

# The syndrome of covering up the corrupt

By Uttam Gupta

IN a recent landmark arbitration award, the National Housing Bank (NHB) has been directed to pay Rs 906 crore to the ANZ Grindlays Bank. This represents the current value of the sum of Rs 520 crore which the latter had been forced to pay by RBI in 1992 to the former — the amount being the loss suffered in respect of nine dubious security transactions. The money actually went into the current account of Harshad Mehta with ANZ. The net result of this award is that the apex housing institution has been permanently crippled. NHB's is not an isolated instance. There are several other cases of the government controlled banks and the PSUs suffering huge losses due to large-scale financial irregularities. For instance, the Indian Bank has lost about Rs 1,400 crore mainly due to irregularities in the sanction and disbursement of loans under its former CMD. This has eaten up almost the entire capital of the bank and turned it sick.

With banks going bankrupt, the public ultimately will have to pay a heavy price. Pumping of capital by way of budgetary support from the Government may help rescue them. However, this too has a backlash on the common man as the Government's fiscal deficit will go up to that extent, which is inflationary. For all banks put together, the non-performing assets (NPA) are a staggering Rs 40,000 crore. In this too, the element of irregularities cannot be wished away. The loss to the banks because of NPAs has to be paid for by someone. So, there cannot be significant relief in the lending rate despite various measures announced by RBI — reduction in prime rate and injection of more liquidity in the

system. Even as no serious attempt has been made to tackle this menace, some time back P Chidambaram told the banks to write off the NPAs. In the meanwhile, industry, trade and agriculture continue to suffer due to shortage of credit and its high cost.

The PSUs too have not lagged behind. Consider, for instance, the loss of Rs 133 crore incurred by National Fertilisers Limited (NFL) in the 200,000 tonne urea import deal, in respect of which advance payment for the full amount was made without any guarantee and not even a grain of urea arrived. This has more than wiped out the profit of about Rs 117 crore on its operations during 1995-96, leading to a net loss of Rs 16 crore. When the undertaking is in loss, the question of dividend payment to the shareholders — in this case the Government of India

— does not arise. But, the Government has insisted that it should be paid. This being about Rs 32 crore, the NFL will be in the red to the extent of Rs 48 crore.

During April-September 1996, NFL incurred a loss of Rs 13.33 crore. This is because its plants operated at less than optimum capacity due to short supply of raw materials including feedstock/fuel. The supplies were cut as NFL defaulted in timely payments to IOC/GAIL due to the liquidity crunch caused by huge cash trapped in the urea scam. The situation during the second half continues to be difficult. Thus, the current year may also end up with a significant loss.

This may turn a fundamentally sound undertaking sick and lead to wastage of huge investments apart from substantial loss of jobs. Consequently, loss of production will have to be met by imports at a much higher price entailing an outgo of foreign exchange and payment of larger amounts of subsidy.

There are numerous instances of irregularities in various ministries/government departments

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under their respective procurement/spending programmes leading to a substantial loss to the exchequer. These losses have to come out of the budget and thus, inflate the deficit. In turn, this leads to heavy cuts in investment expenditure and spending in the social sector. How has the Government reacted to this situation? There are three aspects to it. First, launching of investigation/probe to book the guilty and punish them. Second, to take suitable measures to recuperate the loss. Third, initiate necessary changes to prevent recurrence of such irregularities.

On the first, the action is invariably half-hearted and slow,

leading to inordinate delays. Rarely the investigation is carried to its logical end and the process is abandoned mid-stream, enabling the offender to go scot-free. With this, progress on the second is bound to be disappointing. Unless you nab the person/persons who was/were responsible for siphoning of funds, how can you get the money back? Moreover, with the authorities being more than eager to make provisions to provide for the loss or write it off, there is little motivation to hunt for the funds. In regard to the

third, the prime causes are sought to be camouflaged by emphasising on the so-called systems failure and creating more institutions ostensibly to tone up supervisory functions. While this adds to the cost to the exchequer, irregularities continue unabated.

In recent times, the judiciary has involved itself by compelling the executive to speed up the process. Following the Supreme Court judgment in the Jain *hawala* case, CBI even got powers to initiate investigations without the prior consent of the Government.

The Government's view is that if the CBI proposes to proceed against the officers of the rank of GM and above in the ministries/government departments, its prior concurrence must be taken. And that, for proceeding against a minister including a former minister, prior consent of the Prime Minister will be necessary.

Its stand is that the officers are scared; that they are reluctant to

take decisions involving big commercial transactions. And, that may well be true of the ministers as well. But then, what are officers scared of? Do they risk being prosecuted? If they have no axe to grind, this apprehension has no meaning. Are they scared by the prospect of being asked a few questions? While this may be inconvenient, the concerned officers should view this in the much larger national interests of helping recovery of funds and preventing irregularities/losses in the future.

As regards the loss due to error of commercial judgement, the risk of being penalised for this has no basis. We ought to have faith in the capabilities of the investigating agencies to pinpoint an error as distinct from irregularity. However, to say that the agencies cannot be trusted while the Government can be is illogical and contradictory. Whereas some hassles faced by officers/ministers have prompted the Government to initiate moves aimed at scuttling the process of investigation, it remains insensitive to the miseries of the public consequent on a PSU going into the red, banks suffering losses and the exchequer losing heavily. This is a patently unsustainable situation. To a considerable extent, the current economic ills are due to the syndrome of not only protecting, but also, abetting the wrongful acts. Its continuation will push us to the brink of a catastrophe sooner than later. Judicial activism alone will not save us from this. The Government will necessarily have to change its ways of working in the much larger interests of national economy.

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