

Ethical Dilemmas in Public Service

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“The Light of God surrounds us,

The love of God unfolds us,

The Power of God, protects us, and The Presence of God watches over us”

There are three words in the ‘title’ – Public Service, Ethics and Dilemma – each having a very significant role to play in the ‘scheme of things’.

To begin with, the starting premise is that Public Service is a Public Trust. Citizens expect the public servants to serve the ‘public interest’ with fairness, and manage the public resources, properly on a daily basis. Fair and reliable Public Service inspires Public Trust and creates a favourable environment for business, thus contributing to well-functioning markets and economic growth. Public Service and Ethics are a pre-requisite to and underpin Public Trust and are the keystones of ‘Good Governance’. Based on the experience of several developed and developing countries, including our own, we can easily identify the factors that constitute or go into the making of an Effective and Comprehensive Ethical Management Policy.

In the Public domain, normative nature of ethics tends to be in the frontline of ethical reasoning. Consequently, public servants usually understand ethics to be a prescribed and commonly shared set of values and standards relating to:

- Trustworthiness: in the form of honesty, integrity, reliability and loyalty;
- Responsibility: in the form of accountability, pursuit of excellence, and self-restraint;
- Fairness: in the form of open and un-biased process, impartiality and equity;
- Respect: in the form of civility, courtesy, decency, tolerance and compassion; and
- Rules of Conduct: especially those regarding personal financial gains, use of public resources, transparency, accountability and fair process.

These are some of the ingredients / factors guiding our obligatory, permissible and prohibitive official conduct in Public Service. Invariably, visible and demonstrable, due compliance with ethical values would go a long way in bolstering public confidence and trust in public services, while the contrary shall erode the confidence and trust in public services.

Late Shri Bhairon Singh Shekhawat, former Vice President of India, while delivering a Lecture on Ethical Governance, said: “Let me begin by stating that the reputation and success of governance depends upon the conduct of public functionaries and what the public believe about their conduct. It is, therefore, of fundamental importance that public functionaries act justly and fairly to all, and not only paying lip service to ethical conduct, but ensuring that these are manifestly and undoubtedly seen to be done. It is imperative that all public functionaries, upon accepting government employment, recognize that

they have a special duty to be open, fair and impartial in their dealings with society. Personal self-interest should be subordinate to the public good in all circumstances, especially if circumstances arise where possibility of a conflict of interest may become an ethical dilemma”.

The question then arises is: What is Ethics? In a general sense, Ethics could be said to be ‘Moral Principles’ and Values that govern the behaviour of a person or a Group, with respect to what is right or wrong? Ethics sets standards as to what is good or bad in conduct and decision-making. In other words, Ethics deals with Internal Values that are part of Work–Culture and shapes decisions concerning Social Responsibility with respect to external environment, and come to assume much greater significance, when it is known that the actions of a person or organisation may hurt or benefit others.

Viewing Ethics in this light indicates that people are faced with choices, requiring them to make decisions enabling them to lead an ethical life, within the context of their relationships with others. This also suggests that people can be placed in Ethical Dilemmas.

An Ethical Dilemma is a complex situation that often involves an apparent conflict between moral imperatives, in which to obey one would result in transgressing the other. Ethical Dilemma arises because Ethical Standards are not codified, and disagreements and dilemmas about proper behaviour often occur. An Ethical Dilemma arises in a situation when each alternative ‘choice’ or behaviour is undesirable, because of potentially harmful consequences.

When confronted with the fundamental question, ‘What to do and how to act in complex situations’, and to the extent contrasted values or decisional premises could apply in a situation, one is entering the WORLD OF DILEMMA or that of ‘HARD CHOICES’?

Accordingly, Ethical Dilemmas do arise when a public servant or decision-maker has to choose between competing considerations of ethical values and rules, in order to determine the right thing to do. These Dilemmas could broadly fall into three categories:

- Personal Cost Ethical Dilemmas, arising from situations in which compliance with ethical conduct results in a significant personal cost (e.g. jeopardising the held position, injuring valued relationship) to the public servant or the decision maker.
- Right versus Right Ethical Dilemmas, arising from situations of two or more conflicting sets of *bona fide* ethical values (public servant’s responsibility of being open and accountable to citizens versus that of adhering to oath of secrecy / confidentiality etc);
- Conjoint Ethical Dilemmas, arising from situations in which a conscientious public servant / decision-maker is exposed to a combination of the already mentioned ethical dilemmas for the “right-thing-to-do”.

Frequently encountered Ethical Dilemmas tend to arise from three critical relationships:

- Civil Servants and Political Office holders;
- Civil Servants and Citizens; and

- Intra–Civil Service (*inter se* Ministries, Departments and Agencies, that make up the Country’s or State’s Civil Service).

Classical cases arise from the management of the relationship between the Minister, the political head, and senior officials at the level of Secretary, Additional Secretary or Head of the Department.

Conventionally, the Minister is the Political Head of the Ministry accountable to the people through Parliament / State Assembly. Before assuming Office, the Minister subscribes to adhere to the provisions of the Constitution, and publically expresses commitment to uphold it with a view to preserve and enhance public confidence and trust in the system.

On his part, the Secretary of a Department is the Chief Policy Advisor, to the Minister and also the Chief Executive, to execute the decisions taken at the political level. It should not be forgotten that as a civil servant, he is obliged to abide by the Conduct Rules and other rules / regulations in this regard, while demonstrating unflinching loyalty and commitment to the Minister.

However, in practice, while discharging their duties and responsibilities, situation(s) may arise, triggering conflict between the Minister and the Secretary and other senior officials of the Ministry. The Minister could be under pressure for material and / or pecuniary demands from his political or social organisation or from his constituency. For political expediency, he may feel obligated to meet these demands. Consequently, he may decide to ignore the ministerial ethics and communicate the demands to his departmental Secretary or other senior officers, with a directive to oblige. But it may be clear that meeting such demands may lead to violation of the acceptable accountability standards and practices as well as administrative ethical principles. My experience has been that if you stand your ground and explain in detail the fall-out on the government as a whole, political bosses could reconsider what they ‘ordered’ in writing. Here I would like to give a personal example.

Way back in 1979, I was Director Industries, Madhya Pradesh (before bifurcation). I had on that job for three years when, all of a sudden, I was transferred as Additional Commissioner Raipur Division (now Capital of Chattisgarh State), which was considered a ‘dump’ post. My job involved hearing cases (revenue matters) against orders passed by District Collectors / Additional Collectors of Raipur and Bilaspur Division (now whole of Chattisgarh state). After about eight months, when the government came to know that I have disposed of almost all the cases in both the Divisions, I was brought back to Bhopal, where, within about fifteen days, a new government was sworn in and I was made Special Secretary, Agriculture. The very first file I got from my newly appointed Minister, was to organise sending two ‘train-loads’ of farmers from Raipur and Bilaspur Division to Delhi, with the ostensible purpose of ‘learning’ something from Indian Agriculture Research Institute. I had read in the newspaper a day or so earlier, that a Congress Party rally was being organised in Delhi by the then ‘Youth’ Leader. Being fully conscious of the fact that I had just been rehabilitated from a ‘dump- post’ and that could happen again, yet, despite

this dilemma, I went to the Minister and showed him the file. He asked me what is wrong with the 'proposal'. Is not there a Scheme of the government to this effect? I explained that, there is a Scheme, under which farmers can be sent, but I have also read that there is going to be a Congress Rally on these very days in Delhi. He said, 'what is wrong? They will attend and learn at IARI as per its Programme, and afterwards they can do whatever they like.' I then mentioned that when the Shah Commission, appointed after the 'Emergency', enquired of the then L.G of Delhi, whether he was he not aware of the implications of what he was doing or permitting something to happen during that period, referring to the excesses being perpetrated during that period, the L.G had no answer. So sir, knowing that a political party rally is taking place at the same time when the farmers from the State are proposed to be sent, if I am asked to explain, I will have no answer. The discussion went on for about 40-45 minutes, and when he saw that I am not giving in, he said, "Leave the file with me"; which I did, and nothing happened afterwards.

In arriving at the right thing to do, the Secretary or other senior officers or the Ministry / Department's conscience keepers may raise a myriad of perplexing questions, like:

- Would refusal to oblige the Minister's directive not displease him, strain the relationship between the two? Would a protracted conflict arising from such incidents not obstruct the delivery of the Ministry's / Department's mandate, thus adversely affecting the image of the Ministry, with collateral damage to the required public confidence and trust?
- Would succumbing to the pressures of the Minister, with a view to pleasing him, not lead to violation of the acceptable 'accounting standards and practices' as well as 'administrative ethical principles, thereby derailing country's crusade for sound public service ethical robustness?
- Would such an act not be inimical to the overall image of public service?
- These sorts of situations lead the senior officers to ethical dilemmas. In such situations the civil servant has to consider:
- Striking a balance between his responsibilities as a senior Executive Officer and that of the Minister, as the Ministry's political head, to avoid a unnecessary conflict;
- Uphold the rule of law, due process, fairness and tact in carrying out the responsibilities; and
- Uphold the highest administrative, financial, ethical and moral standards in the civil service.

It needs to be appreciated that the application of these principles by the secretaries, in practice, is not always easy for resolving the ethical dilemmas that confront them. While the first option mentioned above, i. e. the option of striking a balance, may be a euphemism for acquiescence, the other two options are squarely all about maintaining integrity and, perhaps, not caring for the consequences. However, very tactful secretaries do manage to get the ministers to communicate all their demands in writing in such a way that puts potential culpability on the latter. In this way, ministers, with tendencies for unethical actions are checked within the boundaries of the law.

It also needs to be appreciated that ethical dilemmas may always not be caused by a conflict between a civil servant and his political head. They could also arise among civil servants themselves, at the level of Secretary to the Ministry / Department, its Head of Department, his own Additional / Joint Secretary *et al.* The best thing to do in such a case

is to put everything in writing, explain orally the dilemmas emerging out of it, and get the decisions / recommendations in writing, while taking full responsibility for the follow-up action(s). It also needs to be appreciated that ethical dilemmas are not germane to senior functionaries alone. They are equally, and perhaps more importantly, germane to all levels of public services, who deal with public at large.

It is in this context and background that we need to ponder over: how to rise to the occasion and negotiate the ethical dilemma. We could consider the following 'advanced' set of 'Fundamental Principles', or criteria, that integrate and rearrange, the process of dealing with ethical dilemmas in public administration:

- Democratic ACCOUNTABILITY of administration;
- The Rule of Law and principle of LEGALITY; and
- Professional INTEGRITY.

This may be conveniently described as the 'ALI' model of Ethical Reasoning in Public Administration.

The Imperative of ACCOUNTABILITY

The distinction between Politics and Administration, which forms one of the most classic 'doctrines' of modern Political Science and Public Administration, connotes not only 'division of Functions and their structural separation', but also the 'subordination' of the latter to the former. Thus, the primacy of 'politics' in the politico-administrative nexus explains the ultimate political control or rather governmental control of the administrative machinery of the State in a democracy. The loyalty of the public service to its political masters is grounded on the obligation of the ministers in parliamentary Democracies to be answerable and responsible to the legislature (ministerial responsibility to parliament). It is only by this means that the ministers, being representatives of the people of the nation, may hold the public service too accountable to the will of the people and public interest.

It is then the fundamental ethical duty of the civil servants, in pluralistic parliamentary democracies, to subordinate themselves to political authority, to carry out all 'orders' from the 'top', as long as they in conformity with the law of the land. In the same vein, the public servants would have to show a spirit of 'neutrality' in their official capacity and dealings, as members of administrative infrastructure of the State *vis-à-vis* partisan politics, and keep at bay their own personal preferences in the performance of their duties and responsibilities.

The conclusion that may be drawn is that 'democratic virtue' does form part and parcel of the core values and 'normative determinants' of administrative behaviour in the public-domain, namely, that the administration should be held 'accountable' to the government, and through it to the people *via* the legislature, i.e. the House of Representatives of the people. It also needs to be emphasized that this does not amount to and cannot be taken to mean politicisation of public services and, more specifically, does not give 'licence' to the political masters to pass 'orders' contrary to law / rules /

public interest, and expect the public servant to carry them out blindly; because that would undermine the instrumental value of the executive branch of the government and administration. If a Minister still insists on carrying out his 'orders', which the public servant does not find palatable, in the light of law on the subject or on account of any hidden agenda behind the 'order', than the best option open to the public servant is to get the order in writing; and, in case of a disagreement, the public servant should record his views in writing and resubmit the file to the Minister. 'Speaking Truth to the Power' can be considered an important ingredient of professional ethics and moral integrity of civil servants and the administrative machinery of the State, in general. Here I would like to give a personal example.

I was Secretary, Health Department, M.P. way back in 1990. One day, all of a sudden, I got a 'call' from Chief Secretary's office asking me to proceed to the room where a Cabinet Meeting was taking place. I had no Agenda for 'discussion' in the Cabinet Meeting, yet, as directed, I went to the room where meeting was in progress. There the Chief Minister directed me to listen to what a very senior Minister had to say. That Minister asked me: is it true that a World Bank Team, which was touring the State to appraise our request for funding certain Medical colleges, has been told not to consider the request of aiding the Medical College at Gwalior? According to the Minister, this is what was stated by the Team, while interacting with the media in Gwalior. I said that there was no such advice from us. Matter ended there and I came back to my room. I rang up the officer, who had been deputed by me to accompany the World Bank Team, to ascertain the facts, as alleged by the Minister. He said that neither the Team was told not to consider the claim of Medical College, Gwalior nor did the Team ever make such a statement to the Press at Gwalior, as he was with them throughout, till the Team left Gwalior. I was in a dilemma. I called the officer and decided to put the whole series of 'facts' before the Cabinet. Very unusual, but, unannounced and uninvited, I barged into the Cabinet meeting, along with the officer, who had been with the Team throughout. The whole cabinet looked 'askance' at me. I told them, here is the officer who was with the World Bank Team, and according to him neither the Team was told to 'exclude' Medical College Gwalior from its consideration nor did the Team make any such 'statement' to the press. The officer was with the Team, till they left for Delhi from Gwalior. There was complete and awkward silence in the Cabinet. As nothing more was required, I was asked to leave. Cabinet meeting had taken place in the 'forenoon'. At about 4 pm, I was called by the Chief Secretary and was informed that the Chief Minister has ordered him to shift me from the present post immediately and the C.M. has also directed him to give me any Department of my 'choice'. I said that I have no preference. By the same evening I was shifted, but was made Secretary of two Departments. Till date, I have no regrets about what I did to keep my conscience clear and to act according to the dictates of my 'inner self'.

The imperative of LEGALITY

The Rule of Law, besides being one of the fundamental evolutionary universals, in both modern politics and society, pertains in a very specific and significant way to 'administrative conduct'. Respect and adherence to the Principle of Legality manifests a 'spirit' of constitutionalism and forms an essential pre-requisite for the 'legitimacy' of state action and the exercise of authority.

Respect for and application of the Principle of Legality entails a particular type of control on administrative action and aims to see that public administration operates within the context of the law of the land, established by the Legislature (Parliament). Since the source of all power are ultimately the people, in a democracy, hence it follows that all power must be exercised in general interest of the people. And for that to take place, in an effective rather than an arbitrary manner, the running of the business of the State has to be guided and determined by an 'articulate' system of Rules and Laws. Their application, while performing official functions, forms the essence of Legality and Rule of Law. The control of Legality of administrative action, initially exercised by the administration itself, purports to ensure that proper procedures have been followed and observed, as well as that equity, reasonableness and impartiality have been respected. It is in these circumstances, that the artful application of the Principle of Legality in administrative performance would go a long way to serve and promote Rule of Law, and avoidance of 'abuse of power'. Only decisions / actions, taken following Principle of Legality, will help the public servant withstand, in a positive manner, any 'scrutiny' by the judicial system, at any 'stage'.

The imperative of INTEGRITY

The State's 'Guardian Elite' comprises the body of civil servants, and permanent officers subordinate to ministers. Civil servants are expected to be fully competent on the basis of their ascertained knowledge, experience and expertise, and independent enough to offer 'official' advice to ministers as well as implement public-policies and decisions in an efficient and effective manner in the public-interest.

The application of knowledge and science in public affairs has been historically related to the advent and increase in professionalism, in their exercise. Professional integrity entails that while public administration may be brought under political guidance and control, it cannot and must not be forgotten that public servants are recruited and trained to appreciate that they serve under the constitutional mandate, laws of the land and in public interest, and not on the basis of partisan favouritism. Professionalism in public service could, therefore, be seen to accrue from a combination of knowledge, expertise, judgement, and conduct in accordance to the laid-down and expected standards, as well as a commitment to the cause they are assigned to serve.

The imperative of Integrity, therefore, constitutes a source of 'internal self control' in administrative conduct, based on ethical standards and criteria shared and respected by the corps of professional administrators. Avoiding, for instance, corruption and exhibiting integrity would then be for them a matter of personal and professional honour and prestige, in a culture of ethics, and not simply an externally imposed obligation. In order to facilitate and uphold the integrity in administration, several countries have developed and prescribed a 'Code of Ethics for Public Servants', thus imposing on public servants certain rather austere standards, and requiring that they uphold and respect them in their conduct. "Integrity in life and pure from crime", as Horace put in one of his Odes, would than seem to offer an appropriate definition of the ethical imperative for the public servants. Here I would like to quote a personal example.

I was Food Secretary, Government of India from 1997 to early 1998. I think it was late December 1997 or early 1998, that I received a Note Sheet from the Prime Minister's Office (PMO), attaching a 'request' from Chief Minister (CM), Punjab, asking me to consider reducing the 'Rice Recovery', from 100 kgs of paddy. As per established 'norms' recovery of rice was fixed at 66 kgs of rice from 100 kgs of paddy, given to a rice Miller. The reason given was bad weather conditions and other reasons to reduce the recovery to 62 kgs from the established 66 kgs per 100 kgs of paddy. I sent a 'technical' team to Punjab; and on return they reported, nothing unusual, to warrant, the requested reduction. I recorded a Note, to this effect and sent it to PMO. After a few days I was summoned to a meeting at the PM's residence, where representatives from Punjab, led by the then C.M, were present. When the same 'issue' was raised by the CM, Punjab, the Prime Minister (PM) read out from my note, not agreeing with the proposal. The meeting was over. After a few days, my Minister called me to tell me that Punjab Government is sending the State Plane for us to go to Chandigarh. We went there and I repeated the same argument and did not agree with the proposal. My Minister supported me, by remaining silent. We came back. After a few days the General Elections were announced. Subsequently, I was informed by the PMO that the PM is visiting Chandigarh, and that we (me and my Minister) have to go to Chandigarh, with the PM, and, in case of necessity, might have to go to Jullundur (a District in Punjab, from where the PM was to contest the Lok-Sabha seat). We went with the PM in his state-plane. At Chandigarh, at about 12 noon, we were asked to go to the Raj Bhavan. When we reached there, besides the Governor, there was the CM, Punjab with his ministers, and top civil servants. Issue of reducing the 'recovery' was again raised by the CM, Punjab; and I again reiterated my 'objection' to the proposal, duly supported by 'technical-inputs', but to no avail. After this the PM and the Governor got up to leave. I do not know what happened 'inside' me, I got up and said, "Sir, what you are trying to tell me to do is not in the national interest and should not be done". Everyone looked askance. The PM said, "I have given my directions and they need to be complied with". The then Secretary to the PM was present and I told him that I am not going to do anything. At this moment the others, like CM and other ministers, got up to go. Something inside me was burning. I suddenly walked-across to where the CM, Punjab and others were waiting to leave, looked into the eyes of CM and told him, "Sir, You have been a Union Minister for Food and Agriculture, Government of India, and you have been the CM of Punjab thrice. What you are suggesting to be done is not the 'correct thing to do' and is not in the national interest, hence should not be done." I do not know what happened in these 15-20 seconds, he nodded his agreement to my suggestion. I looked at the Secretary to the PM, he asked me to relax. Since the matter ostensibly stood resolved, we (me and my Minister) were to go back to Delhi, as we would not be required in Jullundur. We caught the night train and came to Delhi. At about 12 0'clock mid-night, I got a 'call' from the Secretary to the PM that I can sleep in peace as what was agreed by the CM in Chandigarh, contrary to his request as also the directions given by the PM, has been conveyed to the PM, and nothing more needs to be done". I slept with a clear conscience and at peace with myself.

Summing up, it can be said that the people who work in public service face ethical dilemmas, many a times, and it is imperative that they rely upon their inner - conscience / voice ('Indweller') to 'guide' them, which shall never be wrong. It is the 'conscience', i.e. the Light of the Soul that burns inside your heart. It is this little spark of

celestial fire that makes you aware of the presence of 'Indweller'. It raises the voice in protest, whenever anything is thought of or done contrary to the interest of the 'Indweller', because conscience is the voice of the Self, which says 'Yes' or 'no', when you are involved in a moral struggle, which is what an ethical dilemma is. Conscience is the internal monitor and is a form of truth which is the knowledge of our acts and feelings, as right or wrong. This is a very sensitive balance (scale) to weigh actions. It is a guiding voice from within, the faculty or principle by which we distinguish right from wrong. We must understand that; sense of duty is the conscience. Scrupulousness is conscience. Conscience is a silent teacher and guide. It is a needle that points steadily to the pole-star "Do this action; it is right". It also warns you, "this is wrong, do not do this".

You may suffer the consequences of acting on the directions of your conscience some time, but as they say, when you 'live' your 'second innings', you can then look back with great satisfaction, as to what you did. When people hurt you, you just think of them as 'sandpaper'. They may rub and scratch you painfully, but you end up 'smooth and polished', while they end up 'worn-out' and of no further use.

In the end I would like to state:

"Flowers blossom even in forests, where there is nobody to admire their beauty. Let us continue our good work honestly, even when nobody appreciates us! Never expect 'things' to happen; struggle and make them happen. Never expect yourself to be given good value; create value of your own. Your luck is not in your hands, but you can 'impact' your work. The Good work you can do makes your destiny, but your luck alone cannot make you do good work. So always trust yourself".