikas Sahyog Kendra), Palamau	No of person involved	14, May	Expose scams in National Rural Employment Guarantee Act (NREGA)	Jharkhand
Shashidhar Mishra	Indian RTI, activist, Phulwaria Village (By profession, street vendor)	Unknown assailants	14, february, 2010	expose corruption at the panchayat and block levels	Bihar
Avijit Misra	an Indian Army Colonel from Pandapara, Kalibari, Jalpaiguri, West Bengal	Unknown Assailants	April, 2012	blowing the whistle over problems in the unit	West Bengal
Vijay Pandhare	Chief Engineer of the Water Resources Department and a member of the state level technical advisory committee	-----	-----	Case about governor alleging irregularities and cost inflation in irrigation projects	Maharashtra
Rinku Singh Rahi	Bureaucrat Provincial Civil services (PCS)	local gangsters	26, March 2009	fighting against corruption in sponsored welfare schemes	Uttar Pradesh
Satish Shetty	Indian social activist	Unknown attackers in Talegaon	13, January 2010	Expose many land scams	Maharashtra

CONCLUSION

Whistle Blowing in organization is an issue which has recently received public attention and systematic study. There are various reasons for earlier inattention like lack of public concern with whistle-blowing perhaps linked to low relative incidence of whistle-blowing; the focus of organization theory on explaining stability in organizations, and compliance to authority, rather than changes and non-compliance; and the difficulty involved in studying a problem which lacks either a well-developed theoretical framework to support it or an obviously appropriate research method to facilitate its exploration; Availability of data concerning such sensitive issue. So, we recommend there is a strong need for Whistle Blowing Act in India to save the interest of all stakeholders and no more person's loss their lives after they blow the whistle.

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