

YES, NO, IT'S COMPLICATED

Has the CBI's credibility been compromised?

YES



SANJAY JHA is a national spokesperson of the Congress. Views are personal

Maybe there is need for a second public agitation to get a Lokpal appointed

With the public antagonism between the top two officers of the Central Bureau of Investigation (CBI) followed by the outrageous midnight reshuffle done at the behest of a visibly edgy Narendra Modi government, it appears like we are living in a parallel universe. CBI Director Alok Verma was not just at loggerheads with Special Director Rakesh Asthana; he was also convinced that Mr. Asthana was involved in a murky extortion mafia operation.

The Central Vigilance Commission (CVC) and the government seemed mysteriously unconvinced

by this. Mr. Asthana's earlier assignments in Gujarat pointed to a close proximity between him and Mr. Modi and BJP president Amit Shah. Mr. Asthana predictably launched a counteroffensive and made damaging accusations against Mr. Verma. This was a bitter internecine warfare within the CBI, and the government's discomfiture was clear. A Kafkaesque twist arrived with the hurried appointment of interim director Mr. Nageswara Rao. It has been revealed that Mr. Rao has questionable credentials. He allegedly has serious accusations of graft against him and is a proponent of

aggressive Hindutva nationalism that would please a certain NGO in Nagpur. If the CBI was a caged parrot before, it is a roasted turkey now.

Attacking institutions

India's democratic institutions are experiencing a serious atrophy; political interventions are assuming a brazen form under Mr. Modi. The CBI may be the most infamous casualty, but the Election Commission, the CVC, the Enforcement Directorate, the Income Tax Department and the National Investigation Agency all appear immobilised under an authoritarian regime whose political motivations to subsume institutions of governance are



crystal clear. Anyone opposing the government's insidious agenda is summarily dumped. Mr. Verma appears to be the latest victim. Even the Supreme Court faced a litmus test when four judges of the collegium talked publicly of the precarious state of India's democracy. The Emergency lasted 21 months, the undeclared Emergency has already lasted more than 53 months. India has become a democratically elected dictatorship. The sordid CBI saga is a manifestation of a banana republic.

There are three fundamental questions that only Mr. Modi can answer, as the buck stops with him. One, why did they impose Mr. As-

thana on Mr. Verma when Mr. Verma had written a dissent note against his appointment to the CVC? Two, why did the government mislead the Supreme Court that Mr. Asthana had Mr. Verma's full endorsement, which has been contradicted by Mr. Verma in his petition to the SC? Three, why was there a 1.45 a.m. coup against a police chief who was selected less than two years ago, with the Prime Minister being one of the three selectors? Why the trepidation? The Congress is convinced that a paranoid Modi government apprehended that Mr. Verma was about to initiate a preliminary inquiry into the Rafale scam.

On November 12, the SC will perhaps pass its final order on the in-

delicate mess. But the CBI has been irretrievably damaged; its reputation is sullied. The only silver lining is that future governments will think a thousand times before interfering with its operations. India needs a robust independent entity to investigate big-ticket corruption.

There is some hope

The CBI must be restored to its foundational objectives. Maybe there is need for a second public agitation to get a Lokpal appointed; Mr. Modi has craftily sabotaged it by using some apocryphal spin or the other.

Fortunately, the Supreme Court is doing all the heavy lifting to protect our constitutional morality. There is hope.

NO



MEENAKSHI LEKHI is a lawyer and a BJP MP

The reputation of the CBI would have been destroyed if the government had not taken action

The recent developments in the CBI are extremely unfortunate. The war between the two highest officials is not only unfortunate but also unprecedented. It needs to be resolved immediately so that the CBI does not suffer a trust deficit among the masses.

Details of the crisis

The fight between CBI Director Alok Verma and Special Director Rakesh Asthana spilled into the public domain last week when the CBI registered an FIR against Mr. Astha-

na and others, including Deputy Superintendent of Police Devender Kumar, on charges of accepting bribe from a person related to the meat exporter, Moin Qureshi, whose case Mr. Asthana was probing. After the registration of the FIR against him, Mr. Asthana rushed to the Delhi High Court for quashing the FIR and obtained a temporary respite from action against him until the next hearing.

Mr. Asthana had earlier accused Mr. Verma of "interference" in an IRCTC corruption case involving

Rashtriya Janata Dal president Lalu Prasad. As per his allegation, Mr. Verma had tried to stall raids against Mr. Prasad last year. Mr. Asthana said he also gave a formal complaint in this regard to the Cabinet Secretary, Pradeep Sinha, who, in turn, sent the complaint to the CVC, which has supervisory powers over the CBI. The CVC took cognisance of the matter and began a probe.

This is a grim scenario. In the face of this unprecedented crisis, the government acted swiftly and took the decision to send both the warring officers on leave till an in-



dependent inquiry is concluded in their respective cases. To keep the organisation running, M. Nageswara Rao, who had been working as Joint Director in the Bureau, was appointed as the interim Director of the CBI.

An appropriate decision

Many people from the opposition camp are questioning the decision, but given the level and reach of the crisis in the CBI, nothing could have been more appropriate and rational than the government's decision. Since both officers have accused each other of misconduct, sending

them away was a necessary prerequisite for a fair investigation into the allegations.

The government has acted in a neutral manner. It has given a free hand to the authorised agency, the CVC, to investigate the matter in a fair and transparent manner, giving equal opportunity to both officers without presumptions. The government, committed to its policy of non-interference in the matters of the CBI, is only interested in maintaining the prestige, professionalism and image of the CBI.

Those claiming that the government cannot send the CBI Director on leave cite the Jain Hawala case, where the Supreme Court had said

that the CBI Director has a fixed tenure of two years. They need to be reminded that the Director has been neither removed nor transferred; he has only been sent on leave in the interest of fair play following the principle of natural justice. It's only logical that no one should sit in judgment when any high-ranking officer is under investigation.

Therefore, the action of the government is thoroughly justified. It is in terms of the law of natural justice and has been taken to restore the reputation of the institution, which would have been sullied if no action or any other action had been taken.

IT'S COMPLICATED



N.K. SINGH was a Joint Director in the CBI. Views are personal

The CBI's decline has been gradual. There needs to be a comprehensive CBI Act

Founded by Lal Bahadur Shastri on April 1, 1963, the CBI had acquired a high reputation and won the confidence of the people for its motto: Industry, Impartiality, Integrity. That agency seems to be in a shambles today.

The CBI has had its ups and down. It faced challenges in the past, particularly in the years preceding and during the Emergency when Sanjay Gandhi called the shots. But never before has any major rift - this time between the top two in the agency, the Director and the Special Director - played out in

the open. And never before has the agency registered a serious case of corruption against its own Special Director, for allegedly accepting bribes amounting to crores from someone under investigation. The accused dashed off a letter to the Cabinet Secretary, levelling allegations of corruption and conspiracy against the Director. One does not know where this will end and what ultimately will be left of the organisation.

A gradual decline

The CBI's decline has been gradual.

The first setback came in the Rajiv Gandhi era, with the Single Directive requiring the CBI to take prior permission of the government before initiating an inquiry against "decision-making-level officers". The Supreme Court, in *Vineet Narain and Others v. Union of India* (1997), apart from passing several orders to uphold the integrity of the CBI, the CVC and the Enforcement Directorate, quashed the Single Directive as unconstitutional. But the political class brought the directive back in the CVC Act of 2003, which was again set aside by the court. The government got the corruption law



amended in the last monsoon session of Parliament, requiring the CBI to take prior approval for initiating investigation against all categories of government servants. In legal terms, this has been a deadly blow to the agency in its work. The earlier it is done away with, the better it would be.

Give statutory status to the CBI

The challenge to restore the credibility of the organisation needs some deeper thought. The CBI came into existence through a Government of India resolution. Even today, the agency continues to function under the archaic Delhi

Special Police Establishment Act of 1946, for its powers of investigation and jurisdiction. In pursuance of the orders passed by the court in the *Vineet Narain* case, the CVC Act of 2003 was passed, and later, the Lokpal Act. Both these Acts partly deal with the powers and functions of the CBI, including providing some much-needed safeguards. But till date, the CBI does not have an Act of its own, although the need for a comprehensive Act has been felt for a long time now. The Estimates Committee of Parliament, under Jaswant Singh, had recommended that the CBI should be given statutory status and have legal powers to investigate cases with inter-State ramifications.

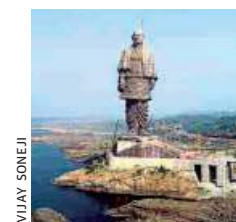
Yet, while providing some safeguards to the CBI, the CVC Act also created impediments. It vested in the CVC the "superintendence" of the Delhi Special Police Establishment (and thus the CBI) in relation to investigation under the Prevention of Corruption Act, 1988. For the remaining areas, the Act left the "superintendence" to the government. So, the "superintendence" over the CBI is something which is shared today between the CVC and the government. Thus, while the answerability for the CBI's functioning is with the government, the power of "superintendence" in corruption cases lies with the CVC. The present crisis owes a lot to this diarchic arrangement in the CVC Act.

SINGLE FILE

Patel in bronze

The statue is of a man who had not wanted to make a claim to be taller, but to be one among the people

DEVAKI JAIN



I cannot help but feel depressed when I hear people exclaiming in delight about the height of the Sardar Vallabhbhai Patel statue in Gujarat, and worse, at the comparisons with the other tall statues of the world.

I belong to an era when Patel was negotiating the integration of the princely states into the Indian Union. My father, M.A. Sreenivasan, was the Convener of the Chamber of Princes and was applauded both by V.P. Menon, then Secretary of the Ministry of the States, and Patel for having integrated the princes into the Union of India.

Sardar Patel was immersed in the ethos of the freedom movement. He was dressed in dhoti-kurta and was a devoted disciple of Gandhi and his practices of simplicity and humility. Leaders and politically active citizens then rejected the ideas and practices that came from the former colonial masters - in fact, anything from the West. Recalling that era and its ethos, it is embarrassing that the Indian state should erect a monolith, a giant statue even taller than the Gommateshwara sculpture in Karnataka, and worse, celebrate the fact that this statue is taller than any other in the world. They seem to have forgotten that the statue is of a man who had not wanted to make a claim to be taller, but to be one among the people.

Imagine if the ₹2,989 crore spent on the statue was used to, say, fund the rehabilitation of the tribal people and the farmers who are agitating for livelihood and compensation around the Narmada river. Or that vast sum of money was allocated among primary health centres in deeply neglected districts, whether in Odisha, Bihar or Gujarat.

Patel should be remembered as we remember Gandhi - for his attitude, lifestyle of simplicity and his dedication to the affirmation of Indian democracy. Not for the height of his statue.

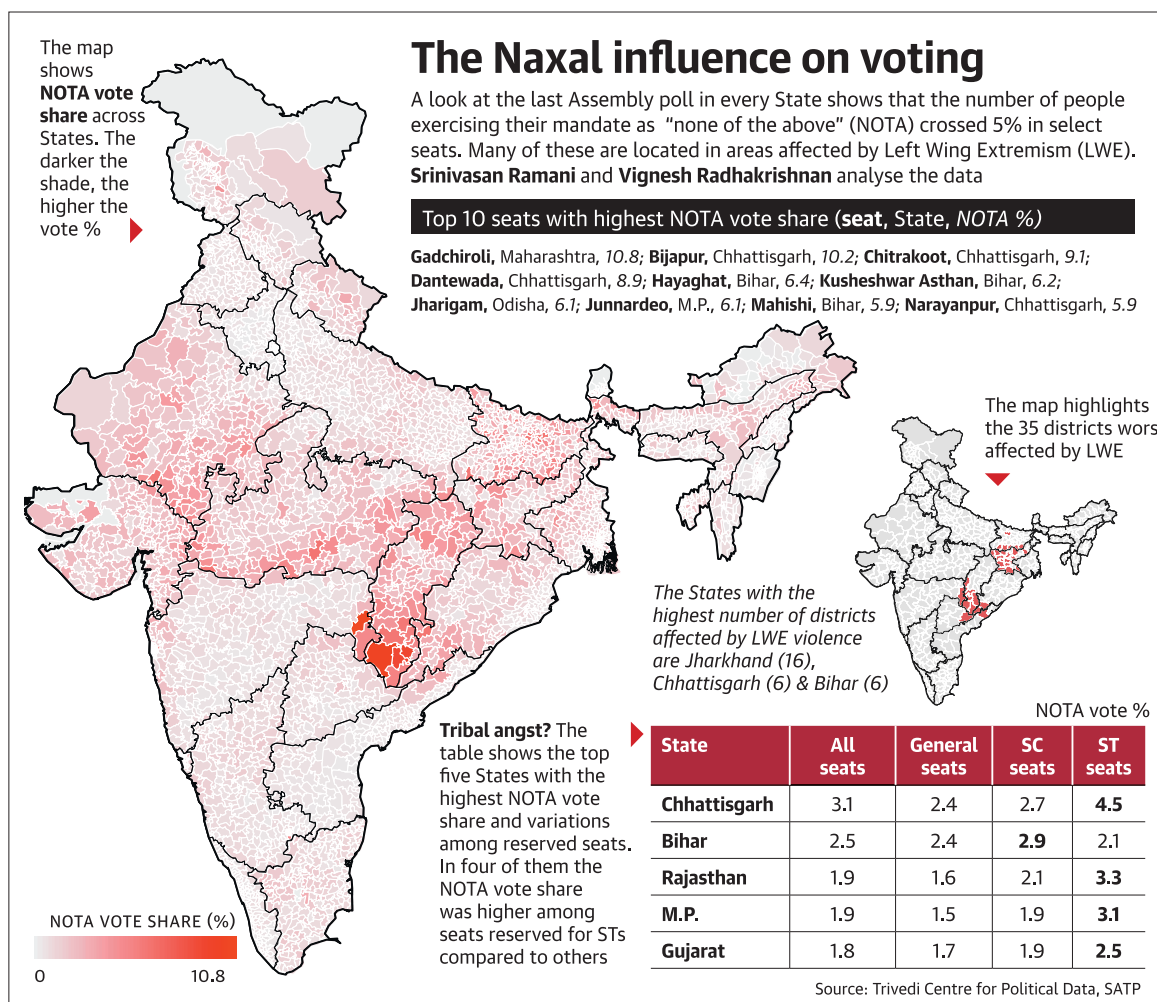
In that context, I have never liked the phrase 'Iron Man' for Patel, suggesting that he was rigid and unshakable in his views. If one reads the various proceedings from the Congress Working Committee meetings, one can see what a moderate role he played, bridging the gap between the overarching modernity of Nehru and the rather obstinate attitude of Gandhi. He shaped India as it is today and perhaps some of those crores of rupees could have been spent to promote readable biographies of this great man in our different languages.

For people such as myself, who lived through that era, it is difficult to see this statue. We want to turn away and say that this is not the Patel who led India and federated India into a democratic republic. This is a giant made of steel and bronze, dominating fields and people in a manner that no Gandhian would support.

The writer is an economist



DATA POINT



FROM The Hindu ARCHIVES

FIFTY YEARS AGO NOVEMBER 2, 1968

U.S. halts bombing of North Viet Nam

All air, naval and artillery bombardment of North Viet Nam by United States forces ceased early this morning [November 1] following a dramatic announcement by President Johnson last night [October 31, Washington] that he had ordered such a halt. The decision followed two weeks of hard bargaining at the Paris conference between the U.S. and North Viet Namese negotiators. These talks will now enter a new phase with the inclusion of representatives of the Saigon Government and the National Liberation Front - the political arm of the Viet Cong. The question of the participation of these two parties in the talks had been one of the main obstacles to a bombing halt in recent weeks. Though Mr. Johnson did not say that his decision to halt the bombing was in return for assurances from Hanoi that it would not engage in further military activity in South Viet Nam, it has been indicated here that in the course of secret negotiations over the past two weeks Hanoi has indeed agreed to de-escalate its part of the war too in a reciprocal gesture.

A HUNDRED YEARS AGO NOVEMBER 2, 1918.

Indian Journalists in London.

A telegram received by the Central Publicity Board from the Ministry of Information throws an interesting light upon the doings of the party of Indian Editors who sailed for England some time ago as the guests of the Imperial Government. They are evidently being given ample opportunities of familiarising themselves with the conditions prevailing at home, and the public of India will certainly not look to them in vain for the latest news on the general situation. At the close of the first week of their visit, the Indian Editors had the honour of being received individually in private audience at Buckingham Palace. Their Imperial Majesties were cordial in their welcome, and displayed keen interest in many Indian subjects, upon which they conversed with great knowledge and enthusiasm.

CONCEPTUAL

Indifference principle

ECONOMICS

This refers to the proposition that unless people are special in some way, nothing can make them happier than the next best alternative. So, when they have to choose between two different choices, people prefer one over another until a point when they turn indifferent to both. This happens when the marginal utility that they derive from the initial choice drops gradually until it equals the utility derived from the alternative. A child, for instance, might prefer chocolates to ice cream until he has had too many chocolates. The indifference principle was proposed by American economist Steven Landsburg in his 1993 book *The Armchair Economist*.

MORE ON THE WEB

Fact check: Was 'Statue of Unity' misspelled in Tamil?

<http://bit.ly/statueofunity>