

AACI Update-4

February 2014

Special

- AACI interventions in the Prevention of Corruption (Amendment) Bill and Jan Lokpal Bill
- Conflict of interest in regulatory bodies



“Public health must also contend with Big Food, Big Soda, and Big Alcohol. All of these industries fear regulation, and protect themselves by using the same tactics... (which) include front groups, lobbies, promises of self-regulation, lawsuits, and industry-funded research that confuses the evidence and keeps the public in doubt. Tactics also include gifts, grants, and contributions to worthy causes that cast these industries as respectable corporate citizens in the eyes of politicians and the public. They include arguments that place the responsibility for harm to health on individuals, and portray government actions as interference in personal liberties and free choice.” – Margaret Chan, Executive Director, WHO, 10th June 2013

Protecting people against vested interests in public policy

The purpose of this update is to provide specialised information on the issue of conflict of interest in food, health and nutrition sectors to the concerned people including members of AACI, public interest groups, people fighting corruption, interested policy makers and others.

Include Conflict of Interest in Anti-Corruption Bill

AACI was invited to make a presentation on the Prevention of Corruption (Amendment) Bill, 2013 to the members of the Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice. AACI Convener Dr. Arun Gupta explained how conflict of interest situations engender corruption, highlighting its impact particularly in the area of public policy making.

AACI specifically requested that the Bill

- Should recognise both individual conflict of interest and institutional conflict of interest.
- Should lay down steps for managing conflict of interest in decision/policy making, and fix penalties for violations.
- Should cover all bodies, whether autonomous, or joint ventures, or Public Private Initiatives/Partnerships, which receive funds from the government, and are thus accountable to the people of the country.

The subsequent Report 69, presented by the Rajya Sabha Department Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, recommends that “Conflict of interest to be included in the definition of bribery.” However, the other requests by AACI have not been included in the recommendations of the Committee.

STOP PRESS

GAVI Hiring Senior Health Ministry Official Raises Concern over Conflict of Interest

Appointment of additional secretary in the health ministry and director of the National Health mission, Anuradha Gupta, as deputy CEO of GAVI, a global body promoting vaccination, raises questions of conflict of interest. She is joining the GAVI Executive Office on 2nd June and will be based at the Alliance’s headquarters in Geneva.

Ms. Gupta has been involved in crucial decisions on the immunization programme of the country and her impending move to GAVI is ethically wrong. The GAVI Alliance is a public-private global health partnership committed to increasing access to immunisation in poor countries.

This is a classic example of the revolving door phenomena -a term used to describe the movement of officials between the public and private sectors.

Source: <http://timesofindia.indiatimes.com/india/GAVI-hiring-senior-health-ministry-official-raises-concern-over-conflict-of-interest/articleshow/33661542.cms>, May 5 2014

Conflict of interest in regulatory bodies

CPI raises conflict of interest issue of Birla's bank plea

Press Trust of India. New Delhi July 9, 2013

CPI today raised the issue of conflict of interest with regard to A V Birla bank licence application to RBI and asked for removal of K M Birla, the group's Chairman, from the board of the central bank. It also raised objections to RBI granting licences to private sector, particularly corporate sector, to open banks.

"CPI is of the view that this will lead to unhealthy consequences. We also have serious reservations on the process of licensing of new banks," the party said in a statement here.

Among the 26 applicants, there is also an

application submitted by Aditya Birla Nuvo, a group company of A V Birla group company, seeking a new banking licence belonging to Aditya Birla group under the Chairmanship of Kumar Mangalam Birla. K M Birla has been a member of the board of RBI for the past six years.

"This is a serious conflict of interest where a board member of RBI is also one of the applicants for a bank," the party said.

http://www.business-standard.com/article/pti-stories/cpi-raises-conflict-of-interest-issue-of-birla-s-bank-plea-113070901009_1.html

Health Min turns a blind eye to food safety (<http://foodsafetynews.wordpress.com/2013/09/07/health-min-turns-a-blind-eye-to-food-safety/>)

7, September, 2013

A look at the profile of many members nominated in the Food Safety and Standards Authority of India shows that major sectors related to fruits, vegetables, vegetable oil and farm output of food grains have been largely ignored. The large meat and bakery/ confectionery sector too has been ignored. Instead, a representative from the not so voluminous prawn industry, one Balasubramaniam has been reappointed.

Moreover, the Ministry has appointed two members namely Gurudayal Tuteja and Lalitha Ramakrishna Gowda, who have conflict of interest. Gowda and Tuteja are already on the scientific panel of the FSSAI. As per rules, they cannot be appointed in two panels of the food regulator.

Also, the Ministry has nominated a member, Shreya Pandey, who is associated with a beverage MNC, as a representative of the All India Food Processors.

"The Supreme Court has in 2011 passed strictures to the Food regulator to reconstitute the scientific

panel and have independent scientific persons and not individuals who have conflict of interest. But this time it has bent the rules while constituting the Food Authority," said Santosh Kumar Mishra from Lok Jagriti, which has filed a case in High Court against the 'mis-governance and mismanagement' in the FSSAI.

Mishra said that Pandey has been nominated as an industry member despite her company not agreeing to the report of the Joint Parliamentary Committee on carbonated drinks. When asked, Joint Secretary (Health Ministry), AK Panda said, he would look into the matter.

The appointment of K Chandramouli as chairperson of the FSSAI is already under the scanner of the Supreme Court with a PIL alleging that he did not fulfill the eligibility criteria for the post as desired under Section 5 of the FSS Act. The Supreme Court has issued a notice to the Government in the matter.

Conflict of interest in Rural Electrification Company http://articles.timesofindia.indiatimes.com/2013-12-07/lucknow/44903592_1_power-distribution-company-limited-the-rec-rural-electrification-company

LUCKNOW: The Rural Electrification Company Power Distribution Company Limited(REC-PDCL), the subsidiary owned by the REC, finds itself in a midst of a controversy over securing business orders from various state distribution utilities.

A non-government organization has lodged a complaint with the comptroller and auditor general of India that the company has been getting business orders on a verbal promise that it will be able to secure approval from the REC since Chief Executive Officer (CEO) of REC and REC-PDCL are the same person. The organization has cited it to be a clear case of conflict of interest since it deprives other competitive parties from bidding.

The organization alleged that the REC's regional offices which are meant to execute objectives of the REC are forced to act as marketing agents of RSC-PDCL. The offices, the organization alleged, have been raising the issue internally but obviously are reluctant to voice it out openly.

After retirement, ex-coal secretary became director of a company that was allocated coal block

PTI Hyderabad/New Delhi, October 19, 2013

Former Coal Secretary P C Parakh, who was named by the CBI in an FIR on a coal block allocated to Hindalco, had joined three private firms after retirement, raising questions over his role in one of the companies that's now under the scanner after getting a block.

Parakh, who retired in December 2005, joined Navbharat Power Pvt Ltd on February 26, 2007, as a director. He quit the company on January 15, 2008, according to information available with the Ministry of Corporate Affairs.

He was a director in Visa Power Ltd from March 7, 2007, to January 15, 2008, and has been with Tata Sponge Iron Ltd since March 7, 2007.

Navbharat, which after allocation of a coal block sold off the company shareholding to Essar in 2010, is under the Central Bureau of Investigation (CBI) scanner. Visa Power, too, had applied for a coal block.

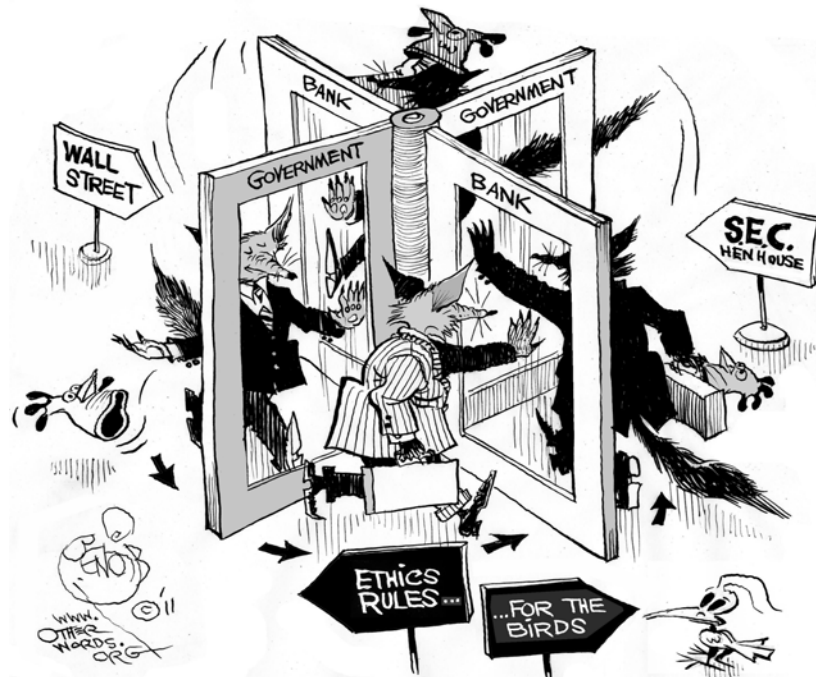
SC declines plea for Bureaucrats' cooling-off period

Friday, 01 November 2013 18:52

New Delhi: The Supreme Court Friday declined a petition seeking direction to the government to observe a cooling-off period of two years before a retired senior civil servant is offered re-employment with the government. The apex court bench of Chief Justice P. Sathasivam, Justice Ranjana Prakash Desai and Justice Ranjan Gogoi, turning down the PIL plea as withdrawn, said it was for the competent authorities to decide on the re-employment of a retiring civil servant. "How can court issue directions?"

Senior counsel Harish Salve, who appeared for PIL petitioner Prakash Singh, told the court there were existing rules providing for cooling-off period but these were not being adhered to. Salve told the court he was seeking guidelines on the cooling-off period so there could be transparency in the matter of appointment at senior levels.

http://www.bureaucracybuzz.com/index.php?option=com_content&view=article&id=9670:sc-declines-plea-for-bureaucrats-cooling-off-period-&catid=46:bureaucracy&Itemid=1



CONFLICT OF INTEREST: A Case for Legislation

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We're on the Web!

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What should the law contain (Minhas Merchant)

The only way to reduce cases of conflict of interest is by enacting tough, effective legislation. Article 102 (1)a of the Constitution disallowed MPs from holding an office of profit under the central or state government. UPA chairperson Sonia Gandhi was compelled to step down as an MP and seek re-election from Rae Bareilly in 2006 when her role in the National Advisory Council (NAC) was disputed on this principle. The Act was amended following the controversy. Both houses of parliament passed a diluted Parliament (Prevention of Disqualification) Bill in 2006 with just a single day's debate.

Clearly, tougher new legislation is needed to compel ministers, MPs and private individuals holding public office to subject their commercial interests to the annual scrutiny of an independent audit authority headed by a former Supreme Court judge. If the authority finds specific evidence of conflict of interest, the individual concerned should either surrender his public office or place his commercial interests in a blind trust. In a country where most assets are held in the names of front companies, will such a law stop the rampant misuse of public office? Not entirely. But a tough and fair law, however difficult to enforce, is better than no law at all.

Minhas Merchant, The Economic Times, February 11, 2012



About AACI

The Alliance Against Conflict of Interest (AACI) is an alliance of organisations and individuals working in various sectors – doctors, lawyers, women's and children's health groups, activists and media. AACI works on issues conflict of interest and brings them to the notice of the parties involved, the government and media. AACI aims at having a legal protection from conflict of interest in all sectors in public policy and institutionalise ethics and transparency.