

Offence, the Best Form of Defence?

Vicious and Vindictive Response of the Political Establishment

○ Shoma Chaudhury

The aftermath of the *Tehelka* expose is no less revealing than the investigation itself. While the Army Court completed its inquiry and filed a report by mid-May (within 2 months of the expose) recommending a series of actions ranging from court martial to suspension against the officers exposed by the *Tehelka* tapes, the reaction of the political establishment, on the other hand, gives the impression that the guilty officials are receiving full support from the political bosses. The entire government machinery is being misused to protect the guilty and muzzle the voices of those who, directly or indirectly, made this expose possible. Tarun Tejpal appropriately describes this as “shooting the messenger” who brings bad news, instead of tackling the source of bad news.

On March 16, 2001 three days after the story had broken – Prime Minister Vajpayee addressed the nation and called Operation Westend a “wake-up call.” He said: “What had come into view went beyond security. The ease with which persons posing as arms merchants gained access to our defence personnel and politicians showed how far the cancer has spread.” At that point, Vajpayee asserted that he would “clean up the dirt that has come into view...and pursue every lead in the tapes.”

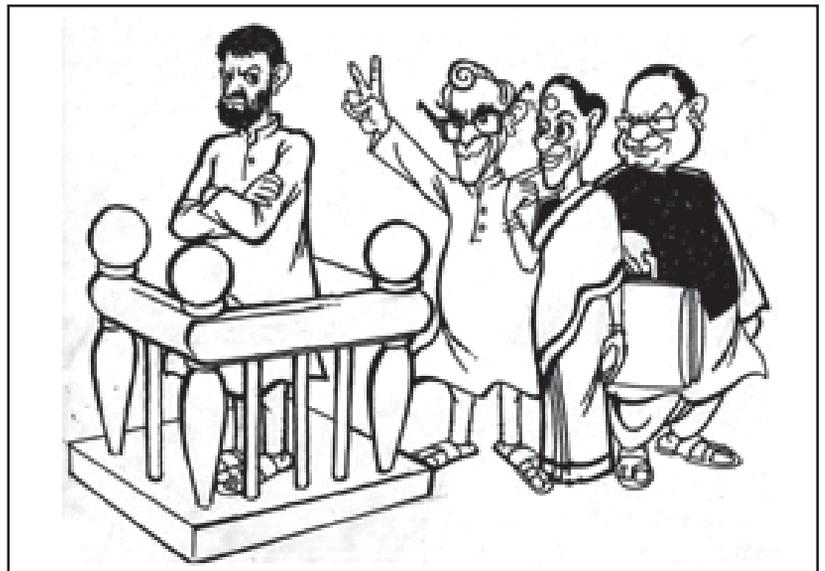
However, later events prove that the deeply entrenched vested

interests triumphed over this resolve to clean up the act. Even while calling Operation Westend a “wake-up call”, Vajpayee absolved Fernandes of any wrongdoing in defence deals in his address to the nation, thus prejudging the inquiry. Just a day later, Arun Jaitley, Union Law Minister, firmly pronounced that “the inquiry [by a Supreme Court judge, ordered by the government] will find everything [in the *Tehelka* tapes] false.” This amounted to the Law Minister giving a clean chit to the government and virtually declaring an inquiry by a Supreme Court judge set up by his own government meaningless.

BJP leaders, including those in the government recovered from the shock of revelations very quickly and began a campaign to deflect attention from

the conduct of the accused by asserting that the *Tehelka* tapes were a “political conspiracy” and that an “elaborate trap” had been laid out against its party president, Bangaru Laxman and other worthies of the BJP by a frustrated Opposition. Instead of offering to resign immediately and push for an inquiry and accountability, Defence Minister George Fernandes, one of the accused, went on the offensive and insisted this was all a “political conspiracy” and that he and his companion, Jaya Jaitley, had done nothing wrong.

However, on March 15, he was forced to resign under pressure when Mamata Banerjee and her nine Trinamool Congress MPs quit the NDA alliance to protest against the lack of action.



Wild Smear Campaign

Even after resignation, Fernandes continued to badmouth the investigation: On March 17, he told Star TV that the “ISI could be behind this exercise.” In the same interview, he said, “Middlemen who had lost their access to the Defence Ministry consequent upon decisions I have taken...chose to get this thing done.”

On March 31, speaking on *Doordarshan*, he blasted the intelligence Agencies for not detecting that serving officers were taken to 5-star hotels and entertained. He called this intelligence failure more serious than the Kargil one. Once again he reiterated to his political conspiracy theory, saying that although he didn't have “conclusive proof at this stage”, there was enough evidence to prove that Congress leaders had met *Tehelka* staff.

Two weeks later, on April 13, he chose to go wild again in his smear campaign. At a rally in Ranchi he alleged that the hand of the Hinduwas was behind it all: “The *Tehelka* expose has been raised by those who were afraid of the vigilance inquiry ordered into the arms deal (Bofors) since 1989.” And then he tried to use the hapless jawans whose lives were being jeopardised by corruption in defence deals as a shield to hide behind by declaring that the whole thing had been done to “demoralise the forces.”

A week earlier, on April 7, at a press meet in Vijayawada, Fernandes called the *Tehelka* tapes a “bundle of lies and antinational...Our army has been made to look like a bunch of boozers and willing to sell the country by the tapes.” But he did not go on to explain why his senior officials were so easy to trap and so willing to get sozzled on free booze.

Bribes or Party Donations?

It is noteworthy that even when resorting to ‘offence is the best form

of defence strategy’, neither Jaya Jaitley, the then president of Samata Party nor BJP president Bangaru denied their presence on *Tehelka* tapes. Even in their affidavits to the Commission, they admitted having accepted the money. (Jaya was shown as having taken Rs. 2 lakhs). However, they claimed that these were “donations” for their respective parties and that they were not linked

bribe? Jaitley has even filed a defamation suit against *Tehelka* overlooking the fact the Section 9 of the Prevention of Corruption Act makes it an offence of anyone to even “attempt to obtain from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant



to any favour to the arms dealers which gave them the money. However, both are clearly seen on tape discussing arms deals with the two men posing as arms dealers and offering their help in reaching the appropriate officials who have a say in procurement of equipment. Jaitley says she only agreed to ask “Saheb” (as she calls George Fernandes) to evaluate the wares of the dealer in case the Army officials were stone walling the evaluation for corrupt consideration.

Sure there is nothing wrong for a party president and friends of the Defence Minister to do this, but then surely she cannot accept money from the same person. How could such money, even if accepted as a donation to the party be distinguished from a

whether named or otherwise to do or forbear to do any official act...” Further, Section 20 of the Act draws a legal presumption that, “where it is proved that an accused person has agreed to accept for himself or for any other person, any gratification other than legal remuneration, it shall be presumed unless the contrary is proved, that he agreed to accept that gratification as a motive or reward as mentioned in Section 7”.

Bangaru Laxman on his part does not deny having accepted the money that he is shown to be receiving on tape, nor does he dispute that he discussed defence deals with this dealer and how he could be of help, but goes on to quibble about minor, irrelevant mistakes in the transcripts,

such as whether he said that he knew or did not know the Defence Secretary. Despite having admitted to the material part of the transactions shown on the *Tehelka* tapes, both Jaitley and Laxman have been most vociferous in the Venkatswami Commission in trying to question the veracity of the tapes and have made the Commission spend enormous time on this issue.

Token Dismissals and Resignations

Through George Fernandes was not personally caught by *Tehelka*, he was removed as Defence Minister in the aftermath of the public outcry on the airing on the tapes, not only because he was presiding over a thoroughly corrupt defence establishment, but also because his own personally selected party treasurer R.K. Jain was seen boasting repeatedly about how he had been acting as Fernandes' agent and broker in various defence deals.

Even while sacking George (or accepting his resignation, as he likes to put it), the government, continued denying any wrongdoing on his part or that of Laxman. However the appointment of the Venkatswami Commission to inquire into this affair, gave the impression that he would be brought back only if and when he was exonerated by the Commission. Yet he was brought back on October 16, 2001 even while the Venkatswami Commission set up by his own government to enquire into his role in the scam, among others was still on and the Commission had upheld the veracity of the tapes. To make a mockery of it all, the outraged public was told, he was being reinstated in the interest of "national security".

On April 18, two public interest litigations (PILs) submitted in the Orissa High

court were due for hearing. *The Indian Express* reported that the government wanted to launch a preliminary Central Bureau of Investigation (CBI) inquiry based on the *Tehelka* tapes to circumvent the hearing. Fernandes apparently threatened to withdraw his party's support from the ruling coalition, and the CBI inquiry was scuttled.

The next day, Fernandes denied that he had threatened to withdraw support, and said he was ready to face a CBI inquiry. The *Indian Express*, however, stood by its story.

Jaya Jaitley, too, refused to resign as Samata Party president terming *Tehelka's* investigation a dubious, "concocted" conspiracy. But she was forced to resign under pressure on March 15.

Using the same strategy of brazen denial, for the first two weeks, RK Jain, national treasurer of the Samata Party, insisted that his indiscreet claims in the *Tehelka* tapes were not made by him, but had been duplicated and concocted by *Tehelka*.

However, when he was sent a legal notice by the Finance Minister, Yashwant Sinha for making very damning charges of corruption and malafide against Sinha, Jain apologised on March 27 for his adverse remarks and admitted that it was indeed he that had participated in the recorded conversations.



One of the terms of reference of the Venkatswami Commission is to investigate systemic failures and irregularities in the 15 defence deals which are referred to by various army officers and bureaucrats in the *Tehelka* tapes. With Fernandes reinstated in office as the Defence Minister, how independent can the investigation be? How easy and fair will the access to files be? Can his juniors dare to co-operate with the Commission without being hounded out of their jobs?

Bangaru's Trump Card

Bangaru Laxman, the BJP party president who was caught on the *Tehelka* tapes accepting Rs 1,00,000 and stuffing it in his drawer, and asking for the rest in "dollars" used the expected trump card. At first, he denied the whole thing. When he was forced to resign, he alleged that he was being 'targeted and persecuted' because he was a Dalit. Laxman told *Frontline* (March 31-April 13, 2001 issue) that "those who are politically opposed to us..." were behind the "conspiracy". He told *The Week* (September 2), Though forced to resign as President because he lacks the clout that Fernandes has, no further action was taken against him. A few months later, on October 11, Laxman was partially rehabilitated by the BJP when he was made the president of the Parliamentary Housing Committee.

CAG Confirms Corrupt Deals

Some people have argued that since *Tehelka* indulged in fictitious deals, how can those involved in negotiating those be punished? Apart from damning visual proof of individual and systemic corruption, Operation Westend and the *Tehelka* tapes threw up information on 15 defence deals that are now being investigated by the Venkatswami Commission of

Inquiry. Unfortunately, this part of the investigation is *in camera* and its findings will not be made public.

However, on December 11, 2001, the Comptroller and Auditor General of India tabled its report on “Procurement for OP VIJAY (Army)”. This report not only *confirmed* some of the irregularities exposed by the *Tehelka* tapes, it *officially* exposed other irregularities in defence procurement as well.

Just one example of this is the “coffin scam” that rocked the government for a few days.

CAG report corroborates the tapes on the Krasnopol Munitions as also Hand Held Thermal Imagers deals. The *Tehelka* tapes show S. J. Singh, a defence middleman, explaining how he had managed to get the Krasnopol (smart ammunition) deal accepted, *despite* the fact that it had *failed* the quality test five times. This fact has been corroborated by the CAG report.

Two key characters in the story of graft exposed by Operation Westend also played key roles in the coffin scam unearthed by the CAG report:

L.M. Mehta, Additional Secretary, Ministry of Defence, who had accepted a gold chain from a Westend International representative (a *Tehelka* journalist), headed the Price Negotiation Committee (PNC) that sanctioned the disputed coffins.

Major General S. P. Murgai (Retd) - one of the officials indicted by the *Tehelka* tapes for taking money from *Tehelka* journalists posing as arms dealers in exchange for his “counsel” and arranging a meeting with Jaya Jaitley and two senior Army officers - was the other member on the Price Negotiation Committee for the coffins. He had recently retired from the Directorate of Quality Assurance



(DGQA) at the time of Operation Westend.

Past CAG reports too not only back up *Tehelka*'s expose, but also shed light on two *other* deals exposed by *Tehelka*. These pertain to Image Intensifier Tubes and Sukhoi aircraft.

The CAG report is an official document, compiled by the highest auditing authority in the country. The fact that much of it corroborates the findings of Operation Westend is proof enough that the *Tehelka* tapes are a bona fide expose of a story of great national importance, and should be acted on.

CAG also Trashed

Even with regard to the CAG report: George Fernandes' first response was to first deny it, and later discredit it!

Just when this was threatening to blow into a full-scale political maelstrom and a demand for accountability, the Parliament was attacked on December 13. Under cover of the ensuing war clouds, the CAG report was brushed under the carpet.

Yet another operation to derail investigations, was launched by R.V. Pandit—known for his close association with BJP. On January 25, 2002, *The Times of India* and *The*

Indian Express carried stories about a press conference held by R.V. Pandit where he distributed pamphlets reporting an investigation undertaken by him in his “individual capacity”.

According to these findings, Pandit declared that the coffin scam was a “minor defence ministry goof-up”; the CAG report was “half-baked and almost intentionally malicious” and the media had been wrong to play it up.

However, General Shankar Roy Choudhury, former Chief of Army Staff, who was also present at the press conference, said the coffin scam still needed to be investigated. The fact that the DRDO (Defence Research Development Organisation) and R&DE, Pune, was capable of manufacturing the coffins lent weight to the suspicion that this was yet another case of gross corruption.

If a bona fide government report by one of the highest offices in the country can be written off as motivated, malicious and incorrect when it goes against our power wielders what chance do independent media organizations stand in pressing charges against a corrupt and venal government?

CVC Report also 'Secret'

On January 30, 2002, the government decided not to forward the Central Vigilance Commission (CVC) report on defence deals post-1989 to Parliament's Public Accounts Committee on the grounds that it would be prejudicial to the "nation's interests". It has classified the report as secret.

Given that more than 22.5 per cent of the national budget (200 Billion rupees in just the fiscal year, 2001-2002) is spent on defence expenditure, it is shocking that our power wielders feel they owe no accountability to any



institutions or to us as citizens in ensuring that the process of defence procurement is transparent and corruption-free.

Nor do they feel it necessary to act on damning proof of corruption staring boldly at them in the face.

Hundreds of crores are siphoned off in illegal commissions whereas genuine army concerns languish. The security of our jawans - and the whole nation - is being compromised by people entrusted with the highest and most sensitive offices in the country. Just the simple fact that equipment that did not pass the quality test was bought should have been enough to send all those involved to jail. □

Shielding the Guilty : Inaction Report



George Fernandes, Defence Minister: Implicated in the *Tehelka* tapes because his companion and Samata Party president, Jaya Jaitley, was caught in the gross impropriety of receiving supposed arms dealers and middlemen in his, the Defence Minister's, house. She also accepted Rs 2 lakh from them for agreeing to help forward the sale of a fictitious product to the army by referring the matter to Fernandes. Fernandes was forced by public opinion to resign. However, till date the government has not filed any chargesheet against him. He was reinstated as Defence Minister in October 2001 even while the Commission of Inquiry has not cleared his name.

Jaya Jaitley, president Samata Party, part of the ruling NDA coalition : Exposed in the *Tehelka* tapes for misusing power and office; receiving supposed arms dealers and middlemen in the Defence Minister's house; agreeing to help forward the sale of a fictitious product to the army by referring the matter to the Defence Minister; accepting Rs 2 lakh from these supposed arms dealers. Forced by public opinion to resign but no chargesheet has been filed against her either.



RK Jain, Samata Party treasurer : Caught on the tapes talking about deals and giving details of rampant corruption, and making allegations against key ministers and bureaucrats, including his Defence Minister, and party president.

He was Sacked as Treasurer by the Party but no chargesheet filled.



Bangaru Laxman, president, BJP Party : Caught on the *Tehelka* tapes stuffing a bribe of Rs 1 lakh into his drawer and asking for the rest in dollars. Forced by public opinion to resign but no chargesheet filed against him. He was later rehabilitated as Chairman of Parliamentary Housing Committee. Also, PM Vajpayee shared a dais with him at a political rally in Agra.