

NGOs under the radar once again

A Supreme Court bench has ordered the Central government to conduct an audit of nearly 30 lakh NGOs who have received public funds, but haven't filed returns or audit reports. This raises probability of such organizations indulging in fund misappropriation.

Earlier too, when this issue had come up, the government had gone for blacklisting of such NGOs but it is an unprecedented decision on part of Supreme Court to go this further. This is yet another case of Judicial Activism when Government's actions were found lacking.

As per the top Court, NGOs found fudging their accounts will be subject to immediate criminal prosecution.

Despite all of this, what is a matter of concern is that the **government hasn't even placed any kind of regulatory mechanism or guidelines** asking NGOs to maintain accounts in a proper format, recovery methods in case of non-compliance and conditions for their accreditation. The **General Financial Rules, 2005** mandate these guidelines to be framed. Clearly, government has not taken proper care of funds given to NGOs to carry out social work.

But, it is equally important to point out shortcomings on part of State governments as well. As per the **CBI report**, different states have different reporting requirements for NGOs. Some states like **Kerala, Punjab and Rajasthan** do not even mandate NGOs to submit returns. While in Andhra Pradesh, only 186 out of 2.92 lakh NGOs file financial statements annually.

At the national level, CBI data reveals that only **about 10% of NGOs** registered in the country file annual financial statements.

Besides misappropriation of funds, NGOs have also been involved in other activities like:

1. Hatching out a controversy to **delay developmental process** especially under the garb of environmental concerns (as per Intelligence Bureau) eg: Greenpeace
2. Misutilising "Freedom of Speech and Expression" to gain "private brownies" and thus, blamed **for sedition**. Eg: Amnesty International
3. Involved in funding activities like **religious conversions** under the pretext of "social work" causing social and religious disharmony. Eg: Compassion International

Out of these, Compassion International was referred at the highest levels by US administration including in the US congress. It was accused of funding unregistered Indian NGOs who were later found involved in encouraging religious conversions.

Tightening the noose

Last year, the Central government had banned thousands of NGOs for their alleged violation of FCRA (Foreign Contribution (Regulation) Act) which made it difficult for the banned NGOs to receive foreign funds. Such funding was allegedly used to embarrass government's well-intentioned developmental projects (such as Kudankulam Nuclear Power Plant agitation).

These NGOs, both Indian and Foreign, will now need to receive prior permission from the government before they can receive such funds.

It is pertinent to note that NGOs are regulated by both the Home Ministry (Via FCRA) as well as the Finance Ministry under FEMA (Foreign Exchange Management Act). Some of the NGOs are registered under FEMA but not FCRA, making it difficult for the Home Ministry to properly regulate them. This is done in order to avoid the more stringent FCRA provisions which requires regular filing of accounts.

To bring all the NGOs under a single regulatory mechanism, **the home ministry has asked the finance ministry to surrender its powers under FEMA.**

Moreover, the Ministry of Home Affairs has made it **mandatory for NGOs to maintain their contributory accounts in banks that offer core banking.** This will offer the regulators to monitor NGOs on a real-time basis. This was done in order to monitor NGOs which currently open accounts in small banks and cooperative banks which do not offer core banking solutions to make their financial transactions opaque.

Besides, the Ministry is thinking about modifying the present rules to allow "prior permission route" to be used only once to receive foreign funding.

An Escape route?

But surprisingly, while government seems eager to restrain foreign funding in NGOs, **it has amended FCRA to allow foreign companies to fund NGOS** and also donate to the political parties. This casts a serious doubt over government's intentions. Further, FCRA amendment was brought through the "Money Bill route" bypassing Parliament accountability further casting serious aspersions over the move.

What needs to be done?

In the light of abovementioned facts, it is crucial to carry out the following :

1. Develop a proper regulatory mechanism to ensure that NGOs conduct their operations in an open and transparent way
2. Converting the mechanism of dual-regulation to a single regulation under the Ministry of Home Affairs
3. Involving US administration or any other country when NGOs funded by foreign governments are found engaging in illegal activities so as to maintain cordial diplomatic relations
4. Not punishing or harassing genuine NGOs who are instrumental in the process of development
5. Following the Supreme Court's advise to prepare a law, probably by Law Commission of India to comprehensively look into this sector
6. Criminally prosecute NGOs involved in activities running counter to our constitutional values and law of the land.

Lastly, while there are NGOs like “Bachpan Bachao Andolan”, run by Nobel Peace Laureate Mr. Kailash Satyarthi, there are others who are flouting public money for private ends. It is crucial to mark a distinction between the two in practice so as to save India’s global image as well as ensure socio-economic development.

Source: xaam.in