

The judiciary and the powers that be

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19-02-2001

Should judges accept costly gifts from the government? Worse, should they award such gifts to themselves and ask the government to foot the Bill?

The Law department of the Government of Andhra Pradesh has recently issued proceedings in G.O.Ms No 195 dated 29-12-2000 accepting a proposal of the Registrar of the High Court that 39 new Opel Astra cars (Advantage Model) costing Rs 6.6 lakhs each will be purchased at public expense for the use of the Chief Justice and other judges. The government has released Rs 2.57 crores to this end.

That judges need cars will be accepted without demur. That cars may be purchased by the State for such of the judges as cannot afford the expenditure will also be accepted, for not all of them may have been very prosperous lawyers before becoming judges. But for the last four to five years, all the judges of our High Court have had cars provided for them at public expense. They are not very old or old-fashioned models either. They are Premier 118 NE models, and barely four to five years old. It is conceivable that one or two of the cars have become unserviceable and need a replacement. But where was the need to ask the government to replace the whole lot of them at one go with a more costly model?

This is not a small matter, even in terms of the money involved. The government of Andhra Pradesh has been cutting down on a lot of socially desirable expenditure on the plea that it is starved of funds. One can think of a number of socially justified pleas that have in recent times been turned down on the ground that an amount comparable to this Rs 2.57 crores cannot be spared by the government. A number of public sector corporations serving the needs of the weaker sections whose annual budget is of the same order as this amount have been closed down in recent times. The Allwynn bus body building works was closed down and hundreds of workers were rendered unemployed in their middle age in the teeth of their plea that if only the government gave them a working capital loan of Rs 2 crore they would forego backwages and themselves run the concern and pull it out of the red in two years time. The government described that proposal as an invitation to pour more money down the drain. The agitating workers were lathicharged and driven out and the company was closed down.

To take a different example: Capital expenditure on Health & Family Welfare (building new hospitals and equipping old ones with new technology, for instance) is an area which has seen drastic decrease in annual spending by our government as part of its belt

tightening efforts: it came down from about 10 crores in 1985-86 to 1 crore in 1995-96. 'By any standard, public expenditure on health is low in Andhra Pradesh' says – no, not Amartya Sen – the World Bank. Suggestions that more may be spent in this area so that the poor may get good medicare cheap are met with proposals for further privatisation of the health sector and hectoring against excessive dependence on the maa-baap State..

In almost every matter concerning social welfare, the government's answer to all demands for more expenditure has in recent times been that people should stop looking to the government for every thing and learn to fend for themselves. But the High Court's proposal for a whole lot of costly new cars for the judges has been accepted in toto in just a matter of three months, without a murmur, and without even bothering to ask why the High Court wants thirty nine new cars when there are only twenty five judges as of now.

Money apart, there is the question of principle. The government is by far the single largest 'party' before the High Court. It seeks any amount of indulgence from the Court on the plea of mysterious exigencies of governance. The indulgence sought goes to such a length some times that the more discerning of judges are known to comment in exasperation that what was meant as a forum for protecting the citizens from the State has turned into a means of protecting the State from the citizens. Should it not then bother the Court that it finds itself asking for costly gifts and finds the otherwise very miserly government acquiescing with alacrity? Justice, the judiciary likes to say, must not only be done but seen to be done. Would the public see it as being done when the principal forum for adjudication between the citizens and the State slips from the norm of austerity it must maintain in its relations with the most powerful party before it?

To end by reverting to an earlier theme: Judges of our High Court have more than once allowed themselves to be dragged into blessing the 'innovation' of video-conferences between the remand prisoner and the remanding magistrate, meant to replace personal production of the accused in Court. The 'innovation' is arguably unlawful and liable to be questioned some day by some prisoner before the Court that has already blessed it donning administrative robes. That apart, the government's justification for the 'innovation' is that there are not enough policemen around to escort every prisoner to Court. How could there be, when the police are more busy escorting free persons?

The disquieting part of it is that High Court judges are among them. Without any need whatsoever, for no militant group in our State has ever threatened the judiciary, police security is provided at the homes of all High Court judges. If that is removed, that would release perhaps two score Armed Reserve policemen who could be put on the exclusive duty of escorting remand prisoners to Court. Prisoners, at any rate, are liable to see it this

way, and that will colour their opinion of the blessing the judges of our High Court have given to the `innovation' of video-conferences.

The Court in one significant aspect of its Liberal heritage is a check on the arbitrary exercise of power. In the Indian Constitution it is in addition a check on the iniquities of social and economic privilege. For such a Court to be `seen to be doing justice', it must keep power and privilege at more than an arm's length. Is the judiciary willing to see this?

(Published in Indian Express)