

# VIGEYE VANI

## Monthly Newsletter of Central Vigilance Commission FEBRUARY 2012



Shri Pradeep Kumar, Central Vigilance Commissioner speaking at the 4<sup>th</sup> Anniversary function of the Vigilance Study Circle, Bangalore on 06.02.2012 held that the Vigilance Study Circle served an important purpose by supplementing the role of the vigilance institution and extending anti-corruption efforts to areas beyond the normal reach of the formal institution. The Vigilance Study Circle could serve as an important platform for conducting workshops, seminars and research activities in this direction.



Shri Pradeep Kumar, CVC

2. In the context of the present atmosphere of rising anger against Corruption CVC quoted the views expressed by honourable Justice A.K.Ganguly of the Supreme Court in the 2G Case pronounced on 31.01.2012 namely that *“the duty of the Court is that any anti-corruption law has to be interpreted and worked out in such a fashion as to strengthen the fight against corruption.”*

3. Public procurement was an activity highly vulnerable to corruption and remained an area of concern for the Commission, which has recommended various reforms in respect to this area. The Government was in the process of enacting a public procurement law, incorporating global best practices. The Commission has also recommended the enactment of a False Claims Law, which aims to empower citizens to fight Corruption.

4. The ratification of the UN Convention Against Corruption by India in May last year has given fresh impetus to reforms in anti-Corruption efforts in India. The Convention lays down the minimum basic requirements in terms of institutional and legal framework to be put in place by each country to address Corruption.

5. According to the CVC, the challenge in India, lies in the proper implementation of rules at the ground level. The correct approach would be to design and sustain a system that imbibes the spirit of corporate governance and not merely the letter of the law. The Judicial Accountability Bill, Prevention of Bribery of Foreign Public Officials Bill 2011, electoral reforms and Company Bill 2011 were all designed to prevent Corruption and improve corporate governance.

6. The Commission would continue to play a valuable role in promoting good corporate governance especially in the Indian public sector. CVC hoped that efforts of the Vigilance Study Circle, other civil society organisations, the corporate sector, the media and the citizens at large would supplement the Commission's efforts in ensuring Ethics in public life.

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Lighting of the lamp at VSC, Bangalore



**1.** January-February 2012 saw some landmark judgments from the Supreme Court. Earlier, the Supreme Court, in its order dt.16.12.2010 had directed that CBI shall conduct a thorough investigation into various issues highlighted in the CVC report on 2G spectrum which had been forwarded to CBI in 2009. With the February 2012 judgment of the Supreme Court, the 2G spectrum case has come full circle in so far as the Central Vigilance Commission is concerned.

**2.** In reference to a prayer/civil appeal made by a group of appellants to appoint a group of independent persons to assist the Government in monitoring the investigation being carried out by the CBI, the Enforcement Directorate & Income Tax Department in the 2G spectrum case, the SC ordered on **2.2.12** that (i) in future copies of the report(s) of the investigation conducted by the CBI and other agencies shall be made available to the Central Vigilance Commissioner in sealed envelopes and (ii) the CVC shall examine the reports and send their observations/ suggestions to the Court in sealed envelopes which shall be considered along with the report(s) of the CBI and other investigating agencies.

**3.** The Supreme Court judgment of **31.1.2012** has held that every Competent Authority shall take appropriate action on the representation made by a **citizen** for sanction of prosecution of a public servant strictly in accordance with the direction contained in Vineet Narain v. Union of India (1998) 1 SCC 226 and the guidelines framed by the CVC. The Supreme Court in the Vineet Narain judgment had laid down a time limit of 3 months for grant of sanction for prosecution. However, additional time of one month was to be allowed where consultation was required with the Attorney General (AG) or any other law officer in the AG's office.

**4.** Some of the salient features of the CVC guidelines (issued vide its Office Order dated 12.5.2005), to be followed by the sanctioning authority in this regard are (a) grant of sanction is an administrative act. The question of giving opportunity to the public servant at that stage does not arise. The sanctioning authority has only to see whether the facts would prima-facie constitute the offence. (b) the competent authority cannot embark upon an inquiry to judge the truth of the allegations on the basis of representations which may be filed by the accused person before the sanctioning authority, by asking the Inquiry Officer to offer his comments or to further investigate the matter in the light of representation made by the accused person or by otherwise holding a parallel investigation/enquiry by calling for the record/report of his Department.

**5.** As on 31.12.2011, there are 22 cases (which include 32 officials) pending sanction for prosecution over 4 months by the competent authority. Details are available on the CVC website.

**6.** It is hoped that with the re-iteration of the timeline for grant of prosecution sanction in the recent SC judgment, cases pending for sanction will get expedited.



**Supreme Court of India**

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## Release of Transparency International India's Assessment Report

**Ashutosh Kumar Mishra, Director (IP & CSF),  
Transparency International India**

The Integrity Pact (IP) was a tool devised by Transparency International to curb Corruption in public procurement and was first implemented in the mid 1990s in Germany during the construction of the Berlin Airport. ONGC was the first PSU which implemented the IP in India by entering into an MoU with Transparency International India (TII) in 2006. IP has been supported by the Central Vigilance Commission and which has also issued circulars for implementation of the same. Also, the Second Administrative Reforms Commission in its Fourth Report on 'Ethics in Governance' had recommended the adoption of Integrity Pact. Till date 44 PSUs which includes Oil & Natural Gas Corporation (ONGC), Hindustan Petroleum Corporation Ltd, Gas Authority of India Ltd, Coal India, Oil India, RNIL (Vishakhapatnam), Steel Authority of India Limited, Bharat Petroleum Corporation, Indian Oil, Airports Authority, and others have adopted the IP.

2. However, the efficacy of IP remained an unexplored area with various stakeholders requesting for an impact assessment to know whether IP had achieved its primary objective of making the procurement process more transparent. Consequently, TII with support from Partnership for Transparency Fund undertook this task with TII interviewing various stakeholders, compiling gains, recording success stories supported by case studies from various PSUs as well as by highlighting grey areas. TII has also made recommendations to make it an effective tool.



*Release of TII's Assessment Report*

3. Transparency International India's assessment report on "Implementation of Integrity Pact (IP) in IP compliant Public Sector Undertakings (PSUs)" was released by Shri. R Sri Kumar, Vigilance Commissioner, CVC, and Shri. Pratyush Sinha former Central Vigilance Commissioner, in the presence of officers from CVC, Public Sector Undertakings, NGOs, academicians and media on 16.1.12 in New Delhi.

4. Vigilance Commissioner Shri Sri Kumar, stressed the need for a higher level of enforcement of the Integrity Pact. Shri. Pratyush Sinha stressed on the need to create a value system to prevent Corruption rather than by only focusing on the punitive aspects. According to him IP should be made compulsory in every government procurement system.

### 5. Key findings of the Assessment Report:

- About 95% of stakeholders from PSUs believe that the Integrity Pact in general has helped in making the procurement process transparent.
- PSUs like Gas Authority Of India , Shipping Corporation India , South Eastern Coalfields Limited, shared success stories of IP in the form of case studies.
- By implementing Integrity Pact in two of their tenders Gas Authority of India (GAIL), had been able to save 3610 Million of Indian Rupees (70 million \$).
- Two private firms have been blacklisted for violation of clauses of Integrity pact.
- Private sector is no more a victim of Corruption. Instead they are instrumental and hand-in-gloves with public officers.
- Government must bring a strong deterrent tool to curb Corruption in the private sector.
- Collusive Corruption, where officials from the public sector undertaking join hands with the private sector, is greatly present in the Indian business environment, particularly in the power, mining and Oil sectors.

## SENSITIZATION PROGRAMME ON INTEGRITY PACT

M. Dandayudhapani, CVO,  
Chennai Port Trust



1. A Sensitization Programme on the Integrity Pact (implemented in 2011) was conducted at Chennai Port Trust on 20.01.2012 for the contractors and suppliers and separately for the officials of Chennai Port Trust. The Chief Vigilance Officer elaborated on the purpose, scope and the advantages of signing an Integrity Pact. The goal of the Integrity Pact was to reduce the chances of corrupt practices during procurement. It envisaged a binding agreement between the agency and bidders for specific contracts thus achieving transparency in public

procurement along with a fair and transparent basis for awarding contracts. Shri Alaguvel, Dy. Chief Engineer shared his experience of Integrity Pact after implementation at Chennai Port. On the occasion, officers of Neyveli Lignite Corporation, Neyveli Shri Harihara Kumar, GM (Vigilance) and Shri Gnanaprakasam, Chief Manager shared their experiences in NLC regarding the Integrity Pact and its genesis.

2. Chairman, Chennai Port Trust Shri Atulya Misra and Deputy Chairman Shri P.C. Parida had an interactive session with the suppliers, as well as participants. The Chairman stressed the importance of Integrity Pact in the present day context for bringing in more transparency and mutual trust between the Port and the suppliers. He also lauded the efforts of vigilance personnel in bringing transparency in port administration. More than 100 participants attended the session.

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## Fourth Anniversary of Vigilance Study Circle, Bangalore

1. Vigilance Study Circle, Bangalore (VSC-B), celebrated its fourth anniversary in Bangalore on 6.2.12. VSC-B provides a forum to Vigilance Executives for sharing their experiences and expertise. Vigilance executives of various public sector undertakings, nationalized banks and other government organizations meet at regular intervals and hold discussions on professional matters.

2. The chief guest on the occasion was Shri Pradeep Kumar, Central Vigilance Commissioner, with Shri R. Sri Kumar, Vigilance Commissioner, being the special guest. A souvenir was released by the chief guest who in his address detailed the initiatives taken by the Central Vigilance Commission in checking corruption. (details may be seen at page-1).



Release of the SOUVENIR by CVC

3. A panel discussion on “Effective Corporate Governance” was held which was moderated by Prof.(Dr.) R. Vekata Rao, Vice Chancellor, National Law School of India, Bangalore. The deliberations of the panel discussion reached the following conclusions:-

(i) confidence in institutions has to be restored in people (ii) permanent values are more important than valuations (iii) improving the self (individual) will automatically improve standards of governance.

4. During the post lunch session, a Training programme on “Cloud Computing & Project Management” was commenced with the inaugural address and active participation of the Vigilance Commissioner Shri R. Sri Kumar. A power point presentation on the above subject was made by S/Shri Rakesh Sharma and Atul Garg from the technical team of CVC. (details may be seen at page-6)

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## Setting up an Internal Oversight framework for Fraud Risk Management

MC Mulay, CVO, Bank of India

1. Bank of India recently set up a Fraud Risk Management Department, which would (i) specialize in fraud monitoring, investigation and follow-up, (ii) identify trained IT personnel in forensic audit and deploy them for investigation of large value fraud (iii) build up a data/information pool of large value fraud to analyze them periodically, which can also act as a knowledge repository for policy.

2. Effective monitoring is possible by having a suitable system/software wherein various parameters of transactions, which could be indicative of irregularities/ wrongdoings, are captured and thrown up as alerts for monitoring and follow up by the Fraud Risk Management Department. In this direction, an online real time fraud monitoring package has been envisaged, which would have a next-generation enterprise wide fraud detection solution that is built on a proven, advanced platform.

### Benefits:

3. The benefits of such an online transaction monitoring system would be in the following areas:-

- taking advantage of all available data.
- it would incorporate all available data-types, customer, household, merchant, cycle-cut, third-party and issuer-specific data; authorizations; deposits; and non-monetary transactions into the modelling process. The result is enhanced predictability and reduced false-positive rates in both models and rules.
- achieve the highest level of fraud detection performance.
- use of the industry's most advanced analytics to give the Bank a significant advantage in the quest of managing and controlling fraud losses. The solution allows for multiple predictive models supported by a champion/challenger facility to ensure the best approach every time.

4. The Fraud Risk Management Department is headed by a senior executive at the level of a Deputy General Manager, and reporting to the General Manager(Risk Management). To begin with, the Department has taken up the task of Reporting, Monitoring and maintaining centralized data on fraud, and has started monitoring alerts thrown up by the CBS system, based on certain identified parameters such as:-

- i. heavy deposits and heavy withdrawals in newly opened accounts – cases of ignoring the system alerts to be monitored.
- ii. debiting office accounts and crediting retail accounts.
- iii. manual debits to P&L Interest/Exchange/Commission accounts beyond specified parameters.
- iv. drawings against clearing/uncleared effects on a continuous basis.

5. On procurement and installation of a system/software, which is in the process of being identified, with capabilities outlined in paragraph-2, the Fraud Risk Management Department would in due course evolve into the form and function for which it has been created.

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***“Rather fail with honor than succeed by fraud.”***

***- Sophocles***

***“Things gained through unjust fraud are never secure.”***

***- Sophocles***



**R.K. Sharma, Technical Examiner  
& Atul Garg, IT Consultant, CVC**

1. The present day age is characterized by the agility/flexibility of technology. It is always on real time information and provides immediate feedback. It involves new distribution channels, early warning, transparency, dynamic ad-hoc sharing and collaboration. Project Management can be empowered by Cloud Computing and Knowledge Management.

## 2. Cloud Computing

The “**Cloud**” is a style of computing where massively scalable (and elastic) IT – related capabilities are provided “as a service” to external customers using Internet technologies.

Cloud computing is the delivery of computing as a service rather than as a product, whereby shared resources , software and information are provided to computers and other devices as a metered service over a network (typically the Internet)

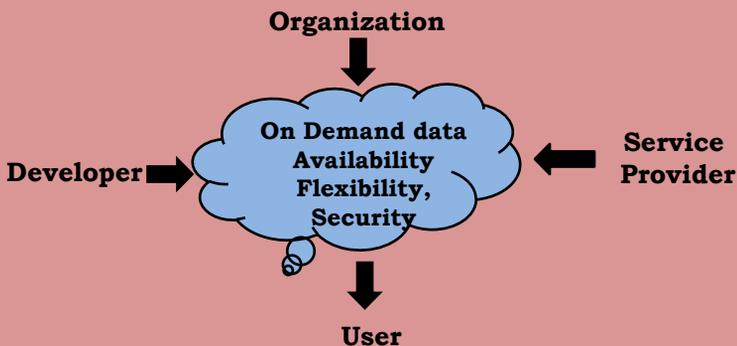
A good example of this concept is the electricity grid, wherein end-users consume power without needing to understand the component devices or infrastructure required to provide the service.

### (a) Need for Cloud Computing

Cloud computing enables users to store files and software remotely. Quick and easy retrieval of data is possible through Cloud computing. Cloud computing is often cheaper and less labor-intensive for organisations. There is no need to buy and install expensive software/hardware because it’s already installed online remotely. A major advantage of using cloud computing is because it’s online and offers virtually unlimited storage.

The cloud system always existed. We were more cloud-centric earlier, for example, in the case of (i) joint families, where a family member, considered to be an expert in a particular field was assigned that particular job for the whole family, (ii) the government transport system whereby transport is provided by the government and used by the public at large. However, with the passage of time, people wanted to own things privately (not on a shareable basis). Due to this, the cost of ownership increased and organisations were investing where there was no scope for optimal utilization.

### (b) Changes in Requirement and Availability of data for analysis



**Shri R.K. Sharma, Technical Examiner & Shri Atul Garg, IT, Consultant, CVC, making a presentation on Cloud Computing during the 4<sup>th</sup> Anniversary function of VSC- Bangalore**

## 3. Knowledge Management

Cloud computing can be used as a knowledge system consisting of Technology, Collaboration and Knowledge. Knowledge means solutions to problems that had earlier resulted in the failure of projects. Collaboration consists of sharing of information technology, manpower availability of resources, case studies, research papers, white papers, project reports, analysis report, video & audio conferencing with presentations, white-board and desktop sharing etc.

## COMBATING CORRUPTION: CONCERNS & INITIATIVES

**Rajeev Kumar, CVO**  
**Employees Provident Fund Organisation**

The EPF & MP Act, 1952 provides for compulsory deduction of 12% as provident fund from the wages paid to employees and matching contribution from the employer which is deposited in the worker's account maintained by the concerned field office. Most cases of corruption originate during inquiries under Section 7A of the Act which provides the legal scope for conducting inquiries for deciding upon the applicability of the Act and assessment of P.F. dues. Cases of corruption are also noticed during inspections and the resultant reporting made by the Enforcement Officers.

**2.** An instance of massive PF evasion by a major Construction company came to the notice of the Vigilance Wing of the Organisation. It was alleged that the establishment had paid labour charges / wages of huge amounts and with the connivance of the EPF officials, the actual PF dues were not deposited. Vigilance Wing got the matter investigated. It was found that incomplete and sketchy inspection reports submitted by the Enforcement officers of EPFO aided the establishment to indulge in large scale evasion. Complicity of senior officers of EPFO in the case was also established making a mockery of the whole compliance machinery.

**3.** It transpired during investigation that the records submitted by the establishment did not appear to be genuine. There was also an attempt to avoid giving information on the number of sites where the organization was carrying out its construction activities. The establishment had also engaged more workers than what was actually reported by it. It had deliberately under reported the wages paid to workers so as to evade the P.F. dues of these workers. Subsequently, during the course of the inquiry u/s 7A of the Act, it was found that the records submitted by the establishment were manipulated and forged, which was also got confirmed after due examination by the Central Finger Prints Bureau, NCRB, Ministry of Home Affairs.

**4.** Based on the intervention of the Vigilance wing of the Organisation the case was entrusted to the CBI for a thorough investigation. Consequently, CBI registered an FIR against nine officials of EPFO and four top management officials of the Company. Inquiry u/s 7A of the Act was also finalised with an assessment of about Rs. 592 crores (including interest).

**5.** In order to prevent such incidents in future, an elaborate and meticulously drawn-out Circular on combating corruption was introduced, which was circulated for all round compliance. The role of the Enforcement Officer has been made more specific and strait-jacketed leaving little scope for ambiguities during inspection. Subsequent to the adoption of the Circular, it is being endeavoured that all Vigilance Inspections necessarily examine the implementation of the guidelines so issued and also ensure its strict implementation. This effort will definitely go a long way in fighting and easing corruption thereby leading to the fulfilment of the Organisation's basic mandate which is that of extending an efficient social security cover to poor workers.

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### Milestone



*Shri. Hari Kumar,  
 Additional Secretary,  
 Central Vigilance  
 Commission  
 superannuated on  
 31.01.2012 after a  
 distinguished career of  
 more than 3 decades in the  
 Government.*



## Case Study of a Medical Reimbursement Claim

Md. Yunus, Vigilance Officer  
Hindustan Steel Construction Company Ltd.

Medical reimbursement bills of employees for Rs.300/- and above, pertaining to special disease, are scrutinized by a Committee consisting of representatives from personnel, finance and vigilance departments. A medical claim submitted by an employee pertaining to treatment of self & wife for "Hypertension and Isch-H" was randomly selected for examination.

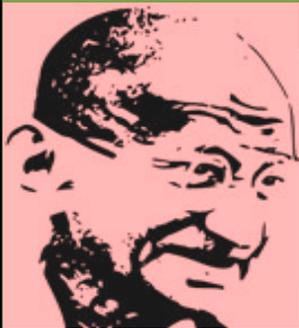
2. For verification, references were made to the treating doctor, Drug Inspector Food & Drug Administration department, Durg by Vigilance Officer of the Bhilai unit of HSCL. The doctor confirmed the issuance of the prescription and also about the treatment extended by him. The Drug Inspector on examining the sale proceeds of the cash memos referred to him, informed that five cash memos, which were issued by the medical shop, were "not valid" as the proprietor could not produce the purchase records of the medicines quoted. The Drug Inspector further clarified that their conclusion regarding cash memo, "Not Valid" informed that the proprietor did not have any of those medicines in his possession at the time of sale/issuance of the cash memo.

3. The case was referred to CVO, HSCL, Kolkata. After discussion with the VO, Bhilai and analysis the conclusion was drawn that either the proprietor issued false cash memo without actually selling the medicines or did not maintain proper records so as to evade tax or possibly he procured duplicate medicines.

4. Vigilance Department suitably advised the Disciplinary Authority. Accordingly the DA issued show cause notice and considering the explanation of the employee as unsatisfactory, forfeited the medical bills for Rs.5611.36 and cautioned the employee. The concerned medical shop was banned for employees of the organization.

5. Further, the Vigilance Department apprised the Drug authorities regarding the possibility of procuring and selling duplicate medicines by the medical shop, which was harmful to society, and requested for a thorough check. The Vigilance Department also apprised the concerned tax authorities to look into the possibility of an irregular account being maintained by the medical shop so as to evade tax.

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❖ *"I claim that human mind or human society is not divided into watertight compartments called social, political and religious. All act and react upon one another."*

❖ *"You must not lose faith in humanity. Humanity is an ocean; if a few drops of the ocean are dirty, the ocean does not become dirty."*

**Mahatma Gandhi**



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