

Editorial

Imphal, Tuesday, November 17, 2015

Guts to say wrong is what we expect from leaders

A single wrong in your thousand good works have the potential to ruin your good image and credential, a wise man once pointed out. And his words are so true that till today good works of many good leaders of our today's society are still ruined by a single wrong he or she or their near and their one's had committed. Human nature is different and often misjudged to the person who had pointed the wrong but often failed to notice that the person pointing the wrong is also the person who had been following him very closely. This definitely proves that the same persons also knows the good works he had done.

Leaders have different personalities from the common man, that is why they are chosen to lead the mass. They are being handed over the most tough job and often blame for their failure to handle it. A real leader should be one who tolerate every criticisms to his work and accepted the criticism a way to correct himself. Responding by playing games of words by justifying towards the criticism is definitely not a good quality of a leader. Instead it is favourable that the very leader apologises to the kind of wrongs he has committed will make him a more respectable leader.

The by-election for Thongju and Thangmeiband Assembly constituencies is knocking at the door and campaign for all the candidates in both the assembly constituencies reached its peak. It is a fair game between the Congress party which rule the state and the BJP which is in power at the centre. And things that is different in this by-election is that this time the election is going to be between the congress and the BJP and not to the personalities of the candidates. It is being opined so in view of the political necessities. If the congress loss in this by-election it will definitely prove the decline of the party and in next election it is sure that the congress will definitely have no place at all. And if the BJP loss than the party which is trying to penetrate in the region will fail forever. It had tried during Hiyanglam constituency by-election but defeated.

Manipur at present is at its height of curiosity. The "frame work agreement", the ILP issue, the demands for separate stated by some organisations based at Hill area viz-a-viz, are burning issues.

Both the BJP and the Congress are playing the electors over these issues in particular. Both the parties are right from their viewpoints when it comes to the protection of the territorial integrity of the state.

But to be precise we the laymen, the voters knows that there were something wrong committed by both the parties when tackling the sensitive issue of this state. People have witness the state being thrown to the frying pan twice - once during 2000s when the peace talk between the NSCN-IM and Government of India had extended without territorial limit and recently when the government in the state delayed and waited for a massive agitation with communal tone for introduction of ILP in the state.

Had the state government did not waited for a mass agitation that would cost the life of a student here in Imphal on July 8 this year the prevailing situation here in the state could have been avoided. On the other hand had the then government of India under the BJP leadership think twice before extending the cease fire to the state of Manipur that history would have been different.

This write up suggest leaders of both congress and the BJP to apologise the public on the wrong that they had committed in case if they truly felt the love for their motherland called Manipur. Only then people in both the constituencies will vote without frustration as the integrity of the state is an emotional issue of all the people of the state.

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Guardians of the law attack free speech

Between the state and some high courts, free speech is constantly under attack. The Assam Rifles order is only the latest in a string of diktats.

Over the last few months we've seen several state institutions attempting to unreasonably restrict free speech in India. The Immigration Bureau stopped Priya Pillai from leaving the country, the Censor Board tried to bleed out portions of Pankaj Butalia's documentary film, the Maharashtra State Legislature has issued a breach of privilege notice to Shobha De, the Ministry of Home Affairs has banned reporting from jails, the Delhi High Court has used its contempt powers to restrain media houses from printing stories related to family members of judges, and of course the police in several states has liberally slapped sedition and other charges against the *aam admi* for something as trivial as singing a poem. Joining this illustrious list of institutions in the last couple of weeks, are the Assam Rifles and the High Court of Meghalaya.

As reported earlier on the Hoot, a colonel of the Assam Rifles, which is one of the oldest para-military forces in the country wrote to editors of newspapers in the North East warning them that any reporting "which projects the demands of the NSCN(K) and gives it publicity" could be construed as a violation of the Unlawful Activities (Prevention) Act, 1967 (UAPA) since the NSCN(K) itself is a banned organisation under the UAPA. The journalists from newspapers which received the warning letter are obviously angry as a former editor has explained in this interview to the Hoot and rightfully so. These journalists however shouldn't be intimidated by such letters from the Assam Rifles because the law on the point is fairly settled. As explained so eloquently by Justice Nariman in

the *Shreya Singhal* case, there are three basic concepts in any discussion on the fundamental right to free speech under Article 19(1)(a). The first is discussion, the second is advocacy and the third is incitement. In his words, the first two are at the heart of the free speech right - no matter how unpopular the view in question, mere discussion or advocacy of such an opinion cannot be punished under the law. It is only when such advocacy or discussion reaches the level of incitement that the reasonable restrictions under Article 19(2) kick in. Even then, the incitement should be the equivalent of the 'spark in the powder keg' i.e. the speech in question should have the likelihood of causing public disorder or violence in the immediate future.

Although Section 13 of UAPA provides for punishment of any person who 'advocates, abets, advises or incites the commission of an unlawful activity' (which is defined widely), it is necessary to understand that Indian courts have not always given such provisions of law a literal interpretation especially when such a literal interpretation would lead to an infringement of fundamental rights. For example in the case of *Arup Bhuyan v. State of Assam*, where a TADA court had convicted a person for being a member of the banned ULFA, the Supreme Court on appeal overturned the verdict. Justice Katju had held that even if the accused was a member of a banned organisation he would not automatically be convicted under TADA. In pertinent part he held "In our opinion, Section 3(5) cannot be read literally

otherwise it will violate Articles 19 and 21 of the Constitution. It has to be read in the light of our observations made above. Hence, mere membership of a banned organisation will not make a person a criminal unless he resorts to violence or incites people to violence or creates public disorder by violence or incitement to violence." In fact there is also a solid body of case law from the Madras High Court upholding the right to hold meetings and discussions in favour of the LTTE which is a banned organisation under UAPA. In the case of *Pugazendhi Thangaraj v. the Commissioner of Police* the petitioner had been denied permission by the Commissioner of Police to conduct a signature campaign to get signatures from the public to send to the President of India to remove the ban on the LTTE. The Commissioner denied permission and also informed the petitioner that any such signature campaign would be an offence under the law. The Madras High Court however quashed the Commissioner's order after citing precedents such as the *Arup Bhuyan* case to conclude that the petitioner had a right to conduct such a signature campaign. There are several other judgments on these lines from the Madras High Court. Moving to the second case i.e. the judgment by the High Court of Meghalaya gagging the press in the state from publishing any call for a bandh by a banned organisation, the Hoot has a detailed piece on the judgment over here. Any breach would be considered a contemptable offence, the court said. Such an order is completely illegal and unconstitutional because it

imposes prior restraints on free speech i.e. the order prevents the speech from even taking place. The Supreme Court has made it clear that such 'prior restraints' are unacceptable under the law. It did so first in the *Rajagopal v. State of TN* case and then again in the *Sahara v. Sebi* case. In the latter case, the Court had held that under its contempt powers, it could merely postpone, and not prevent, free speech in the reporting of sub-judice cases, but made it very clear that even such postponement orders were to be the exception and not the rule. The Meghalaya High Court doesn't really discuss any of this case law or also provide any precedent to support its conclusion that publishing a call for a bandh is illegal under the law. Instead the High Court, merely discussed precedents from other Courts prohibiting the forcible enforcement of a bandh or hartal and also allowing parties affected by a bandh to seek compensation from the person enforcing such a call for a bandh.

The media in Nagaland and Meghalaya need to actively pursue these cases by filing appeals before the Supreme Court and create precedent for the future. Even victories before the Supreme Court aren't going to stop the State from cracking down on free speech - just look at the Chief Minister of Tamil Nadu, she relentlessly attacks free speech under every possible law only to be rebuffed by the High Court on most occasions. Every victory for the press or her critics makes the next case they fight against her a bit easier. As they say, eternal vigilance, is the price of liberty. (Courtesy The Hoot)

National & International News

Coal scam: SC to hear CVC's plea on sharing info on Nov 30

PTI
New Delhi, Nov. 17: The Supreme Court today said it would hear the CVC's plea seeking clarification on whether it could share confidential reports on the coal scam with former CBI official ML Sharma, probing the meetings of former agency chief Ranjit Sinha, after the Chief Justice's bench hears the case. The bench, headed by Chief Justice H L Dattu which has been hearing 2G scam cases, is also seized with the plea of the court-appointed

probe panel headed by Sharma that the copy of the visitors' diary of Sinha's official residence be made available to it. Since the 2G bench had ordered to keep the visitors' log book under sealed cover, the special bench, hearing coal scam cases, had referred Sharma's plea to the CJ's court. "It appears that the matter was listed on October 30 before a Bench of the Chief Justice and Mr Justice Amitava Roy. The matter was then adjourned to November 6, but could not be listed on that day since the Bench was not available. "The Registry may now list the matter before a Bench presided over by the Chief Justice on Friday, November 20. Thereafter, list the matter on November 30 at 2.00 p.m. before this Court," the three judge bench of Justices M B Lokur, Kurian Joseph and A K Sikri said. Earlier, the apex court had agreed to hear a plea filed by Chief Vigilance Commission (CVC) seeking clarification if it could share the confidential reports on coal scam with former CBI officer ML Sharma who is inquiring about the meetings



former agency chief Ranjit Sinha had in his official residence. Sharma was appointed by the apex court to probe whether the meetings of Ranjit Sinha with the accused in coal block allocation scam had impacted the probe or their final outcome. It had on September 14 allowed Sharma to access whatever records he felt necessary for the purposes of inquiry. After court's directions, Sharma has asked CVC to make available to him its comments on the CBI's probe in

each of the 254 coal blocks allocation. He had also asked the CVC to provide him correspondence that might have been exchanged between it and the CBI on the subject. However, the reports sought by Sharma from CVC includes some information which the anti-corruption watchdog had submitted to the apex court in a sealed cover after scrutinising the CBI probe into each of 254 coal blocks allocation.

Two Coaches of Guwahati Express Derail, no Casualty

PTI
Thiruvananthapuram, Nov. 17: Two coaches of the Kochuveli-Guwahati express derailed between Nandalur and Kadappa stations in Andhra Pradesh. No casualty has been reported so far. The Kochuveli-Guwahati weekly special express that left Kochuveli near here at 12.00 hours on November 15 derailed between Nandalur and Kadappa stations around 23.30 hours last night, a railway press release said here.

The coaches derailed were S-6 and S-7. No casualty reported so far, the release said. Railways has set up a helpline at Thiruvananthapuram with telephone numbers 0471-2320012 and 9567869375, it said. Consequent to the derailment, the Sabari Express to Hyderabad and Thiruvananthapuram-Kacheguda express have been cancelled, it said.

Pakistan Violates Ceasefire in Samba

PTI
Jammu, Nov. 17: Pakistani troops violated the ceasefire by firing along the International Border (IB) in Samba district of Jammu and Kashmir overnight. Three to four rounds were fired along the IB in forward area of Samba sector during the intervening night, a senior BSF officer said today. BSF troops guarding the borderline fired

illumination rounds to track suspicious movement, he said, adding nothing unusual was found. There was no casualty or injury to anyone in the cross border firing, he said, adding troops are keeping a close watch on the movement along the border. The fresh ceasefire violation comes after a lull. BSF and Pak Rangers held two



high-level meetings last fortnight to ensure truce on the border during the harvesting season on both sides of the border.