

Getting justice on track

Act on Malimath report on pro-active role for judges

WHEN actor Salman Khan was acquitted by the Bombay High Court last year in the drunken driving case—in which he was convicted by the lower court for running over five people and killing one—apart from the public anger against the police and the prosecution for doing a shoddy job, the question uppermost on most minds was why the judge did nothing. If Salman's lawyers tried to cast doubt on the allegation that he was drunk, surely the judge needed to have asked them about the restaurant bill charged to the actor which showed drinks had been bought? If key prosecution witnesses turned hostile, disappeared and then reappeared while claiming he was being hounded, surely this is something the judge needed to consider? And how did case files and original statements so critical to the case disappear? While the sad twists and turns of this and other such cases made for riveting cinema of the *Jolly LLB* type—that was actually based on the Sanjeev Nanda hit-and-run case, though—the fact that the Salman acquittal is not unique is a sad reflection on the justice system.

It is to take care of precisely such eventualities that, more than 13 years ago, the Justice VS Malimath committee on reforming the criminal justice system suggested a series of far-reaching reforms, the most important of which was to combine the best of the adversarial system that we follow in India with elements of the inquisitorial system followed in European nations like France and Germany. At its heart is the recommendation that the code of criminal procedure be amended to ensure that it is the duty of 'every functionary of the criminal justice system... to actively pursue the quest for truth'. There are, and will always remain, the issue of shortage of judges and inadequately staffed police forces that need to be dealt with, but Malimath's main recommendation was that the law be changed to allow judges to direct the investigation to prevent the abuse of process. This includes supervising the inquiry by the police, asking for more investigations into certain aspects of the case and finding ways to ensure witnesses don't turn hostile—one possibility is that certain types of witnesses give their evidence in the form of affidavits and these be challenged primarily by way of counter-affidavits.

In the Malimath scheme of things, the judge is free to question the accused to elicit relevant information and draw his conclusions if there is no response—in the Salman case, in a post-Malimath situation, the judge could have confronted the actor with his restaurant bill and the key witness statements; he could have asked Salman how his driver surfaced so long after the event and claimed he had been at the wheel. Had judges been empowered to ask such basic questions—the judge in *Jolly LLB*, in fact, expressed frustration over his inability to take charge—in the Salman case, it is possible the case would have ended differently. Asking for a statement of prosecution to be served on the accused at the beginning of the trial and a defence statement replying to each specific allegation—another Malimath recommendation—will not only speed the trial, it will ensure no sudden surprises in the middle of the trial. When the advisory council of the national mission for justice delivery and legal reforms meets later this week to consider the Malimath recommendations along with others, hopefully, a quick decision will be reached—the country cannot afford to wait another 13 years.

What after the rate cut?

Even if RBI cuts in December, transmission not certain

THE collapse in CPI inflation, from 5.1% in August to 4.3% in September, many economists argue, can even lead to a December CPI of less than 4%, prompting another RBI rate cut since inflation will be much lower than the central bank's projected March 2017 projection of 5%. One of them, Pranjal Bhandari of HSBC, even argues that the steep fall in food inflation—central banks normally ignore food inflation and concentrate on core inflation—has a structural feel to it since it follows some state governments undertaking food distribution reforms, and also that inflationary expectations are conditioned by the impact of a few crops like pulses whose prices have now come off rapidly due to the good monsoon. Should RBI actually cut rates in December, the important question is whether there will be any transmission—the last cut of 25bps, for instance, has not resulted in any bank cutting base rates. In which case, instead of pitching for another rate cut, the central government will do well to focus on ways to improve transmission.

Certainly the high levels of NPAs and the absence of meaningful demand for credit means that banks don't feel the need to cut rates—higher rates also allow them to repair their fragile balance sheets. An important issue that banks bring up is their inability to re-price deposits fast, and in the absence of this, they cannot lower rates. Critical in this context is the small savings rates that are a big competition for banks—and despite promising to cut here, the government has been tardy. Between now and March, when the government first said it would reset rates every quarter, GSec rates have fallen 70bps but rates on small savings have fallen just 10bps. Which means that, for instance, PPF rates are still a high 8% while those on the Sukanya Samriddhi Scheme are 8.5% and those on the EPFO are still higher at 8.8%. While it is true there is a cap of ₹1.5 lakh per year on PPF investments, the rate is sufficiently high to pose a threat to banks—more so when you consider even interest earned on PPF is tax free. While the government can argue the PPF and such schemes are long-term in nature as compared to bank deposits, 5-year postal deposits offer 80bps higher rates than similar-tenured bank deposits. If the government is looking for transmission, it has no option but to make some aggressive cuts in small savings rates, including lowering spreads on them and reducing the tax arbitrage *vis-à-vis* bank deposits.

BRANCHING OUT

RBI report to ease outlet norms a welcome step



WHILE the government has been giving a major thrust to Jan-Dhan Yojana and including the bottom of the pyramid in the financial fold, the sheer number of unbanked centres show that the job is far from complete. Given the unbanked centres still outweigh banked centres 11 to 1—according to RBI data there were 555,782 unbanked centres versus 49,686 banked centres as on December 31, 2015, one would assume that the thrust of the policy would be on opening more branches, but the central bank is set to adopt a more modern approach in defining inclusion. If the RBI accepts the report of an internal working group, it will redefine the meaning of a bank branch, which would help not just the existing players, but also the new entrants like payments bank and small finance banks.

Though bank branches in rural areas are important, today ATM machines are equipped to do most of the functions that a branch can. Considering this, the report highlights RBI will accept a fixed point outlet like an ATM which is manned by a bank employee or a banking correspondent as a bank branch. While banks would be required to conform to the 25% branch rules, they would not have to go by the old model of brick and mortar branches which would reduce cost and allow them to expand their network. The committee still did not recognise mobile branches as banking outlets, but with people getting more attuned to the idea of mobile banking, it won't be long before RBI revises these guidelines as well.

Chlorophile

Not quite right

There are quite a few slips in Bihar CM Nitish Kumar's letter to the PM on GM Mustard

BHAR chief minister, Nitish Kumar, has inveighed against genetically-modified (GM) mustard. In a letter to the PM dated October 6, and published by the state's press information bureau, he has 'strongly urged' that the application for release of the hybrid cleared by a sub-committee of GEAC and the agri-biotechnology regulator, be 'over-ruled instantaneously.' Kumar has bought into the assertions of anti-GM activists, so here is an attempt to address the other side of the argument.

The CM doubts that Dhara Mustard Hybrid-11 (DMH-11), developed by a team of Delhi University scientists, is a public sector product even though it was funded by the National Dairy Development Board (NDDB) and the department of biotechnology. The team, AK Pradhan, YS Sodhi, Arundhati Mukkopathay and Vibha Gupta, was put together by Deepak Pental after his return from the University of Nottingham in 1985. The work was initiated at Tata Energy Research Institute, as it was called until 2003. The team migrated to DU, when Pental left TERI and was joined by another member—PK Burma. Pental sought financial support from NDDB and the then chairman, Verghese Kurien, took deep interest and, from 1996 onwards, provided steadfast support to research on mustard breeding. The team has worked for almost 30 years during which they developed non-GM mustard hybrids like DMH-1 and DMH-4 and published extensive work on mapping of quality traits and agronomically important quantitative traits using molecular markers.

In calling for rejection for release of GM mustard, there seems to be some impatience with a procedure established by law. One needs to consider that the GEAC had appointed a sub-committee which studied the 3,251 page bio-safety data and then produced a short report, accepted by GEAC. The report pointed that the genetically engineered hybrid was alike in all respects to non-GM mustard and the proteins encoded by the three genes—bar, barnase and barstar, introduced from non-pathogenic bacteria were either non-existent or present in such traces in the edible parts of the plant as to pose no health or safety concerns. As in Australia, this abridged docket was placed on the environment ministry's website for public comments.

The conclusions drawn by the sub-committee have angered Kumar. He says "conflict of interest plagues the decision-making system" on the basis of "some media reports."

One of the members of the GEAC is AK Pradhan, who took over as director of DU's Centre for Genetic Manipulation of Crop Plants, following Pental's superannuation. Pradhan says, he never attended any meeting where the hybrid was discussed. K Veluthambi, co-chair of GEAC, is an expert on genetic engineering techniques and has, mostly, worked on GM rice. For the anti-camp, that is a disqualification. They indict B Sesikaran because biosafety tests were conducted at an accredited laboratory in Hyderabad's National Institute of Nutrition (NIN), of which he was director.

Without naming Bayer, the CM suggests that the developers are fronting for it. That is because their hybrid is tolerant to glufosinate, the active ingredient in Basta, Bayer's herbicide. The word herbicide is actually misleading. Glufosinate is basically a weed-killer and farmers would welcome such a trait in mustard. National sample surveys have shown that wages are a significant component of agricultural costs, and manual weeding is quite expensive. Workers are also not available when most needed. The CM sees weedicide tolerance as a zero-sum trait, where the German MNC gains at the expense of farmers, when the transaction is mutually benefiting.

Pradhan says weeds are not a serious problem with mustard. However, Orobanche, a parasitic weed, is wreaking havoc in the rainfed areas of Rajasthan. Orobanche cannot be controlled with glufosinate. Glyphosate, another weed-killer is effective, but DMH-11 is not engineered for resistance to glyphosate.

The CM argues that herbicide-tolerance has wreaked havoc in countries where it has been approved. But, modern agriculture is impossible without them. They are used even in those countries which are votaries of green policies like



VIVIAN FERNANDES

Kumar says transgenic technology is 'hazardous', but that is not the view most scientists hold

Germany. They import GM products but do not allow them to be grown on their soil. Even, no-till 'conservation agriculture' advocated by the Borlaug Institute for South Asia is not possible without the use of pre- and post-emergent herbicides.

The CM says Bayer 'reportedly' holds rights to the genes used in developing DMH-11. It is true that Bayer held the rights to the process by which the bar gene is expressed in mustard or rapeseed—this confers resistance to weedicide glufosinate—but the patent has lapsed.

Contrary to CM's understanding, weedicide tolerance is just a supplementary trait. The bar gene conferring resistance to glufosinate has been inserted to help hybrid seed production. The GM plants when sprayed with glufosinate will be unaffected while non-GM plants will die. This allows production of hybrid seed of very high purity. Glufosinate is only required in hybrid seed production plots; not in farmers' fields.

Since mustard is largely self-pollinating, the parental lines of hybrid which are awaiting regulatory approval, have been modified. One with the barnase gene to make this parental line male sterile so that it gets pollinated and fertilized by the other parent, an East European line, resulting in hybrids that have high yield potential. The presence of barstar protein negates the action of barnase protein. As a result the hybrids grown by the farmers are fully fertile. The barnase-barstar system has also gone off-patent. In the case of DMH-11, DU and NDDB jointly hold the patent in the US and India for a gene construct that prevents the barnase gene from expressing itself in tissues other than the plant's anthers.

According to the CM, 'there is now ample proof provided by the both ICAR's Directorate of Rapeseed-Mustard Research (DRMR) in Bharatpur and civil society groups that the testing was deliberately misleading, so as to obtain favourable results for GM mustard.' Pradhan points that the trials were conducted indepen-

dently and says minutes prove this. Biosafety Level-I trials were conducted when JS Chauhan, currently ICAR's assistant DG (seeds) was in-charge. BRL-II trials were conducted under the supervision of the current director, Dhiraj Singh. The DU team, Pradhan says, visited the sites only to ensure that the trials were conducted as per GEAC guidelines.

The CM also doubts the yield increase claimed for DMH-11. But Trilochan Mohapatra, D-G, ICAR, says 'more than 20% heterosis (yield enhancement) has been recorded.' He adds that he is 'not really worried about heterosis in this particular hybrid as we can back-cross and generate better ones if this seed is deregulated and allowed for cultivation.'

The activists (not the CM), say mustard can be made male sterile using non-GM technology. But non-GM cytoplasmic male sterility (CMS) is not quite efficient. A CMS system (126-1) discovered and patented by DU group and used for developing hybrids DMH-1 and DMH-4 is limited in scope as it is stable only in one line—Pusa bold. In comparison, barnase-barstar-based method of pollination control, according to Pradhan, is a versatile system which can be used with any set of parental lines. CMS 126-1 also breaks down under very cold conditions which occur in Haryana and Punjab for a few days during winter. He cites DRMR-ICAR 2016 data on hybrid trials, which shows that all the CMS-based mustard hybrids had male sterile plants—the frequencies going as high as 100% at some of the locations. The barnase-barstar system produces almost 100% fertile hybrids, Pradhan says.

Kumar says transgenic technology is 'hazardous', but that is not the view most scientists hold. ICAR's Mohapatra calls it 'a wonderful science with tremendous potential.' ICAR institute's joint-director (research), KV Prabhhu says GM technology 'is the most viable option' for self-sufficiency in food. PAU's VC Baldev Singh Dhillion says 'we will have to either control our needs or we will have to grow GM food.' At the end of June, 110 Nobel laureates issued a statement supporting genetic engineering of crop plants. One can only hope that the CM will pay heed to the evidence supporting the other side.

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MSMEs' defence opportunity

It is imperative for Indian MSMEs to integrate themselves into the global supply chain of defence majors

THE Defence Procurement Procedure (DPP), announced recently, finally delivers Indian MSMEs, a growth opportunity they have long been waiting for. The advantages that MSMEs will leverage are their innovative capabilities in niche manufacturing, greater flexibility, lower overhead costs and their ability to learn and absorb new technologies quickly.

MSME sector already contributes a significant 38% to the nation's GDP and 40% and 45% to the overall exports and manufacturing output, respectively. It is engaged in the manufacturing of over 6,000 products ranging from traditional to hi-tech items. However, till now the MSMEs contribution in defence sector was limited to just 9%.

According to figures shared by the defence minister, Manohar Parrikar, last year procurement from MSMEs reached 9%, and in the current year, it will reach 15%. Volumes are also set to increase from ₹40,000 crore in 2014, to ₹52,000 crore in the current year.

There are nearly 6,000 MSMEs across the country supplying components and sub-assemblies to the DPSUs, ordnance factories, DRDO and private industries.

As per latest industry reports, India's defence budget accounted for nearly 17.2% of the total central government expenditure, at ₹19.78 lakh crore (about \$294.36 billion). In terms of defence spends as a percentage of the GDP, India stands fifth globally. Nearly 60% of the defence need is met through imports putting

a huge dent on India's fiscal health. Therefore, boosting 'Make in India' initiative via MSMEs and integrating this sector with global supply chain can be a panacea for managing current account deficit, when oil prices rise again.

As a sequel to 100% FDI in defence production sector, several foreign majors have already made their entry into India. Boeing, Lockheed Martin, Saab, Bell Helicopter, Rolls Royce, Northrop Grumman, Raytheon, BAE Systems, Dassault, Honeywell, Thales and Finmeccanica are some of the big foreign players actively looking at Indian market. These companies will have to depend on MSMEs to meet their offset obligation for a host of purposes: equipment, spares, IT-related services and other techno-commercial services.

The government has initiated host of measures for simplification of procedures to policy change for boosting manufacturing in defence sector based on priority of MSMEs Sector; these include:

▶ Allowing 100% FDI in defence sector and announcement of DPP: The new DPP encourages the MSMEs associated with the industry with funding up to 90% of their project's prototype development cost. Adding another safeguard, the MoD has also stated that it will reimburse the remaining 10% prototype development



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cost, if the request for proposal (RFP) is not called within a stipulated time-frame after the successful test of prototypes.

▶ Outsourcing and Vendor Development Guidelines for DPSUs and OFBs have been formulated and circulated to them. The guidelines also include vendor development for import substitution.

▶ The Exchange Rate Variation (ERV) protection has been allowed on foreign exchange component to all Indian companies including private companies in all categories of capital acquisitions.

▶ The anomalies in excise duty/custom duty have been removed. Now, Indian industries (public and private) are subjected to the same kind of excise and custom duty levies.

▶ The defence products list for the purpose of issuing Industrial Licences (ILs) under IDR Act has been revised and most of the components, parts, sub-systems, testing equipment, and production equipment have been removed from the list.

▶ The initial validity of the IL granted under the IDR Act has been increased from 7 years to 15 years with a provision to further extend it by 3 years.

▶ The Standard Operating Procedure (SOP) for the issue of no-objection certificate (NOC) for export of military stores

has been revised wherein, end-user certificate (EUC) to be countersigned/stamped by the government authorities has been done away with for the export of parts, components, sub-systems, etc.

With these policy shifts taking place, MSMEs can complement large defence hardware manufacturing industries as ancillary units in time to come.

In the case of indigenous manufacture of defence hardware, a substantial portion of the work can be transferred to the MSMEs by the DPSUs and OEMs. They can now act as strategic partners with DPSUs, foreign defence manufacturers and the larger corporates.

The first steps have to come from MSME-based industries followed by a government push. MSMEs need to understand OEM expectations in terms of quality and supply commitments which require them to invest in technology, research and manpower training in anticipation of a contract.

The government and private players have acknowledged the fact that India needs to increase self-reliance in defence production. Today, it is imperative for Indian companies, especially MSMEs, to integrate themselves to global supply chains of national and international defence majors, to reduce dependence on foreign supplies.

The author is MD and CEO, Samtel Avionics. Views are personal

LETTERS TO THE EDITOR

Ban opinion polls

With reference to "Poll: Congress to rule Punjab, BJP-SAD may get drubbed; Arvind Kejriwal's AAP No 2; Amarinder tops as CM candidate" (FE, October 14), it seems very difficult to believe in the findings of the opinion poll recently conducted by India Today-Axis which predicts that the Congress party is set to return to power in the state by ousting the 'in-power' BJP-SAD combine govt in Punjab. In all fairness, not much should be read in

these farcical opinion polls as the same could perhaps be show managed so as to boost the morale of the party workers. Since the actual elections are quite far away, it would be highly imprudent to draw any valid conclusions at this early stage. In fact, there should be a total ban on such opinion polls, which are largely devoid of any moral or practical justification at all. Let the Election Commission take a view in this regard.

Kumar Gupta
Panchkula, Haryana

TN situation

The special mass prayers in the vicinity of Apollo Hospital in Chennai cutting across religious boundaries alone are enough to understand the

love and affection the people of Tamil Nadu have for their CM Jayalalitha, popularly called *Amma*. Inevitably, her prolonged stay in the hospital has occasioned an extraordinary situation in Tamil Nadu politics. How things will shape up from now is hard to predict in view of the uncertainties and concerns surrounding the health condition of the CM. The interim arrangement made by the Governor shifting power to her trusted aide O Panesarvelam is a repeat of VR Nedunchezhiyan's temporary take-over in 1984 when the legendary MGR fell ill.

Thus, the present arrangement which is exceptional is not without parallel in Tamil Nadu's political history. It is important that the Centre resists the temptation to seize the opportunity created by the prolonged hospitalization of Jayalalitha to cut a deal with anyone or any group and the run a proxy government in Tamil Nadu. Whatever is done to deal with the difficult situation must be commensurate with the Constitution.

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