Whistle Blowing

Why in news?

Daniel Ellsberg, an American military analyst who had caused a public uproar in 1971 by releasing Pentagon Papers died recently.

What is Whistle blowing?

- Whistleblowing is the act of *drawing public attention*, or the attention of an authority figure.
- It is done for perceived wrongdoing, misconduct, unethical activity within public, private or third-sector organisations.
- Corruption, fraud, bullying, health and safety violation, cover-ups and discrimination are common activities highlighted by whistle-blowers.
- **Types of whistle blowers**
    - **Internal Whistle blowers**- The whistle blowers inform or report to the higher authority of the organizations where the wrongful act is being done.
    - **External Whistle blowers**- They report illegitimate incidents to the external people- media, Government office etc.,

What is the status of Whistle blowing in India?

- In 2011, Law Commission recommended a law should be in place for protection of Whistle blowers.
- In 2004, Government notified a resolution "Public Interest Disclosure and Protection of Informers Resolution (PIDPIR)"
- **Power** - The resolution gave the power to *Central Vigilance Commission* to act on complaints from Whistle blowing.
- In 2014, India enacted *Whistle Blowers Protection Act* to provide adequate safeguards for whistle blowers.
- **Companies Act 2013 -** It makes it *mandatory* for the entities listed on the stock exchanges to set up an audit committee to investigate whistleblower complaints.
- **Institutional Support -** Securities and Exchange Board of India (SEBI) has guidelines to regulate the companies to have law for protection of Whistle blower.
- **International Convention -** In 2005 India become a signatory to the *UN Convention against Corruption.*
- It talks about the reporting of corruption done by the public or private entities and protecting the whistleblowers from the retaliation faced by them.

Famous Instances of Whistle blowing in India

Whistle blowing Cases	About

Shanmugam Manjunath case	An Indian Oil Corporation Officer who was murdered after he exposed adulterated fuel.
Lalit Mehta case	An activist who exposed corruption in the National Rural Employment Guarantee Act (NREGA) scheme.
IPS Narendra Kumar Singh case-	An Indian Police Service Officer who was killed after he exposed illegal mining in Madhya Pradesh.
Vyapam Scam	It was one of the most notorious episodes in India's educational and recruitment narrative exposed by Anand rai in Madhya Pradesh.

What are the provisions under Whistle Blowers Protection Act, 2014?

- **Aim-** To prevent corruption, asset misappropriation and misuse of power.
- **Applicability-**The law applies *only* to the public sector and targets the public servants.
- **Burden of proof**-Lies on the public authority.
- **Filing Complaint-** The complaint can be filed by a public servant or any other person to make a public interest disclosure.
- **Good faith requirement-**The report must be submitted in good faith so that the whistle blower may be exempted from defamation claims and prosecution in case the information him/her is incorrect.
- **Conditions for Whistle blower**
    - The whistle blower should act immediately after the act of misconduct was observed.
    - The whistle blower must identify himself. Otherwise, his report will not be considered.
    - Anonymous and false identity of complaints will not be encouraged.
- **Authority-** The report is submitted to the Competent Authority, who must conceal the identity of the whistle blower.
- The complaint is then forwarded to the Head of the Department.
- The whistle blower may choose to reveal the identity to the Head of the Department or provide the necessary evidence to the Authority.
- **Court of Appeal**- Any person aggrieved by the competent authority can approach the *High Court within the 60 days* from the date of order.
- **Exceptions-** The whistle blower can't report on matters which may harm the sovereignty of India or directly damage its national security.
- **Penalty-** There is a provision of penalty to any person who has disclosed the identity of complainant and penalty for false identity of the complainant.

What is the significance of Whistle blowing?

- **Improves transparency-** It will help to combat corruption, serious misconduct and illegal wrong doings.
- **Public trust-** It ensures accountability and enhances the public trust with the government.
- **Protect rights of the people-** People must know about the happenings in the

government, there must be appropriate mechanism to whistle blow a serious misconduct.

- **Enables justice-** It provides an environment of safety and protection from the inevitable abuse of power.

Whistle Blower Protection in USA
• **Investigation Mechanism** - The investigation of complaints of retaliation against employees is conducted by investigators who are neutral. • They are neutral fact-finders and they do not work for either the complainant or respondent. • This practice can be adopted in India to give strong protection to the Whistle blowers

References

1. The Hindu| Whistle Blowing in the wind
2. PRS| Features of Whistle blowers Act 2014
3. Mid-Day| Instances of Whistle Blowing

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