

Voluntary Disclosure of Assets by the Lok Ayukta in Karnataka

October 22, 2009

Dear friends,

Much water has flown down the Yamuna since a single judge bench of the Delhi High Court gave its judgement on the case related to disclosure of judges' assets. In the southern parts of India including my home state of Karnataka entire villages were washed away by floods. But the much promised action on disclosure of assets has not seen the light of the day except in the case of a few High Court judges who declared their intent to be transparent. The Hon'ble Supreme Court has decided to challenge the order of the Delhi High Court. At least one High Court is said to have resolved not to disclose such information in the public domain. While these developments and the attendant debate hits the headlines every now and then, a public authority in Karnataka has publicised on its website assets declarations of functionaries from the top to the bottom of the hierarchy without making any fuss.

The public authority in question is the Lok Ayukta of Karnataka established under a 1984 law. The Lok Ayukta bears close resemblance to the institution of Ombudsman found in many Commonwealth and Scandinavian countries and has specific jurisdiction over corruption-related matters also. The declarations of assets and liabilities made by the Lok Ayukta, Upa Lok Ayukta, one police officer of Additional Director General of Police rank, two police officers of Superintendent of Police rank and 19 officers of Police Inspector rank have been disclosed. Declarations of 19 other officers associated with other wings of the Lok Ayukta have also been uploaded in the website. These declarations may be accessed at: <http://lokayukta.kar.nic.in/assliab.htm> (I thank Prof. B K Chandrashekar for alerting me about this good practice.)

The Hon'ble Lok Ayukta Justice (retd.) N. Santosh Hegde has disclosed assets owned by his spouse as well. Details regards shares, debentures, fixed deposits, immovable property and loans taken from banks and relatives have been disclosed. To his credit Justice (retd.) Hegde has even disclosed the source of funds that were spent on the purchase of a residential flat in Bangalore. The Hon'ble Lok Ayukta has not only led by example, he has ensured that all officers and officials working with him comply with this high standard of probity. It remains to be seen whether his successors will carry on this noble tradition. Not one of these officers is complaining that they are being harassed or blackmailed on account of the size or value of assets they have disclosed. It must be mentioned here that there is no statutory requirement on the Lok Ayukta or his officers to disclose their assets. Instead the political executive including the Chief Minister all the members of the State Legislative Assembly and the Legislative Council are duty bound to disclose details of assets and liabilities for self, spouse and close family members to the Lok Ayukta. Without saying anything more, one ought to simply stand up and applaud loudly for the institution of the Karnataka Lok Ayukta and hope that every public servant with the duty to disclose assets is doing so as required by law. Where there is a will there is a way (even if there is no statutory obligation).

Going back to the case that has hogged the headlines we know that the assets disclosure related matter has not been settled as the Supreme Court has challenged the Delhi High Court order. We do not expect the matter to end with the decision of the division bench because a further appeal may be filed before the Supreme Court itself. The Government of India could not table a Bill on assets disclosure during the last session as many MPs opposed its limited scope. The Hon'ble Chief Justice of the Supreme Court has also said that judges are free to

voluntarily disclose their assets-related information. The decision of all judges who have volunteered to disclose information about their assets is to be welcomed.

However voluntary disclosure is the same as **pious charity. Charity is anathema to the language of rights especially fundamental rights guaranteed by our Constitution.** The citizen's right to know has acquired the status of a fundamental right since 1975. **Fudamental rights are enforceable against the State and its functionaries, charity is not enforceable.**

The voter's right to know the background of candidates contesting elections to Parliament and State Legislatures has acquired the status of a fundamental right and is now well-established. This right to know is enforceable in a court of law. What is important is- the voter's right to know is enforceable against private individuals many of whom do not hold public office (some may be sitting legislators seeking re-election). There is no reason why a system ought not to be created for disclosure of assets and liabilities information of career public servants in all organs of the State.

The purpose of assets disclosure by public functinoaries in mature democracies is not to provide sensational fodder to satiate voyeuristic appetites. It is a necessary mechanism for ensuring probity of such functionaries who have chosen to pursue a career in public life. Rather than single out the members of the judiciary for disclosure of assets, the Government must come up with a comprehensive assets disclosure Bill that will cover all public servants. Such a Bill must have an effective mechanism for investigating false declarations within a reasonable period of time and where proven there must be sanctions against the errant public servant. Anything lesser than this will merely be an eyewash.

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