

WHO

T.P. Senkumar,
Kerala DGP,
courting
justice

On May 6, the Kerala government reinstated T.P. Senkumar as Director-General of Police, capping the officer's year-long struggle for justice. On May 30 last year, Mr. Senkumar, watching the news on television, heard that he had been ousted from office by the new Pinarayi Vijayan government. The official communication reached him hours later. The "perfunctoriness of the illegal act" hardened Mr. Senkumar's resolve to battle it out in court.

How did he proceed?

The 1982-batch IPS officer first went to the Central Administrative Tribunal, where he lost the case. He then moved the Kerala High Court, which also rejected his petition. This prompted him to move the Supreme Court in February. On April 24, the Supreme Court ordered his reinstatement, saying the Left Democratic Front government had acted "unfairly" and "arbitrarily."

What was the reaction?

Even after the Supreme Court's order, the State government dragged its feet

for a few days. On May 2, Mr. Senkumar filed a contempt of court petition against the State government for delaying his reinstatement. On the day the Supreme Court was to hear the petition, the government passed an order to reinstate Mr. Senkumar. Chief Secretary Nalini Netto, whom Mr. Senkumar had accused in court of orchestrating his ouster, was forced to tender an unconditional apology in the Supreme Court to escape from being held in contempt for the delay in reinstating him. The court decree is a political setback to the government, but a moral victory for Mr. Senkumar.

Why were relations bitter?

The senior IPS officer's relations with the LDF government were not cordial after he led the investigation into the sensational T.P. Chandrasekharan murder case, in which CPI(M) workers were allegedly involved.

On going through the record, the two-member Bench of the Supreme Court found that there was no material adverse to Mr. Senkumar. The Pinarayi

Vijayan government defended the transfer of Mr. Senkumar, citing dissatisfaction among the public about the efficiency of the police force following the Puttungal fireworks tragedy in Kollam. However, the court noted that these issues had "suddenly resurfaced" more than a month after the incidents, after the LDF took office. The court observed: "This might perhaps be a coincidence, but it might also be politically motivated..."

What does the order mean?

The impact of Mr. Senkumar's ground-breaking legal battle will be far-reaching for governments and law enforcement agencies. In the 2006 Prakash Singh case, the Supreme Court guaranteed officers, from State police chiefs to Station House Officers (SHOs), a measure of independence from the adminis-

tration. In that case, the Supreme Court decreed a minimum two-year of tenure for officers to insulate them from extraneous influence in the line of duty. The court also circumscribed the political executive's power to effect transfers at whim.

In Mr. Senkumar's case, the court used the same principle it had expounded in the Prakash Singh case. The court has once more set a *ratio decidendi*, a yardstick based on the rule of law, to guide courts weighing cases of arbitrary transfers.

Importantly, the order has given extra protection to State police chiefs. In paragraph 76 of its verdict, the court states that a Chief Secretary can be removed promptly but not the State police chief. In the

process, the highest court appears to have underlined its oft-quoted observation: "A police officer is not a servant of anyone, save of the law itself."

What's in store?

Mr. Senkumar's stand-off with a powerful section of the political executive appears far from over. For one, the government recently disapproved of his nomination to the Kerala Administrative Tribunal, which has been constituted on the lines of the CAT, and there are signs of continued friction between him and the government.

Mr. Senkumar told *The Hindu* that he is unperturbed. Prominent lawyers Dushyant Dave, Harris Beeran and Prashant Bhushan had taken up his case in the Supreme Court for free as "a cause." Their help was a testimony to his character, probity and record. Mr. Senkumar is set to retire on June 30. His retirement plans include a project to help underprivileged children strive for the civil services.

G. ANAND

WHAT

The lowdown
on the
Real Estate
Regulation Act

WHAT IS IT The Real Estate (Regulation and Development) Act or RERA is a law that seeks to regulate and standardise the real estate sector, where the need for uniform guidelines and transparency has been felt for long.

After its passage in Parliament in March 2016, it received the presidential nod on March 25, 2016. The RERA came into force on May 1, 2017, a year after the government notified it.

The Act will bring on a common plat-

form buyers, sellers and intermediaries engaged in the sector. It covers commercial and residential real estate properties, bought or sold with the construction covering at least 500 sq m or eight apartments.

Most important, it brings the entire real estate sector within a regulatory environment, defining the liabilities and liberties of a developer and providing an effective grievance redress mechanism to the buyer.

Under this, property developers will have to register their projects. Agents too will have to register themselves with the regulatory authority.

HOW DID IT COME ABOUT It was necessary to bring the real estate sector under a regulatory framework as it had got a bad name due to the lapses of a few. Moreover, the home-buyer did not really have any effective forum to address his complaints, on either construction, quality, delays in delivery or frauds.

To address these issues, the Centre

began moves to make this unregulated sector conform to certain guidelines in an equitable manner.

Developers will now have to provide project details, timelines and the layout plan (which under the current dispensation is rarely shared with the home-buyer). They will need to deposit 70% of the money raised from buyers in an escrow account.

There is provision for revoking registration and imposition of penalties. A big relief that RERA will bring is in respect of advertisements of projects. The promotional material will have to carry details of the projects registration as also the website of the regulator.

WHY DOES IT MATTER The Act has been described by the Centre as an attempt at cleaning

up the real estate sector, ushering in transparency, accountability and fair play among stakeholders.

Until recently, investment in a house, often with one's life's savings, came around post retirement. It was almost

always a leap of faith, more so if the developer happened to be a non-governmental player. That scenario has changed substantially over the last few decades with a younger age profile of a house-buyer. Not only that, the young is more discerning, more demanding and has money at his disposal. It is no longer an issue of a roof-over-his-head or a matter of roti, kapda aur makan (food, clothing and shelter).

This law will empower the consumer while boosting the credibility of developers. It is widely felt that the Act will shift housing demand at least in the immediate term towards the organised players, better-equipped as they are to fulfil various stipulations. Most such players have welcomed the Act, saying that it will bridge the trust deficit.

WHAT NEXT Essentially, the Act

marks the first step in regulating a sector. Until now, consumers were protected by a State's consumer protection measures, where getting justice was a long and arduous

process. This law is more focussed.

But it must be noted that the RERA is a model Act and each State will need to notify its own Act separately as land is a concurrent subject. Many States are yet to do so. Till then in most States, promoters will be regulated by the Promoters Registration Act, which mandates registration by promoters. However, there is little scope of consumer protection here. Every State will have to notify the Act, set up a regulator and launch an awareness campaign to empower the consumer. Indications are that many States would want to frame their own Act and rules therein. This would be a time-consuming affair, putting the entire matter in a limbo.

Furthermore, in States where the Act has been put in place, developers need to begin logging in their project (old and existing) by July 1. The Appellate Tribunal for the developers to appeal against any regulatory order also needs to be in place by then.

INDRANI DUTTA

WHY

Why did India
boycott China's
road summit

Why is India staying away?

■ Four years after it announced to the world that it was planning a mega project to revive the old Silk route for trading, with a corridor for infrastructure, trade, energy and telecommunications, China brought together leaders and officials of 130 countries, 68 of which they claimed had already signed on to the Belt and Road Initiative (B&R) project. Several participant countries sent their heads of state, others like Japan and the U.S., who aren't part of the initiative, sent senior officials, but India sent no one, not even a local embassy official to take notes. Directives were also issued by the Ministry of External Affairs that anyone from think-tanks, business chambers, and other Ministries would have to take clearance if they were travelling for the B&R Forum.

Just hours before the forum was due to open in Beijing, the MEA issued a comprehensive statement on its objections to the B&R, which were three-fold: the corridor includes projects in land belonging to India; the projects

could push smaller countries on the road into a crushing debt cycle, destroy the ecology and disrupt local communities; and China's agenda was unclear, with the implied accusation that this was more about enhancing its political influence, not just its physical networks.

All of India's neighbours, with the exception of Bhutan, have entered the B&R, and India's concerns have been heightened by the growing presence of China in Nepal, Bangladesh, Sri Lanka and the Maldives.

What is the main objection?

■ India's main objection is on the principle that the B&R includes projects in the China-Pakistan Economic Corridor (CPEC) that are located in the Pakistan-occupied Kashmir's Gilgit Baltistan, including the Diamer Bhasha Dam, 180-MW hydel power projects, and more expressways and economic zones along the Karakoram Highway built in the 1970s. Ever since the announcement of the CPEC in April 2015, India has made



those concerns felt, beginning with Prime Minister Narendra Modi's visit to China just weeks after and External Affairs Minister Sushma Swaraj raising the issue at the UN General Assembly that year. However, India didn't explicitly say it would not join the B&R, leaving room for speculation that there was place for talks on the issue, if the Chinese were willing to discuss alternate routing. If not, India made it clear during talks in February 2017 that it

couldn't either join the project or even attend the forum with the B&R map showing Gilgit Baltistan in Pakistan as part of a 'China-Pakistan Economic Corridor.'

Did China try to talk?

■ India claims that China has not only been insensitive to its sovereignty, but has never fully explained its plan for the Belt and Road (formerly called One Belt One Road) initiative. China's reply has been that none of the other countries in the project has complained about lack of transparency. Chinese and Indian officials have spoken about the project a few times, but India remains unconvinced.

In May, about 10 days before the forum, China's Ambassador to India Luo Zhaohui gave a speech at a military think-tank with a four-point initiative to improve tense ties between India and China, including a suggestion that China was open to renaming the CPEC if that would resolve India's B&R problem. Foreign Minister Wang Yi also said that

if sovereignty alone was the issue, China could work around it as it had during the China-Pakistan border dispute of 1963, in which they agreed that all negotiations were subject to re-negotiation after the "settlement of the Kashmir dispute." China also pointed out that India is a co-founder of the Asian Infrastructure Investment Bank, which will support many B&R projects, and also remains committed to the Bangladesh, China, India, Myanmar economic corridor, which connects to the B&R. But it was possibly too late by then, and India's decision was made.

What now?

■ At the Shanghai Cooperation Organisation (SCO) next month, Mr. Modi will meet President Xi Jinping, as India officially becomes a member of the grouping. It remains to be seen whether the SCO, which also officially endorses the B&R, or Mr. Xi himself are able to allay India's fears over the project.

SUHASINI HAIDAR

WHEN

17
May 2017

Lights out: The official poster of the 70th Cannes film festival in France shows Italian actress Claudia Cardinale swinging her skirt. Taken on a rooftop in Rome in 1959, the poster courted controversy, with organisers being accused of air-brushing the original picture. Director of the Cannes film festival Thierry Fremaux told AFP that the poster had been "very well received", and Ms. Cardinale herself, now 78, said in a statement that she was delighted with the choice. "It's the image I myself have of the festival, of an event that illuminates everything around." The actress featured in Federico Fellini's 8 1/2. Other controversies have dogged Cannes this year, with Spanish director Pedro Almodovar and American actor Will Smith, two jury members of the Palme d'Or, clashing publicly over whether two films of streaming service Netflix should be allowed to be screened at the festival. They were joined by actress Jessica Chastain at a press conference before the festival began on May 17 that will go on till May 28. • REUTERS



WHERE

In Odisha,
fresh row
brewing over
POSCO land

The South Korean steel major, POSCO, may have pulled out of Odisha, but public resistance is building afresh over the land it has surrendered. In March, POSCO finally let the State government know that it is giving up stake on land it had acquired as it was unable to start work on a proposed steel plant.

What happened?

On June 22, 2005, POSCO signed a

memorandum of understanding with the State to set up a 12 million tonne per annum steel plant along the coast near Paradip at a cost of ₹51,000 crore. It was billed as India's largest-ever FDI venture. Over the next 12 years, POSCO – and the State government – faced huge public protests. People living in the coastal gram panchayats of Nuagaon, Gadakujang and Dhinkia in Jagatsinghpur district, where the steel mill was planned to be set up, did not want to part with the forestland they had been holding for over 100 years for betel cultivation and fishing.

The State government, however, was keen on acquiring the land since the project would boost development and create jobs. The villagers clashed with the police, who ventured into the area to acquire land.

How did the situation change?

As the POSCO Pratirodh Sangram Samiti (PPSS) launched the protests, with Dhinkia village as the epicentre, POSCO decreased its land requirement from



4,004 acres for a 12 MTPA steel plant to be built in three phases to 2,700 acres for an 8 MTPA plant in two phases. Dhinkia was excluded from the project area.

Land acquisition was carried out in phases amid violent clashes between pro and anti-POSCO protesters. At least four villagers were killed. Thousands of trees were felled and hundreds of betel vineyards were destroyed for land ac-

quisition. Around 2,700 acres was acquired by 2013.

But before the entire land could be handed over to the company, the Mines and Minerals (Development and Regulation) Act was amended. This made the steelmaker's application for Khandadhar iron ore mines in the State ineligible. The new law stated that a company had to take the auction route to get raw material. POSCO informed the Odisha government in March that it was no longer keen on the project.

Why follow Singur?

While the State government has started considering proposals from other companies, including JSW Steel, which wants to set up a 10 MTPA steel plant, the villagers have joined hands again, demanding that the land be returned to them.

"Odisha must follow the Supreme Court's ruling on the Singur issue that the land of farmers bought for the Tata Nano plant be returned to them," says PPSS spokesperson Prashant Paikray.

The government must respect the unanimous resolution passed by over 2,000 people at a gram sabha held in October 2012 that the land used for betel cultivation was under the rights provided to the gram sabha under the Forest Rights Act, 2006, says Mr. Paikray.

Claims on the forestland filed by a large number of families are still pending for disposal.

Many families who "accepted" compensation for demolition of their betel vines too have joined hands with those who had been opposing land acquisition all these years. Nearly 100 betel vines have already been rebuilt by the villagers on the acquired land.

The State government wants to limit the damage to its image because of POSCO's exit by handing over the land to another company. It has started the process for constructing a boundary wall around the acquired land, amid a fresh tussle with the villagers.

PRAFULLA DAS